

'COUNT' D'AULBY A MODEL

Auditors Weep as Witnesses Testify to His Honesty.

FAMILY LIFE WAS HAPPY

'Countess' Resents Testimony That She Insisted upon the Payment of \$20,000.

Tours, France, Dec. 23.—An amazing court drama of passion and pathos is how a local paper to-night sums up the trial of "Count" and "Countess" d'Aulby de Gaigney, who are charged with having embezzled the Duchesse de Choiseul-Praslin, formerly Mrs. Charles Hamilton Payne, of Boston. This epigram was based on today's sensational developments at the trial, which so moved the auditors that the customary scenes of disorder, laughter and cheering changed to a burst of weeping.

Reputable business and professional men of Tours on the stand today's session painted d'Aulby and his wife as the incarnation of honesty and charity, declaring that their ministering to the wants of the sick and needy had caused them to be loved and esteemed throughout the country.

M. Diot, president of the Tours Association of Lawyers, who drew up the contract for the sale of the picture "Antope" to the late Mr. Payne, testified that d'Aulby had insisted on the insertion of a clause in the contract to the effect that he could not guarantee the authenticity of the picture.

M. Diot also said that neither d'Aulby nor his wife had any idea of business or of the value of money, of which they received \$12,000 almost every year from Boston. They were passionately fond of music, and lived a happy family life until Mrs. Payne entered d'Aulby's life, which until then had been irreproachable.

d'Aulby, the witness declared, was the victim of the wiles of others who were more trying to ruin him. As M. Diot detailed instances of d'Aulby's alleged charities sobbing was heard in various parts of the courtroom. The witness said that it was always d'Aulby's intention to forward the wire for which Mr. Payne had given him \$20,000.

Every witness called by the prosecution turned out to be a defender of the defence, while the testimony of M. Desmoulin, a member of the jury of the Beaux Arts Salon, Paris, plainly produced an impression most favorable to the accused.

M. Dutilleul, who was delegated by the duchess to settle up her affairs with d'Aulby, testified that the latter refused to negotiate with him, referring him to his lawyer. d'Aulby's attorney, the witness said, suggested the payment by Mrs. Payne of \$20,000, but the witness could not say whether the money requested was to be in payment for the return of the letters alleged to have been written to d'Aulby by the duchess or in settlement of the picture contract, or for both considerations.

M. Dutilleul understood that it was Mme. d'Aulby who had insisted upon the payment. Mme. d'Aulby did not like this statement from the witness and, standing up, protested against his statements involving her. As usual at these interruptions, there was a great commotion among the spectators. Special importance attached to Dutilleul's statement that he could not swear that Mrs. Payne's letters were under arrest in London charged with taking part in a conspiracy to blackmail the duchess. d'Aulby has sworn that he does not know Tchernietoff.

d'Aulby, who, under the French system, is constantly questioned on various points brought out by witnesses, shows signs of breaking down as a result of the ordeal. As M. Diot and others lauded him to-day d'Aulby sat with his head bowed on his knees, a handkerchief to his eyes.

It is announced that he has spent eight months of his life in prison in composing music and writing his memoirs.

PORTUGAL'S GOVERNMENT

Proposed Plan Based on Systems of France and U. S.

Lisbon, Dec. 23.—The plan of government for the new Portuguese Republic has been elaborated by the provisional cabinet. It is based upon the parliamentary system of France, with certain modifications adopted from the United States.

The President of the republic will be chosen by Parliament for a term of five years and will be ineligible for reelection until a regular term has intervened. As in France, the cabinet will be appointed by the President, in accordance with the political complexion of the legislative body, but the Ministers of War, Marine, Finance and Public Works, being considered non-political, will continue irremovable in the event that the government loses the confidence of Parliament. Members of Parliament will be elected for three years.

GUARDING SULPHUR MINES

Italy Said to Be Anxious to Keep Them Out of American Hands.

Rome, Dec. 23.—In spite of the denial of official quarters, certain newspapers continue to assert that a naval expedition to Tripoli is being prepared with the purpose chiefly of preventing the sulphur mines there falling into the hands of Americans. The report is circulated that the American archeological expedition to Tripoli aimed to ascertain the extent of the sulphur production in order to relieve the United States from the necessity of importing Sicilian sulphur.

