

TRINITY HEARING ENDS COURT, READY TO DECIDE. WILL TAKE BRIEFS.

Bishop Potter Gave Consent in 1888 to Consolidation of St. John's with St. Luke's.

Justice O'Gorman, sitting in Special Term of the Supreme Court, abruptly ended the hearing in the St. John's Chapel injunction case yesterday afternoon by requesting counsel on both sides to submit briefs. He interrupted George Zabriske, of counsel for Trinity corporation, to say that a large part of the material offered by him in the defence was irrelevant to the main question. He added that he was prepared to dispose of the case then, but said that he would accept briefs if the lawyers desired to submit them.

Mr. Zabriske attacked the obstacle of church law raised on Monday by ex-Surrogate Charles H. Beckett on behalf of St. John's congregation. He said that Bishop Potter in 1888 gave his consent to the destruction of the building and the consolidation of the work at St. John's with that at St. Luke's, and produced an affidavit of the Rev. Dr. William T. Manning, the rector of Trinity, to show that the Bishop of New York had later approved the plans contemplated by Trinity.

In addition Mr. Zabriske read two letters written by Lewis W. Smith, secretary of St. John's campaign committee, in which Mr. Smith told both the Bishop and Colonel William Jay, clerk of the vestry, that if the clergy of St. John's were taken to St. Luke's the people of St. John's would go to the chapel at Grove and Hudson streets, to which Trinity had invited them.

The court interrupted at this point and said that Mr. Zabriske was talking far from the question.

QUESTION FOR THE COURT. "The question is," said Justice O'Gorman, "have the defendants acted with due authority in what they have done? All that you have said has been very interesting, but it does not concern the question. I am quite prepared to dispose of this case here and now, and should prefer to do so, unless there is something in the affidavits which counsel think it necessary I should see."

Mr. Beckett jumped to his feet and said that there were cases he wished to cite to show the power of the court to grant such an injunction.

"The question is not whether the court has the power," said Justice O'Gorman, "but, assuming that it has this power, to decide the question as I have stated it."

Mr. Beckett said that he desired more time for the presentation of his arguments, but the court reminded him that it had been a month since the first injunction was granted. Counsel were instructed to exchange briefs on Friday and to return to court on Tuesday.

Mr. Zabriske, in referring to Bishop Potter's consent to tear down St. John's and unite its people with St. Luke's, said:

Trinity was not able to carry out the plan at the time, even with the Bishop's consent, because the property which was needed, St. John's burying ground, was not to be had for the new buildings contemplated.

Counsel related the various steps taken by the vestry leading up to the decision to close St. John's, and said:

These plaintiffs, I understand, challenge our right to carry out our plans on two grounds. First, they allege that it is a violation of the rights of the members of the corporation, since it affects their interest in the property and assets of Trinity, and deprives them of the right to vote; second, because it is an invasion of the canonical rights of the members of the corporation.

THE VOTERS OF TRINITY. Mr. Zabriske recalled the fact that the original authority of Trinity was obtained by royal letters patent from William III, in 1687, that in 1784 the Legislature repealed the Colonial law of 1704 granting certain privileges and powers to the inhabitants of the city in the English Church communion, and told how the charter of 1814, which he reminded the court was in full force, had limited the voters of Trinity to the main church and chapels. Then he said:

The other side has intimated that this act may be open to criticism. I do not see it. But by that charter all authority was vested in the rector, church wardens and vestry. The cases of the People's Bank against St. Anthony's Church, and Hoyt against Thompson are precedents to show that the stockholders of a religious corporation have no right in the management of the property or affairs of the corporation. The vestry, if it has been established by law, can sell without asking consent of the congregation. The members have no legal standing with respect to property.

In regard to their right to vote, Mr. Zabriske said that St. John's people could exercise their franchise in any church or chapel of Trinity parish as members of St. John's, whether the chapel was closed or not, or as members of any other chapel.

Mr. Zabriske said that the canonical rights cited by Mr. Beckett were irrelevant, adding:

We do not prevent St. John's congregation from worshipping according to its canon. Nor do we prevent the vestry from standing committed to apply to the congregation before selling or mortgaging the church building, since that portion of the canon is expressly inapplicable in case the building is unoccupied.

RIGHTS OF THE COURTS. Of Trinity's right to claim exemption from the church corporations law, Mr. Zabriske said:

It is stated in this law that it shall not be deemed to apply to any church incorporated under a general or special act. It is said by the other side that the royal letters patent are not a special or general law. I think they will find that position difficult to maintain. But even if the royal charter were out of existence and the act of 1814 rescinded, this corporation would find its corporate powers in the act of 1784, which is still in existence.

