



Long Struggle Finally Ended

ORDER OF ST. BENEDICT WINS BATTLE FOUGHT IN ALL COURTS.

FR. WIRTH'S ESTATE GOES TO CATHOLIC SOCIETY, DECIDES JUSTICE WHITE.

After being in litigation for over 8 years and after every one of the Federal Courts has had a guess as to what the law is in the celebrated Wirth case, the Supreme Court of the United States on the day it took a recess for the summer vacation, reversed the Circuit Court in the case of the Order of St. Benedict vs. Albert Steinhauser, Administrator of the Estate of Augustin Wirth deceased, thereby deciding that the Order and not the heirs of the priest are entitled to his property.

Father Wirth was a priest at the Catholic parish at Springfield at the time of his death which occurred at that place in December, 1901. Immediately after his death priests of the Order of St. Benedict, to which order it was claimed he belonged, came to Springfield and took his remains to Collegeville in this State where there is a branch of the Order and they also took possession of the priest's worldly goods that were found in his room. They buried him in Collegeville, paying all the expenses of the funeral. Father Wirth had, when he was young a priest, entered the Order of St. Benedict and had taken the vow of poverty.

The priest was an able writer and produced quite a number of religious books. He entered into a contract with Benziger Bros. of New York for their publication, receiving a royalty. The contract was signed by Father Wirth himself, and the royalties were paid to him, and not to the Order of St. Benedict.

For the last year or more his of priesthood, Father Wirth was under the jurisdiction of Archbishop Ireland and not under that of the Order of St. Benedict. After his death, however, the Order of St. Benedict of New Jersey laid claim to the royalties and Benziger Bros. paid the same over to them.

Father Wirth had apparently used all the money which he earned by the sale of his books and otherwise to suit himself and had loaned out quite a little of it on mortgages, among them being one given to him by a party residing in Blue Earth County. When this money came due, the mortgagor refused to pay the money except to one who had been authorized by the Courts to receive it. Thereupon the Order of St. Benedict instituted proceedings in the Probate Court of Brown County for the appointment of an administrator of the Estate of the deceased priest and requested that Attorney Otto Kueffner of St. Paul be appointed as such administrator. Relatives of Father Wirth insisted that they were entitled to administration and objected to the appointment of Mr. Kueffner and Attorney Albert Steinhauser of this city was appointed as administrator.

There was no appeal from the order appointing Attorney Steinhauser and he has served in that capacity ever since. Shortly after his appointment, the first suit was started by him to secure possession of Father Wirth's property in the hands of Benziger Bros. and the litigation was on which was destined to attract nation wide attention. The Order of St. Benedict retaliated by starting an action against the administrator to recover from him the moneys he had secured and had in his possession.

The case was tried before Judge Willard of the federal district court in this state and he decided in favor of the Order. Thereupon an appeal was taken to the Federal Circuit Court and the decision of Judge Willard was reversed whereupon the Order took an appeal to the Supreme Court of the United States, the highest tribunal of this country with the result, as above stated, that they

held that the heirs are not entitled to the property of Father Wirth.

The main points that were urged on behalf of the heirs were that the contract was an executory one, that it was against public policy and that the Order having knowingly permitted Father Wirth to take out the copyrights in his own name and to retain, use and control this property, should be barred from claiming any interest in any thereof. The decision was written by Justice Hughes and is in part as follows:

Associate Justice Hughes in deciding in favor of the order, held that membership in the society was voluntary and that Father Wirth might have withdrawn at any time. He said the books Father Wirth wrote and sold may have owed much of their popularity to his membership.

"We are not concerned," said Justice Hughes, "with any question of ecclesiastical requirement or monastic discipline. The question is solely one of civil rights. The claim in suit arose upon the constitution of the complainant corporation and the obligation inherent in membership."

After quoting the obligations assumed by a member of the order, Justice Hughes said it was clear that Father Wirth was not entitled to retain for his benefit either the moneys he received from churches he served or those from the sale of his books.

"It was a necessary consequence," said the justice, "of his continued membership that his gains from whatever source belong to the complainant organization and that as against the complainant he could not assert title to the property which he received."

Referring to the argument that the constitution of the order was against public policy Justice Hughes said that this disregarded the explicit provision of the society as to voluntary withdrawal. It overlooked, he said, that distinction between civil and ecclesiastical rights and duties between the order of St. Benedict of New Jersey and monastic brotherhood subject to church authority.