ONLY ONE OF CREW SAVED

French Steamer and Sailors Lost Off Coast of Algeria.

Valencia, Spain, Dec. 23.—The steamer Van to-day landed here the sole survivor of a French steamer Jean Concel. The man says his vessel was run down by an unknown craft off Algeria, and sank in a few minutes, carrying down all hands except himself.

SAYS U. S. WANTS CUBA

Berlin "Post" Asserts That Americans Are Land Hungry.

Berlin, Dec. 23.—The political situation in Cuba is discussed in this evening's "Post," which says: "The object behind the biased and highly colored dispatches regarding Cuba is quite clear. The Americans have long been unsatisfied with the present dependent position of Cuba, and they are striving for its complete annexation by the United States as soon as possible."

CUBA TO BUILD SIX WARSHIPS

Washington, Dec. 23.—For the protection of her coast Cuba is contemplating the construction of six vessels adapted to coast guard service, according to advice received by the State Department. These vessels will have a speed of not less than ten knots and a draft not exceeding six feet. The tenders invited for the construction of the vessels will close January 2.

WANT COOK FOR VAUDEVILLE

But He Prefers the Quieter Celebrity of His Hotel.

Dr. Frederick A. Cook renewed his acquaintance yesterday with the Waldorf's cosmopolitan corridors, the velvet of which is trodden in the courtesy of mankind known to American civilization. In his wanderings the doctor had a bodyguard of two magazine men to keep him from verbal indiscretions or from an appearance of loneliness. For no one paid much attention to him, although guests and servants recognized him and smiled, perhaps, behind his back, at his former explorer appearance.

Premier Canalejas Wins a Notable Victory.

BACKED BY KING ALFONSO

Measure Prohibits Further Religious Establishments for a Period of Two Years.

Madrid, Dec. 23.—After a stormy, all-night session, the Chamber of Deputies to-day passed the government's "padlock bill" by a vote of 108 to 20. This is a notable victory for Premier Canalejas, obtained after a bitter fight involving not only the opposition in Spain, but the Vatican, whose seal of disapproval was set upon the legislation even before it had been submitted to the Cortes.

As originally drawn, the bill prohibited the creation of further religious establishments in the country until the revision of the Concordat had been completed or definite laws on the subject passed. In the Senate the government accepted the amendment of the late Senor Lugo, limiting the period of interdiction against new congregations to two years. The Senate passed the measure on November 4, the vote being 149 to 8. The majority in the upper chamber was greater than had been anticipated. Its passage in the lower house had been expected.

The objection to the measure by the Holy See was raised on the contention that, whereas negotiations were under way for the revision of the Concordat of 1851, Spain could not in good faith adopt any legislation adversely affecting the congregations until these negotiations had been concluded. It was claimed that in the mean time the status quo should be maintained.

YALE ALUMNI GIVE \$10,000

Appreciate Compliments Paid to Eli by Johns Hopkins.

Baltimore, Dec. 23.—Members of the Yale Alumni Association have contributed nearly \$10,000 to the Johns Hopkins University new building fund. In a letter the Yale men said:

"You will recall that when the university was started you summoned a Yale man, Daniel C. Gilman, for its first president, and when the medical school was opened you again turned to Yale for Dr. Welch and Dr. Halstead. We cannot pretend to equal these former contributions of Yale to Johns Hopkins, but we must acknowledge some debt to you for the men you have given us—among others Harrison, Warren and Andrews."

J. N. HUSTON GETS NEW TRIAL

Justice Wright Sets Aside Conviction as Not Warranted by Evidence.

Washington, Dec. 23.—A new trial was granted to James N. Huston, former Treasurer of the United States, recent recipient of a special pardon, when Justice Wright, in Criminal Court to-day.

In setting aside the verdict of conviction the Justice said he could not bring his mind to assent to the verdict because he thought the evidence had not clearly established that Mr. Huston had any knowledge of the conspiracy or of the alleged false representations.

PUTNAM ASSOCIATION DINNER

Welfare Promoters in Three Counties Get Together at Hotel Astor.