The act of 1784 was repealed, but at the same time after eighty years it was not found advisable to revoke Trinity's corporate powers. Furthermore, it is beyond the competency of a legislature to deprive a corporation of rights granted under a colonial charter, and since confirmed. I do not think there has ever been a serious effort in any court or legislature to deprive a corporation of its rights under letters patent or a royal grant.

In arguing that the courts had nothing to do with the administration of a parish, Mr. Zabriske said:

Trinity is a church of the Protestant Episcopal Church, subject to the Bishop and its canonical laws.

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R. FULTON CUTTING, Pres. N. Y. ASSOCIATION FOR IMPROVING THE CONDITION OF THE POOR.

THE TWO ADMIRALS Retirement of the Best Sea Dog— Naval Peace Strategy.

London, February 17. The duel between the two admirals is ending with shots in the air. Sir John Fisher remains first sea lord and admiral of the fleet, and the second sea lord, Sir William May, will carry out the Admiralty's new policy of concentration, by which the Channel fleet will become a division of the main fleet.

Lord Charles Beresford, when his shortened term of two years in command of the Channel squadron expires next month, will haul down his flag and retire from active service. His compulsory retirement under the age rule will be deferred for two years, but he is not likely to have additional experience at sea. His partisans are clamoring for his appointment as one of the sea lords, but that is impracticable so long as his rival, Sir John Fisher, is at the Admiralty. The feuds in the navy are to be suppressed and the faction warfare of the two press gangs is to be brought to an end. Sir Percy Scott has already been assigned to a remote command, Lord Charles Beresford will be sent into retirement, the Channel fleet is to lose its prestige and to be merged in a comprehensive scheme of naval defence, and the first sea lord, who has sufficient flexibility for getting on with the Liberal government, will be without rival aloft or ashore.

Lord Charles Beresford, having done everything in his power to increase the efficiency of the fighting service, is not likely to remain in retirement when his flag comes down. He will stand for Parliament on the Unionist side, and become one of the most vigilant and aggressive critics of economies which impair the striking force of the navy. The fighting strain which was disclosed in the Condor exploit at Alexandria, in the command of the naval brigade at Abu Klea and in the rescue of Wilson from the Nile dervishes has made him the most popular admiral in the navy. He has a strong following among the younger and more ambitious men in the navy, and his attractive personality and racy qualities have won many supporters in public life. While he has been in active service he has been unable to take part in discussions of naval policy, but his liberty will be restored when he returns to Parliament, and his experience in handling fleets and managing large bodies of men will strengthen his appeals for effective sea power. He will make a gallant fight for his principles in or out of Parliament, and be the chief advocate of a powerful navy. There may be another round in the duel with Sir John Fisher, and he will be the hero of a naval group which considers a fighting sea dog a greater reinforcement for the service than a score of Admiralty strategists.

The changes effected by naval peace strategy are not easily followed outside the Admiralty. For half a century the most powerful war vessels were grouped as the Channel fleet, and the name implied defensive armaments against France. The establishment of the entente made it desirable to change the disposition of the squadrons, and the four-year-old Channel squadron was transferred into the Atlantic division, operating between the Irish coast and Gibraltar, and keeping in touch with the remainder of the Mediterranean fleet. What had been known as the home fleet was converted into the Channel fleet, and Lord Charles Beresford was put in command of it. Simultaneously a new home fleet was organized for operations in the North Sea, and this has been gradually strengthened, until under the new system of naval concentration the Channel fleet is to be merged with it, and two additional divisions of reserves with nucleus crews are to be attached to it. It might have been called the North Sea fleet, but the designation of the home fleet was preferred as less provocative. This fleet, including as many as twenty-two of the best battleships and cruisers, fully manned for sea service, will be under the command of Sir William May. In addition will be the reserves at the Nore, Portsmouth and Devonport, with as many as eighteen battleships, with three-fifths of their crews in service. In an emergency this powerful fleet can be reinforced with a dozen battleships from the Atlantic and Mediterranean fleets.

