

TRIUMPH IS DIETRICH'S

Accused Senator Makes Point Against the State.

TECHNICAL IN NATURE

But Frees Him From Conspiracy Charge Nevertheless.

Omaha, Neb., Jan. 5.—A legal battle preface the trial in the federal court of the United States Senator Dietrich, charged with alleged conspiracy with Jacob Fisher, postmaster at Hastings, Neb., to violate the statute against bribery, and also with the direct violation of that law, in which counsel for Senator Dietrich scored the first victory. This point was on a demurrer filed by General Cowin to the indictment, attacking its sufficiency and alleging that it would have the effect of placing the senator on trial twice on the same charge. This point was bitterly contested by opposing counsel, Assistant District Attorney Rusk, arguing for the government.

After two hours' consideration Judge Van Devanter announced for the court that the demurrer was sustained. In his opinion Judge Van Devanter said: "We have considered the demurrer to the indictment in this case, United States vs. Charles H. Dietrich and Jacob Fisher, wherein it is attempted to charge a conspiracy under section 5440 of the revised statutes of the United States. The conspiracy charged is that the defendants conspired and agreed to violate section 1781 of the revised statutes of the United States, in that Dietrich, a senator in congress, agreed with Fisher to receive from the latter \$1,300 for assisting the latter to secure the office of postmaster at Hastings, Neb., and that Fisher agreed to give Dietrich said sum of \$1,300 for this service.

As Viewed by the Judges. "The indictment is challenged by a demurrer upon the ground that agreeing to receive a bribe and agreeing to give one under such circumstances are acts specifically prohibited by section 1781, and that therefore such an agreement is taken out of and excepted from the general section 5440. If section 1781 was in terms confined to prohibiting the receipt of such a bribe by a member of congress and the giving of such a bribe by an applicant for office, or other person, then we would be of the opinion that the indictment in charging a conspiracy or agreement to do that which is prohibited would charge an offense punishable by section 5440; but since section 1781 in terms prohibits an agreement to accept or give such a bribe, as well as the acceptance or payment thereof, we are of the opinion that such an agreement between the bribe taker and the bribe giver cannot be made the subject of a prosecution for conspiracy under section 5440, but must be dealt with by separate prosecutions under section 1781."

Where the Error Comes In. "Our view is, therefore, that this indictment does not charge an offense under section 5440, but does in terms charge Dietrich with the offense of agreeing to receive, and Fisher with the offense of agreeing to give, the bribe named, each of which is, without more, a distinct offense under section 1781. It is also our view that these two distinct offenses against separate defendants cannot be embodied in one indictment. The indictment thus improperly joins two distinct offenses by two separate individuals, which should be prosecuted separately."

Decision Considered a Precedent. This decision, which is considered an important one, is held to be a precedent in the matter of indictments in conspiracy cases. In effect the opinion is that the law is at fault in providing, in addition to the act of making and giving of bribes, an "agreement" to take and give bribes.

Knocks Out the Government's Case. In effect the ruling on the demurrer by Judge Van Devanter quashes the indictment against Senator Dietrich, charging conspiracy. It was on this indictment that the government had prepared itself for trial, and to testify in which a large number of witnesses had been subpoenaed and were present in the city.

Puts a Thousand Men at Work. Pittsburg, Jan. 5.—The Black Diamond Steel company mills of the Crucible Steel company of America has resumed work in nearly all departments after a shut-down in many departments of five months. The resumption will give work to 1,000 men who have been idle since the latter part of the summer.

RICHARD OLNEY THINKS CLEVELAND WOULD WIN

Brings His Name Before Prominent Democrats at Banquet—Hill Scores Roosevelt—Message From Bryan.

New York, Jan. 5.—At the dinner in honor of Mayor George B. McClellan last night David Bennett Hill made a vigorous attack on the republican national administration, especially regarding its attitude on the Panama affair.

Richard Olney, after outlining what he considered the vital principles which should be advocated in the approaching campaign, unhesitatingly named Grover Cleveland as his ideal candidate to lead the democratic party to victory.

UNWONTED CALM ON VEXED ISLAND

Population of San Domingo Expectantly Await Something to Happen.

Cape Haytien, Jan. 5.—The entire republic of Santo Domingo is experiencing the calm which precedes a revolutionary storm. The population of the region south of Azua de Compostela has joined the army of revolutionists which is marching on the capital, and several new defections from the ministry of Provisional President Morales are announced.