The Putnam Association, composed of men who use the Putnam Division of the New York Central road in the counties of New York, Westchester and Putnam, held its first annual dinner at the Hotel Astor last night. There were about fifty present.

RECEPTION ON THE GEORGIA

United States Fleet Officers Entertain on Battleship at Gravesend.

Gravesend, England, Dec. 23.—Rear Admiral Howard and the officers of the fourth division of the United States Atlantic fleet gave a reception and deck dance on board the battleship Georgia to-night. Five hundred guests from London and Gravesend were present. The ship was decorated with emblems of the Yuletide.

STUDENT FINALLY PAYS DOCTOR

Debt of 25 Cents Troubles His Conscience After Many Years.

New Wilmington, Penn., Dec. 23.—Dr. G. N. Menly, a leading practitioner here, was surprised to-day to receive a letter containing "conscience" money from a man living in Waterloo, Iowa.

THEATRICAL NOTES.

The first performance of Henry Arthur Jones's new play, "The Sign of the Cross," will take place at Nazimova's Theatre on Friday night, December 30, instead of on January 2, as heretofore announced.

Miss Mizzi Hajos, the Viennese actress, who has become a favorite here through her appearance at the American Music Hall and in "The Barnyard Romeo" and in other places, has been engaged by Garden, Shuberts for their new stage and Broadway play to open at 50th street and Broadway about February 1. Miss Kitty Gordon also is to appear there.

The Shuberts are to erect a new playhouse in Newark which will be known as the Sam S. Shubert Theatre. It will be located on the old Cortlandt Parker estate. The cost of house and land, it is said, will be upward of \$500,000. The theatre will seat sixteen hundred persons.

The second East side subscription performance at the New Theatre will take place to-night, when "Old Heidelberg" will be played. Every seat in the house has been sold from 10 to 50 cents each to working people. Tickets were distributed through thirty-seven charitable and educational organizations, the heads of which, with a few guests, will occupy the boxes.

"PADLOCK BILL" PASSED

HUSBAND CONTESTS WILL

Cut Off with \$1,000. While Charity Gets \$49,000.

Hackensack, N. J., Dec. 23 (Special).—A contest over the will of Mrs. Mary O. Hough, of Bergen Fields, was started in the Orphan's Court before Judge Demarest to-day. Charles L. Hough, husband of the testatrix, died at \$50,000. The rest is to be divided among the Children's Home and Old Ladies' Home, of Hackensack, the Englewood Hospital and the Episcopal and Reformed Churches, of Bergen Fields.

Counsel for Hough contends that one of the two sheets of foolscap paper on which the will was written was substituted after witnesses had signed the document.

A pin held the two sheets of paper together and the fact that one page and a half of the second were written inside the margin, with the bottom half of the second page, written outside the margin is the basis of the contest.

Judge Demarest refused a motion to set aside the will on the evidence offered and fixed January 27 for the hearing of more evidence.

Mrs. Hough was sixty years old at the time of her death, and was twenty years older than Hough, who was her second husband. He was in her Sunday school class in New York before the death of her first husband.

COMPOSER'S CLOTHES BURN

Professor Humperdinck Victim of a Small Fire.

A fire that broke out in the apartment of Engelbert Humperdinck, the German composer, on the seventh floor of the Hotel Astor, on Wednesday night destroyed four suits of Professor Humperdinck's clothing. At present, when the composer is not attending rehearsals of his opera, "Königslieder," he is spending his time at the tailor's.

The fire occurred shortly after Professor Humperdinck had returned from the dinner of The New Theatre founders. He smelled something burning in his bedroom, and rushing in, found his clothing, which was hanging on the wall, ablaze. The composer attempted at first to extinguish it himself, but finally was forced to telephone to the office for help.

HERMIT FROZEN TO DEATH

Dog Led Police to Boat—Daughter Dancing in Paris.

Pittsburg, Dec. 23.—While Nellie Lee is dancing on the stage in Paris, Pittsburg people are endeavoring to find the pension papers of John Lee, a hermit, sixty-five years old, and a Civil War veteran, whose frozen body was found in his little houseboat on the Allegheny River on December 10. Lee had lived alone in the boat for years, and when a faithful dog led the police there, he had been dead several days. For fifteen years he had not been visited by a relative, although the few who know anything of his life say his daughter is Nellie Lee, a minor actress in Paris.