This is the scheme of peace strategy upon which Sir John Fisher has been concentrating his energies for a long time. It masses the most efficient resources of naval defence so that there is an irresistible striking force for an emergency, with reserves and reinforcements close at hand. With Dreadnoughts, Lord Nelsons, Edward VII battleships, Indomitables, Minotaurs and armored cruisers, destroyers and submarine flotillas, there will be in the first line 124 12-inch guns, 100 9-inch guns and nearly 150 formidable fleet afloat, and at any moment it will be ready for war, and behind it are reserves which will become available with the least possible delay, the problem of rapid mobilization having been solved with nucleus crews for ships in reserve. The bases of this mighty fleet are on the North Sea, from Dover to Cromarty Firth, and the best ships of every class are included in the muster. With a main line of naval defence so complete and so formidable for sudden attack, the "Englishman's home" is apparently safe, whatever may be the present state of the territorial forces or the theatrical incidents portrayed at Wyndham's Theatre. Unity of direction is also provided. Sir William May will command upon the outbreak of war every ship in commission in British waters. Reinforcements and reserves will be called up by Sir John Fisher's wireless telegrams from the Admiralty, and there will be single control over all the sea power resources of home defence.

Lord Charles Beresford's devoted admirers assert that he ought to be in command of this splendid armada. "Certain admirals," they say, "have a better reputation as a practical seaman and an experienced disciplinarian. The creation of a main seagoing fleet in home waters has been the principal motive of his strenuous career, and he has unrivalled qualities for training it for scientific warfare. His premature dismissal when a work for which he is pre-eminently qualified is awaiting a great organizer is a public misfortune. Lord Charles Beresford's partisans consider it a final proof of Caesarism at the Admiralty, when he has been exposed year after year to indignities and humiliation and constantly obstructed in his efforts to strengthen the naval defences and to maintain a fleet of supreme fighting efficiency. They can hardly venture to deny that it is impracticable for Sir John Fisher and Lord Charles Beresford to co-operate in carrying out a masterly scheme of naval concentration. The retirement of either one or the other is necessary, and Sir John Fisher, who, in spite of his autocratic habits, is a great organizer, remains in command at the Admiralty. His rival when he retires from active service will have the satisfaction of knowing that he has forced one government after another to reinforce the navy and to train it for fighting, and that he has done much to increase the enthusiasm of officers and men for the service. If he retires Parliament will be a fearless critic of everything that is done at the Admiralty, and it is not improbable that with a change of government he may succeed in getting Sir John Fisher as the first sea lord. Naval feuds for the moment are at an end, and a comprehensive system of defence will be carried out without faction intrigue. I. N. F.

BROKERS FILE CLAIM AGAINST STATE. Albany, March 2.—Flower & Co., of New York, to-day filed a claim of \$3,750 against the state for alleged excess stock transfer taxes, erroneously paid the state on transactions in stock between May 11, 1906, and February 1, 1907. The claim is based on excess payments made on stocks where the shares dealt in had been of less than \$100 par value.

SARGENTS STILL HELD Evidence Tends to Exonerate Woman of Cruelty Charges.

Paris, March 2.—The magistrate who has charge of the case of the Englishman Sargent and his wife, who were arrested at Asnières, charged with the gross ill treatment of four children whom they had adopted, denied to-day the petition of M. Viraux, counsel for the accused persons, that the Sargents obtain provision of liberty. Sargent, who was arrested after being adjourned until Friday, M. Viraux declined to give the full name of Mrs. Sargent's father, saying that he was a man of excellent reputation, and that every effort would be made to keep his name out of the affair, which, M. Viraux said, had been grossly exaggerated. Sargent, who was in an advanced stage of alcoholism, was taken to a hospital.

Late this afternoon a woman named Dumur came unexpectedly into the magistrate's office and identified the child Stéphanie as hers. She said that the child was born in 1903 at Versailles. As her husband had deserted her soon after his birth she turned over the child to the custody of Sargent through a midwife, to whom the latter had been in the habit of applying for children to adopt. She added that she had received regular monthly reports from Sargent relative to the condition of the child.

The developments of to-day indicate that the husband alone was responsible for the ill treatment of the children. It has been learned that Mrs. Sargent's maiden name was Josephine Savin, and that she is an American. Mrs. Sargent's brother, Frank Savin, who lives near Paris with his wife, a dressmaker, insists that there is nothing mysterious about his sister's past life. Both were born in New York, he said, and his sister received an allowance from her father, who was rich. He intimated that his sister's love of children amounted to a passion; it might almost be described as "mother mania." Any ill treatment of the children must be laid, he said, to the door of the husband, who frequently was not responsible on account of his drunkenness. The Sargents were examined yesterday afternoon for five hours. Examination yesterday Mrs. Sargent did not cease to protest her innocence.

Frank W. Savin, a broker at No. 66 Broadway, was much annoyed yesterday when the reports reached him that he was supposed to be the father of Mrs. Josephine Sargent, now under arrest in Paris. In response to a note sent to him at his office yesterday his private secretary came out and said: "Mr. Savin is much annoyed at this. There are other Savins in the city. I don't know you better than Mr. Savin wants to say that he knows no one named Sargent."