ORDER OF TRIALS IN THE MICHIGAN WATER CASES

Grand Rapids, Mich., Jan. 5.—Prosecutor Ward announced in the superior court that he had arranged to take up the first batch of the Lake Michigan water scandal trials in the following order: Aldermen Ellen, Muir, Lutzer and McCool; ex-City Clerk Lamoreaux; Attorney Gerrit H. Albers. All except Albers accused of accepting bribes, he being accused of perjury.

MIGHT HAVE BEEN A HORROR

Explosion Wrecks a Hotel and Hall During a Dance and Many Persons Are Seriously Injured.

Woodbridge, N. J., Jan. 5.—An explosion wrecked the hotel and hall which Joseph Galaida and more or less seriously injured thirty persons at Keasbey, four miles from here, while the St. Johns Benevolent society was celebrating its anniversary by a dance. There were about 500 in the hall, and one of the two exits was closed by the wreckage. The people became panic stricken and fought to get out, many being trampled on and seriously injured.

Galaida was burned about the head and face. His wife was thrown against the ceiling and fell unconscious to the floor. Miss Gertrude Eilon had one eye destroyed, her nose broken and her jaw dislocated. She may not recover. Michael Pomeroy had his right arm torn off at the elbow. It is believed that some one with a grievance against Galaida or the society, used dynamite. The walls of the building were blown apart and it may collapse at any time.

He Was a Nerve Thief.

Battle Creek, Mich., Jan. 5.—One of the cheekiest alleged thieves caught here in some time seems to be coming Claude W. Archer, who is held in bonds of \$1,000 for alleged theft of jewelry valued at \$400 from A. E. Aikins, of Cleveland, at the sanatorium. Archer lives here but was taking treatment at the sanatorium, as was Aikins. Part of the loot was a diamond ring worth \$250, which, it is said, young Archer had the nerve to try to sell to the night captain of police, J. E. Bevier. He finally disposed of the ring to a hotel clerk for \$9.50.

Dead of Heart Disease.

Lexington, Ky., Jan. 5.—Colonel Hart Gibson, formerly one of Kentucky's most noted breeders of thoroughbreds and a brother of the late Senator Randall Lee Gibson, of Louisiana, is dead at St. Paul of heart disease.

OPPOSITE IN TENOR

Widely Varying War Reports From West and East.

St. Petersburg, Jan. 5.—In her reply to Japan Russia has made great concessions. It is hoped her proposals will be acceptable to Japan.

RUSSIA CONCILIATING

Japan in Feverish Preparation for Hostilities.

DOWIE WORKING ON A NEW SCHEME

Takes Option on Texas Island as Possible Site for a New "Zion."

San Antonio, Tex., Jan. 5.—John Alexander Dowie is not going to Australia on this trip. He has an option on Matagorda Island on the Texas coast as a site for a new "Eternal City" and may bring his followers there to enter stock farming and factory work.

WOMAN TAKES A COOL RUN

Scared by Burglars She Jumps from a Window at Midnight—Things and Police Sweep Leaden Compliments.

Indianapolis, Jan. 5.—Mrs. C. L. Fisher, 1111 North Illinois street, was awakened at midnight by burglars pounding on her door and demanding admission. She jumped from a second story window in her night clothes and ran barefooted several blocks. She met two policemen, who hurried her to the house and were met by a fusillade of shots from the revolvers of four men. There was a running fight and two of the burglars were wounded, but all escaped.

PHILIPPINE ISLAND NEWS

Philippine Uncertain Quantity—New Revolution Outlined, but Not Considered Seriously by Government.

Manila, Jan. 5.—Perez, who saved the life of General Smith from ambush, and who was a former secret service man under General MacArthur, was garroted recently with two companions at San Carlos for murder.

Nebraska To Be Fireproof.

Lincoln, Neb., Jan. 5.—Labor Commissioner Bosh has decided that all the opera houses in the state must put in fireproof curtains and take the utmost precautions against disaster. State Superintendent Fowler will shortly issue a commission to the teachers of the state asking that a fire drill be made part of the daily programme.

Miners Make a Demonstration.

Rutte Mont, Jan. 5.—Nine thousand miners and smaller men employed in the Anneland mines and smelters joined in a monster funeral procession today at the burial of Samuel Olson and Fred Divil, amalgamated miners who met death. It is alleged, by a blast from the Heinz miners during an underground fight last Wednesday.

Embezzler Pleads Guilty.