It is said that for a time Lee drew a pension, but when his shanty boat was searched no money or pension papers could be found. While the search goes on for his war record the body of the soldier-hermit is kept at the morgue in an effort to save it from burial in a pauper's grave.

"AIDA" FILLS METROPOLITAN

Casts Familiar Except for Boston Singer in Part of Amneris.

"Aida" was the opera again last night, with Miss Destina as Aida and Mr. Carus as Radames. Of course, the Metropolitan was crowded from pit to dome, and both of the chief singers gave the audience of their best.

The grip caused a new Amneris in the person of Mrs. Homer. She was Mrs. Chase's daughter, who died yesterday at the age of ninety-five years, will be buried at the Cypress Hills Cemetery, Long Island, to-morrow, after the funeral at her home here. Mrs. Porter for the last thirty-five years had made her home with her son and daughter. Professor and Mrs. Henry Bedinger Cornwall, Mrs. Cornwall is her only surviving relative. Mrs. Porter came from a Hempstead, Long Island, family and was a niece of Mrs. Peter Cooper. Death was due to old age.

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MRS. MASON'S WILL SETTLED

Compromise Gives New York Relatives About \$140,000.

Pittsfield, Mass., Dec. 23.—An agreement has been reached in the contested will case of Mrs. Mary A. Mason, late of New York and Great Barrington, whereby the will is amended and Mrs. Henrietta O. Trowbridge, a niece, and Mrs. Lila O. Hellige, another niece, will receive the estate of \$40,000, the rest and residue of the estate of \$40,000.

WILL NOT STOP TETRAZZINI

San Francisco Police Chief Sees No Danger in Crowd.

San Francisco, Dec. 23.—A delegation of women appealed to Mayor McArthur to-day to stop Mme. Tetrazzini from singing at Lotta's fountain in front of the "Chronicle" building, in the city center, where she sings to the open air concertgoers. They cited the loss of life in Stockholm twenty years ago when Christine Nilsson sang in the street in that city.

The Mayor decided the police could control any crowd that might gather, and he refused to order the open air concert transferred to Golden Gate Park, as the women desired. It is estimated that many thousands of persons will come in from neighboring cities, as old-time English Christmas carols are to be sung from the stage before the opera singer appears. Chief of Police Seymour thinks twenty thousand persons will be massed within sound of her voice.

HOME FOR LIFE HIS REWARD

New Yorker Recompenses Sailor Who Once Saved His Son.

Anderson, Ind., Dec. 23.—William Spurrier, a mechanic, has been invited to make his home for the rest of his life with M. E. Smith, of New York City. Spurrier saved the life of the New Yorker's son, Lieutenant Smith, on a United States warship in a cruise of the Mediterranean.

SALVATION ARMY LITIGATION

After Long Fight Organization Founded by William Booth Triumphs.

After long litigation between the "Salvation Army" in the United States, the organization established in this country by William Booth in 1880, and the "American Salvation Army," a rival society, the former received yesterday the exclusive right to the use of the name "Salvation Army" from the Appellate Division of the Supreme Court. The court also forbade the American Salvation Army from issuing any paper bearing the title of "Salvation Army War Cry," or using the words "Salvation Army" or "Salvation Army" in any way resembling the name of the "Salvation Army."

MUST ENLARGE DRYDOCKS

None in This Country Large Enough for New Dreadnought Texas.

Newport News, Va., Dec. 23.—The proportions of the Dreadnought Texas, which will be built for the United States by the Newport News Shipbuilding Company, will bar it from any drydock now in this country. The local company, besides being forced to erect a special set of stocks for the vessel's construction, will have to enlarge the entrance to their drydock in order to accommodate the Texas. The local drydock is the largest in America.

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SOON!

FLY SCHOOL FOR MOISANTS

Get Hempstead Plains for Big Aerodrome and Trial Field.