It may interest Review readers to learn that since this litigation was started the only brother and a nephew of Father Wirth have died. Other interested parties who have died are Capt. S. A. George, Probate Judge at the time the probate proceedings were instituted, Judge Willard before whom the case was originally tried, C. L. Burr, leading counsel of the administrator and Right Rev. Pfraengle, Abbott of the Order.

TRACY IS DRY.

Since last night Tracy is in the "dry" column.

The action of the Council last Tuesday evening, June 23d, in refusing to grant license for another year to the saloon men settled that question for the year beyond any question of doubt. The vote stood three against the issuance of license and the other two not voting.

"At the spring election the "drys" received a majority of 73 votes. But an error had been made in the petition for the submission of the question to the voters and the case was carried to the District Court. The Court found the petition illegal and declared the election void and of no effect. This gave the saloons permission to operate until their licenses expired and put the question of operating further up to the Council and by a vote of 3 to 2 that body voted to abide by the decision as registered by the voters at the spring election.

MIDSUMMER FESTIVAL.

Ideal weather and good attendance together with an especially entertaining and instructive program contributed to make the midsummer festival at Nora church last Sunday a complete success.

Hon. Jean A. Flittie of Mankato, Democratic candidate for Congress, addressed a large audience on "Optimism." His ability as a speaker was highly appreciated and the thoughts expressed met with universal approval. Years ago Mr. Flittie spent his boyhood days in this community, which fact added to the interest which his address created.

Prof. Carsten Th. Woll of Minneapolis rendered a number of vocal selections with accompaniment by Esther Erhart Woll.

Rev. Amandus Norman delivered an able address on "Nature Considered as a Preacher." He handled his subject in a profound manner and his audience thoroughly appreciated the entire sermon.

In the evening the audience moved from Mt. Pisgah to Liberal Union where all enjoyed more of the delightful singing rendered by Prof. Woll.

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Fourth of July Sentiments

FOR to give up essential liberty to obtain a little temporary safety is to deserve neither liberty nor safety.—Benjamin Franklin.

ONE free man must possess more virtue and enjoy more happiness than a thousand slaves.—Samuel Adams.

UNDOUBTEDLY, sir, the battle is not to the strong alone. It is to the vigilant, the active, the brave.—Patrick Henry.

REMEMBER that Providence would not permit us to be called into this controversy until we were grown up to our present strength.—Dickinson.

THE God who raised up Washington and gave you liberty exacts from you the duty of cherishing it with a zeal according to knowledge.—J. M. Mason.

HERE must we ask: What is patriotism? Is it a narrow affection for the spot where a man was born? No, sir; this is not the character of the virtue. It soars higher.—Fisher Ames.

OBSERVE good faith to and cultivate peace with all nations; shut off every avenue to foreign influence; rely on yourselves only.—Henry Lee.

FRIENDS, I should advise persistency in our struggle for liberty though it was revealed from high heaven that nine hundred and ninety-nine were to perish and only one of a thousand to survive and enjoy his liberty.—Samuel Adams.

JUSTICE, equal and exact, to all men, of whatever state of persuasion, religious or political.—Thomas Jefferson.

UNLESS we all hang together, assuredly we shall all hang separately.—Benjamin Franklin.

LET truth be thy aim in all debate, not victory or an unjust interest, and endeavor to gain rather than to expose thy adversary.—William Penn.

YOU and I should also be ready to take the field whenever danger calls. Let us be united.—Alexander Hamilton.

State House Is Well Protected

PIECES OF ORDNANCE BROUGHT HERE FROM U. S. NAVY YARDS.

If our old rival Sleepy Eye has any notion that at some future time she will descend upon our city in force and carry away the Court House bodily, she had best think twice before attempting the job. These reflections were aroused by the sight of the monster pieces of ordnance that now guard our state house and the still more "monstrous" ammunition with which the guns are supplied. One of the latter, could it be persuaded into the great gun which it accompanies, would shatter all hopes of wresting the coveted honor from the grasp of its present holders and Sleepy Eye or any other envious municipality must stand back and content themselves with wish-shiping from afar.

The work of setting the pieces of ordnance, four in number, on the Court House Square at this writing is about complete. The two siege guns placed at the North East and South East corners are mounted on bases of cement. The bore of each measures 4 inches. With these guns are 60 cannon balls, each weighing about 75 pounds and measuring 8 to 9 inches in diameter. A pyramid of 25 balls is built up back of the guns and 5 balls are placed handy for loading just beneath the breech. The guns each weigh a little over 3500 pounds. The cannon balls were brought from the Portsmouth, N. H. navy yards and the guns from Plymouth, N. H.