Investigation of the Newark records shows that Mary Ann Edgeworth, daughter of George W. and Elizabeth Edgeworth, was born in Newark on October 8, 1896. It was also learned that a child died on March 25, 1904. Edgeworth was a cook and lived with her husband at No. 107 Cutler street, Newark. The child was one of those, it was said, who had been under the control of the Sargents in Paris.

CHINA STANDS FIRM. Refuses to Negotiate Question of Rights at Harbin.

Peking, March 2.—China again has declined to reconsider or to discuss the question of the Russian municipal administration of Harbin with Russia, and in view of a possible move by the powers the railroad authorities at Harbin have ceased action. It is expected that the railroad will send a representative here for a consultation.

GENERAL STRIKE AT MANILA FEARED. Imprisonment of Dominador Gomez May Lead to Serious Trouble.

Manila, March 2.—As the result of the conviction and sentencing to six months' imprisonment of Dominador Gomez, leader of the Federation of Labor of this city, it is generally believed that a strike will be ordered in all the principal industries. Gomez was convicted on the charge of threatening a strike against any shipping firm assisting in any way a local shipping firm against which a strike was being organized. Gomez has been the leader of several other strikes. Subsequent to the government negotiations for settlement of the general shipping strike Gomez called out the employees of one firm in a sympathetic strike, despite an agreement to submit all disputes to arbitration for a period of two years. General Gomez Smith then intervened by insisting on the calling off of the strike and by loaning government launches to the firm affected. The dispute between the labor unions and the shippers has now reached such a stage that the general labor situation is seriously disturbed.

THE ABBE LOISY WINS POST. French Academy of Moral Sciences Reverses Its Former Action.

Paris, March 2.—The Academy of Moral Sciences yesterday reversed the selection, made on February 27, of a professor to fill the chair of religious history in the Collège de France. George Foucart was chosen over Abbé Loisy, but the academy, by nineteen votes to seventeen, has now elected the abbé to the chair, and he was appointed to-day by the Minister of Public Instruction.

READY TO ARREST CASTRO. Venezuelan Government Anxious Regarding Ex-President's Movements.

Caracas, March 2.—If ex-President Castro attempts to return to this country, he will face the possibility of arrest by the government the moment he disembarks, because he has been criminally indicted in the federal court on the charge of having conspired to assassinate President Juan Vicente Gomez. It is feared that Castro's presence in Venezuela might result in demonstrations against him which the police and troops would have much difficulty in putting down. It is thought that Castro may go first to Nicaragua, because of his strong friendship with President Zelaya. The government will try to keep track of Castro by cable, but it is said that he is to be in Venezuela, and it will be lost to him unless he returns. It is generally believed here that he will now devote his energies to protecting his interests.

SMALL CHANCE FOR HERO OF 3 YEARS. Saved His Baby Sister's Life Probably at the Cost of His Own.

Bath Beach has another hero. He is Raymond Mitchell, three years old, son of Patrolman Thomas Mitchell, of No. 1674 73d street. The infant is lying in the Norwegian Hospital in a critical condition, and the surgeons there last night held out little hope for his recovery. Raymond, with his sister Helen, one year old, was playing near the beach, when the little girl's dress caught fire. Raymond got a tablecloth which was near at hand and succeeded in stamping out the flames, but not until his own clothes had been ignited. All alike, he rushed to the street, where several laborers, wrapping their overcoats about the lad, put the flames out. The boy had inhaled considerable smoke and was badly burned about the body.

EIGHT-HOUR DAY FOR PRESSMEN. Cincinnati, March 2.—The union men win in the long-fought case of the Typothetae of America against the International Printing Pressmen's Union. A decision rendered this afternoon by the United States Circuit Court of Appeals establishes an eight-hour day for work. The Appellate court declined to enter into a consideration of the injunction features of the case, but sustained the lower court on all other matters. The fight of the printing pressmen for the eight-hour day began in 1905.

NORTH SIDE BOARD OF TRADE DINNER. The North Side Board of Trade will hold its annual dinner at Ebling's Casino on Wednesday evening, March 10. The speakers will be Chancellor MacCracken of New York University, Vice-President Sherman, Don Gonzalo de Quesada, Cuban minister to the United States; William McCarrroll and J. Hampton Moore.

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MORE WARLIKE RUMORS. COOPER DEFENCE RESTS. Evidence Yesterday Technical—Adjournment Until Thursday.