After making a flying tour of the South, the Moisants brothers, already risen to a high place in the annals of aviation, will settle down on Hempstead Plains, Long Island, as the largest stockholders in the Hempstead Plains Aviation Company, whose certificate of incorporation has just been filed with the Secretary of State at Albany.

The company has procured a five year lease of about one thousand acres, just east of Garden City, and preparations for transforming this level waste into the world's greatest aerodrome and school of flying are said to be now under way.

Though the names of Allen W. Everts, Charles Stewart Butler and Gage E. Tart, who are also allowed to appear on the certificate, the school, that is expected to offer all possible facilities for safe and thorough instruction in every branch of flying by early spring, will become known to fame as the Moisants School. Instruction will be given on every type of machine known, even to the all-metal monoplane recently designed by John B. Mothair himself. And it is asserted by the founders that pupils will be taught to operate them.

There is hope that the Aero Club of America and the various other aerial organizations of the country will make this field their official training ground and that the school will be the center of American aviation interests there. The capital stock of the company is given at \$50,000.

MAJOR RUTHERFORD FINED

He and His Companions Pay \$10 for Disturbance on Pier.

The three men arrested on the North German Lloyd pier in Hoboken on Thursday night, charged with disorderly conduct, were brought before a recorder in court yesterday afternoon. Each was fined \$10. The men, who gave the names of Major Henry H. Rutherford, U. S. A., of Fort Totten; Daniel K. Meyers, of Manhattan; and Edward E. Albert, of Brooklyn, declared on Thursday that they were army officers, and tried to force their way through the customs lines.

WHAT IS GOING ON TO-DAY.

Free admissions to the Metropolitan Museum of Art, the American Museum of Natural History, the Zoological Garden, the Society of the Prevention of Cruelty to Children, No. 267 Fourth Avenue, 7 p. m. to 9 p. m. Christmas tree and entertainment at the New York Hospital, No. 8 West 16th street, 8 p. m.

DIED.

Babcock, Eugenia L. Minor, Katherine B. Bodine, Henry R. Milton, John B. Jr., Helen, Maria M., Mrs. Emily H. Bush, Richard D. Noyes, Michael J. (Carle), Helen M. Noyes, Margaret J. Child, Harry M. Noyes, Mary E. LaMontagne, Ernest C. Noyes, Mary E. Lyons, Francis A. Porter, Elizabeth H. Gysenheimer, Barbara.

BABCOCK—At Plainfield, N. J., on Thursday, December 22, 1910, Eugenia L. Babcock, wife of the late William F. Babcock, in her 62d year of age. Funeral services will be held at the residence, No. 209 West 8th st., Plainfield, N. J., on Saturday, December 24, at 2 o'clock. Interment at Westery, R. I., on Sunday, at 2:30 p. m.

BODINE—On December 22, Henry B. Bodine, aged 34, funeral will be held at the Church of the Resurrection, 24th st., Monday, December 26, at 11 a. m.

ERLEN—On Friday, December 23, 1910, Lavinia Bruen, funeral services at the residence of Mrs. Albert Bruen, No. 254 Cumberland st., Brooklyn, on Tuesday, December 27, at 10 a. m. Interment at Madison, N. J. Please omit flowers.

BUSH—Richard Deios Bush, suddenly, on December 22, at Westfield, N. J. Funeral services Saturday, December 24, at 12:30 p. m., at No. 414 1/2 St., Westfield, N. J.

CARLE—Suddenly, on Thursday, at 12:30 inst., Helen M., widow of Edward H. Carle and daughter of the late Albert A. Carle and Mrs. W. H. Carle. Funeral services will be held at the Heavenly Rest, Fifth Ave. and 45th st., on Monday, at 12:30 inst., at 12 p. m. Interment at the convenience of the family. Kindly omit flowers.

CHILD—At his residence, Brier Knoll, Great Neck, Long Island, December 22, 1910, Ernest C. Child, in the 77th year of his age. Funeral services will be held at all Saints' Church, Great Neck, Long Island, on Saturday afternoon, December 24, at 2 o'clock. Carriages will be waiting at Great Neck upon the arrival of the train leaving the Pennsylvania Terminal at 1 o'clock.

POWELL—On Friday, December 23,