The other two guns are lighter, carrying a ball only one and a half inches in diameter. They look like enormous pistols as they have a handle and trigger at the breech similar in shape to the grip on a revolver. These guns are automatic one pounders. They were brought from the Mare Island Navy Yard. The freight cost of getting the guns here was \$233.50.

The small guns are already quite presentable as the muzzles are of brass but the big guns in front will need considerable fixing up yet to make them as ornamental as they are intended to be. All are interesting, however, as an exposition of the genius of man in inventing something to destroy what others have worked hard to build up.

New Enterprise Promises Well

PROMOTERS OF DRY CELL BATTERY ASK FOR SUITABLE BUILDING.

All that apparently stands in the way of New Ulm's securing a new industry, is the sum of \$1200.00, because this is the amount that it has been estimated it will cost to erect a suitable building to be placed at the disposal of the Novelty Electric Manufacturing Co. of Minneapolis, free of charge. That is what A. L. Ditter of this company said to a Review reporter on Saturday while he was in the city trying to make satisfactory arrangements. The proper committee of the city council met with Mr. Ditter and they agreed upon a site. It will please all the friends of the German Park to learn that the idea of purchasing the old Schell building and transporting it to the Park has been abandoned. The site selected is on the right of way of the M. & St. L. directly north of Third North Street on the west side of the track, and South of the Farmer's Elevator.

The building required for present needs would have to be 30x60 feet, one story high. This, it is estimated, will cost in the neighborhood of \$1200.00 and as soon as the city council or some other interested parties erect this building and place it at the disposal of the company free of rent, this industry will be moved here at once.

The company when originally organized was formed for the purpose of manufacturing iceless refrigerators. In the manufacture of these dry cell batteries were necessary and it was thought advisable not only to manufacture the refrigerators but also the dry cell batteries. Since the formation of the company a vacuum system has been invented which eliminates the necessity of the dry cell battery and it was decided to start a dry cell factory independent of the iceless refrigerator concern. The promoters are confident that it will pay to exploit the dry cell battery invented by Carl Jaeger, who is also the inventor of the iceless refrigerator.

The company, if it should decide to locate at New Ulm, will be re-organized and its name no doubt will be changed. It is now incorporated for the sum of \$50,000.00. The citizens of New Ulm are not expected to and will not be asked

to subscribe any stock at this time. Later when the industry develops and more money may be required to operate it, others than the present owners of the stock, may be given an opportunity to purchase some.

It is claimed for the Jaeger battery that its recuperating power is superior to that of any on the market and that is one reason why Mr. Ditter thinks that he will have no trouble to dispose of enough batteries to make the company a profitable one. It might be stated in passing that the contracts for batteries are usually made a year ahead of time and for that reason it is not expected that the business this year will amount to anything, but it is believed that next year at least one million batteries will be manufactured and sold by the home concern. At the start probably not to exceed 10 or 15 people will find employment, but it is confidently expected that within a few years the business will have increased to such an extent that in the neighborhood of 150 people will be employed.

"We will put New Ulm on the map", was a remark Mr. Ditter made at different times. He is confident that the business venture will be a success, because all dry cell factories so far have made money. The nearest dry cell factory to this territory is in Madison, Wis. When it is considered that the State of Minnesota last year used 5 million batteries alone and that batteries are only short-lived and must be replaced every so often, there is reason to believe that this factory should prove a financial success, especially as there is a profit of about 10 cents on each battery over and above the cost of production.

No. 6 batteries are sold to the jobbers at this time according to Mr. Ditter at 18 1-2 cents a piece wholesale. This is the same battery for which the consumer pays the sum of 25 cents. The different items of expense that go into the manufacture of one No. 6 dry cell battery are given by the promoters as follows: manganese 1.05 cents, graphite 0.40, chemicals 0.66, zinc 2.07, electrolite 0.05, carbon 1.20, brass connections 0.40, miscellaneous 0.50 and factory labor 1.50, making a total of 7.83 cents per dry cell battery. For the present one or two machines will be imported from Germany. In the space of one hour one of these machines will turn out between 2000 and 3000 No. 6 batteries, only 1500 of the larger size, No. 8; or 8000 of the smaller size for novelty purposes. As soon as the matter of the building is settled, Mr. Ditter will busy himself getting contracts, because in not to exceed 90 days everything would be in readiness to turn out the first batteries from New Ulm's new industry.

PARK BAND PLANS.