Nashville, Tenn., March 2.—The defence tentatively rested its case in chief to-day in the trial of Colonel D. B. Cooper, Robin J. Cooper and John D. Sharp for the slaying of ex-United States Senator E. W. Carmack. In making the announcement, Judge Anderson, of defence's counsel, specifically stated that should the state cross-examine any of the defence's witnesses further the defence would reserve the right to introduce new witnesses on any new issues which might be developed. Attorney General McCann asked for adjournment until Thursday that absent witnesses might arrive.

The testimony to-day was technical. Dr. Glasgow was recalled to describe again the wounds on Senator Carmack's body. Dr. Duncan Ewe was then called to say whether the wounds described by Dr. Glasgow would have been instantly fatal. He said they would.

Adjutant General Tully Brown, who attended the conference in Judge Bradford's office an hour before the shooting, described what took place there, as did Judge Bradford himself. General Brown was not cross-examined, but Judge Bradford was. The prosecution continued its questions on the part he played in preparing the statement for the press the night of the killing.

Judge Bradford said he was at the police station that night, saw W. J. Ewing, editor of "The American," there, with a stenographer, and heard several men giving information. He declared, however, that the stenographer took in the affair was to write out in longhand all the facts in the case of which he had a personal knowledge. These immaterials he gave to Ewing for use in the press. Later he prepared a brief, which contained the theory of the counsel for the defence as to how the shooting occurred. He said he always was friendly to Carmack, and denied that he was waiting at the telephone that afternoon for a message to come telling of Senator Carmack's death.

STANDARD FINE CAN BE ONLY \$720,000. Judge Anderson Makes Formal Ruling—Juror a Chicago University Professor.

Chicago, March 2.—Judge Anderson in the Standard Oil retrial to-day formally sustained the motion of the defence that the government proceed to trial on the theory that each settlement on which an alleged rebate was paid constitutes a separate offence. The ruling was the same made at the first trial informally last week. Under it it will be impossible to fine the company more than \$720,000. Mr. Miller's motion to the effect that, if any, the offence was a single continuing one, was overruled, although the Court said he would hear further argument on the point later if desired. The hearing of evidence in the case began this afternoon.

One of the jurors chosen in the retrial is Professor Frederick R. Dappich, instructor in political economy at the University of Chicago. The professor was not questioned whether the gifts of his decision in the case. When asked if he could stand the Standard Oil Company a monopoly he answered in the affirmative. He is also connected with an advertising agency.

In his opening statement for the defence to-day John S. Miller said that the officers of the oil company simply took advantage of the lowest possible rate by having a refinery at Whiting. "The officers are looking to this jury," said Mr. Miller, "to find a verdict based on the merits of this controversy, not on the pipe dreams of counsel for the government."

HAVANA TOBACCO COMPANY ELECTION. The directors of the Havana Tobacco Company, a subsidiary of the American Cigar Company, were re-elected yesterday at the stockholders' annual meeting. The election was held at the New York theatre, where a number of stockholders, who charged that the present management was not giving satisfactory reports of the corporation's business, but failed of election. A motion by J. W. Ogden that he be recorded on the minutes as having asked and not received a detailed statement of accounts receivable and bills payable was voted down.

THEATRICAL INCIDENTS. Burr McIntosh, now under the management of William A. Brady and Joseph Grismer, will give an illustrated lecture at the Academy of Music next Sunday night on the subject of "Our Country and Its Future."

Bronze medallions of Lincoln will be distributed as souvenirs of the 200th performance of "A Gentleman from Mississippi," at the Bijou Theatre next Sunday night. A number of newspaper men and women from St. Catherine, Ont., attended last night's performance of "Miss Innocence" at the New York Theatre. Lewis F. Nixon, Augustus Thomas, Clyde Fitch and Princess Kawanakake, of Hawaii, occupied boxes.

"Bobby" Barry has joined the cast of "A Stubborn Cinderella," at the Broadway Theatre. He made his first appearance in that place last night, playing Skeeter. Al. Woods, who "presents" "The Girl from Rector's," at Weber's Theatre, is mighty angry these days. He issued a statement last night in which he made plain to the audience that he was not a member of that morsel. Mr. Potter and Mr. Woods have, so they say, a grievance that they feel should be known to the public. Potter wants royalties and Woods says he made a "cash" settlement with him.

The students of Yale University have started a subscription fund to purchase the box that will be occupied by President Hadley on the occasion of the special performance of "What Every Woman Knows," to be given by Miss Adams at the Grand Opera House, New Haven, and the entire company now appearing at the Empire.

SAN FRANCISCO STOCKS. San Francisco, March 2.—The official closing quotations for mining stocks to-day were as follows:

Table with 2 columns: Stock Name and Price. Includes Alpha, Andes, Bunker, etc.

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