Sunday night's park concert was well attended, many being desirous of hearing the "Hunting of the Snark." The composition was the third number on the program but an "Extra" thrown in confused many who could not see the numbers posted and the question was oft repeated, "Have they played that new composition?" It is an assured fact that the boys will be asked to repeat it soon. A megaphone announcement might not be a bad idea, in addition to the placarded numbers. Speculation as to the nature of the "Snark" was rife, many being misled by the "Rime" of the Ancient Mariner, thinking the Snark hunting was a part of that old classic. It may be said that the whole tale is a bit of vivid imagining worked out in music, the Snark being a creature of fiction like the trolls and other weird creatures of fancy.

The next concert will be given Saturday evening, July 4th, as the only amusement provided for the Fourth in New Ulm outside of private picnics. The program follows:

1. March—"Pilgrimage" J. L. Somers
2. Overture—"Summer Night's Dream" F. von Suppe
3. Waltz—"Sabre Las Olas" J. Roseo
4. Indian Intermezzo—"Aisha" John Lindfax
5. Descriptive American and Indian Fantasia—"The Death of Custer" Lee Johnson
6. Characteristic Reverie—"Sliding Jim" Losey
7. March—"My Killarney Rose" Newman
8. Overture—"The Four Ages of Man" Lachner
9. Mazurka de Concert—"La Carina" Youg
10. "War Songs of the Boys in Blue" Laurendeau
11. March—"The Golden Dame" Taylor
12. "Star Spangled Banner"

There will be no concert Sunday night nor the following Sunday because the Band leaves the 6th with the other military bodies for camp at Sparta and will be gone ten days. The Saturday night concert begins at 7 o'clock to permit of people attending the various dances.



Building Plans Going Forward

NEW BANK BIDS CALLED. AR-MORY WELL BEGUN. MANY NEW HOMES.

ZISCHKA WILL REPLACE BURNED BUILDING WITH BRICK BLOCK.

Bids for the construction of the new bank building to be erected by the Farmers & Merchants State Bank of New Ulm at the corner of Minnesota and 2nd North Street will be received by the building committee on July 20th and at that time the contracts for the work will be awarded.

The plans and specifications have been prepared by A. Morman & Company of St. Paul and call for a two-story brick block 26x80 feet. Also the plans and specifications were practically agreed upon several weeks ago, they were revised somewhat and were finally adopted at a meeting of the building committee, at which time E. A. Taylor, Jr., superintendent of the architectural firm was present.

The building will be constructed of Auferheides light colored brick, trimmed with Bedford Stone. It will consist of a basement and a first and second floor. The front part of the basement, 25x60 feet, will be turned into a hall which can be used by creamery companies and other farmer's organizations for meeting purposes. There will be a side entrance to the hall proper and a rear entrance to the boiler room which will occupy the back part of the basement. The rear part above the heating plant will be absolutely fire proof, as will be the wall and the steel door between the basement and the first floor.

The first floor will be reserved for banking purposes exclusively and will be modern and up-to-date in every particular. The plans provide for a safety deposit vault, spacious lobby, customer's room and separate rooms for women customers, with toilet and rest room facilities. In the rear part will be the directors' room which can also be reached by an entrance from the rear.

The second floor will be used exclusively for office purposes and the plans call for 8 office rooms which will be as modern and up-to-date as any in the city. The matter of the arrangement of the rooms had not been definitely decided upon as yet and will depend in a measure upon the wishes of prospective tenants of whom there seem to be several. The work of tearing down the old building will be entered upon within a few weeks.

The foundation of the new standstill is complete and no doubt while the boys are away at camp the work on the structure will be complete so that the first concert when they return will be given from the new stand. It is quite a structure with its heavy foundation of boulders.

Work has been delayed on the new reservoirs because of a lack of material to complete it. It is to be hoped that this difficulty will soon be overcome as everyone is getting anxious to have a supply of water that is dependable. There are several cases of illness in town that look more or less like typhoid and as long as it keeps breaking out people will feel afraid of the water.

John Zischka's saloon property which was recently gutted by fire will give way to a two-story brick business block 25 feet wide and 72 feet long. One fire scare was enough for Mr. Zischka. Altho the insurance on the building brought him only \$1187 and the new building will cost fully \$5000, Mr. Zischka decided that it would be poor policy to repair the old building and as a consequence he is going to build a new business block which will be a credit to the town. The contract has been awarded to Fred Keute and Charles Kaiser and the work will be begun the week after the Fourth. The rear part will be built first and the work is to be carried on in such a manner that Mr. Zischka will be able to continue his business without interruption.