Indianapolis, Jan. 5.—Charles Brown, formerly clerk of the criminal court, has been sentenced to a term in the penitentiary by Judge Alford, of that court. Brown appeared to plead guilty to the charge of altering a public record, which he was allowed to do, although the charge in the indictment found against him was embezzlement.

King and Queen Visit Devonshire.

London, Jan. 5.—King Edward, Queen Alexandra and Princess Victoria have arrived at Chatsworth, the seat of the Duke of Devonshire, in Derby, and were given a most enthusiastic welcome. The brilliantly illuminated grounds were lined by torch bearers and a guard of honor was formed by the volunteers.

Preacher Dies Suddenly.

St. Louis, Jan. 5.—Rev. J. N. Beard, of San Francisco, general counsel for the Methodist Episcopal church in the trial of Rev. J. D. Hammond, of San Francisco, for mismanagement of church funds, which was to have begun in St. Louis, died suddenly of heart failure at the Terminal hotel.

Place for Corporal Tanner.

Washington, Jan. 5.—It is announced officially at the White House that "corporal" James Tanner will be appointed register of wills for the District of Columbia, to succeed Louis A. Dent, the change to take place April 1.

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HARRIS, GATES & CO. IS TO CLOSE PARTNERSHIP

Concern Has Negotiated Some of the Largest Deals in Recent Years—Surprise in Financial Circles.

New York, Jan. 5.—Harris, Gates & Co., the biggest stock and grain house in the United States, or perhaps in the world, is to dissolve partnership March 1. The announcement, made yesterday occasioned surprise in financial circles. The senior partner, John F. Harris, who made up the big firm, is to retire from the business, and Samuel C. Scotten, who has been the active partner in the Chicago end of the business, also will retire.

Of the three specialists, who have each \$250,000 in the firm of Harris, Gates & Co., John Dupee retires. It is expected that Charles G. Gates, who has managed the New York end of the firm since the house has been in existence, will make up a new concern, and it is likely that John W. Gates and John Lambert will be special factors in the new partnership. Orson Wells, who has been the manager of the Rookery office of the house, will be in the new firm.

The dissolution is the result of the inclination of some of the partners to retire from the activities of a great commission business. The firm of Harris, Gates & Co. has led all others since it was formed. Its commissions alone in 1902 exceeded \$1,000,000.

NEAR SIX HUNDRED EXTREMELY COLD IN EASTERN STATES

Total Number of Those Whose Death Will Result from Iroquois Fire.

SIX WOUNDED FATALLY HURT

Evidence in Investigation Shows Gross Criminal Negligence of Management.

Chicago, Jan. 5.—The Iroquois theatre fire claimed a fresh victim today, making the total number of deaths 391. Miss Josephine Spencer, severely burned during the fire, died today.

Chicago, Jan. 5.—Evidence showing grosser criminal negligence than anything previously developed was given under oath today in the fire department investigation of the Iroquois horror.

Joseph Daugherty, who had charge of the curtain, swore that two weeks ago during a matinee performance there was a fire on the stage, and that when he attempted to lower the asbestos curtain it was stopped by the same obstruction that prevented its operation last Wednesday.

UPHOLDS ACTION IN PANAMA CASE

Senator Lodge Says the President Did Not Leave Beaten Path.

Washington, Jan. 5.—In the senate today Lodge delivered a speech on Panama. He quoted a number of authorities in support of his position that the president had not departed from the beaten path in recognizing the independence of Panama, contending that such acts could not be construed as provoking war.

MEMBER OF "YOST'S MACHINE" IS DEAD

Cecil Gooding, Hurt in Game with Minnesota, Succumbs to Typhoid.

Ann Arbor, Mich., Jan. 5.—Cecil Gooding, guard on the University of Michigan football team and prospective center for next year, is dead of typhoid fever. Gooding was injured in the Minnesota-Michigan game last fall and his parents consider his constitution seriously impaired by the hard usage he sustained in that game.

Fireman Instantly Killed.

Philadelphia, Jan. 5.—The boiler of an engine attached to a special freight train on the Reading railroad loaded from Philadelphia for New York exploded at Westchester, twenty-five miles from this city, instantly killing fireman Frank Auger. Harry Sheetz, a brakeman, was so badly injured that he died in a hospital here. Engineer Finger was seriously hurt.

Status of the Tyrer Case.

Washington, Jan. 5.—The District criminal court has overruled the demurrers to two of the three indictments against ex-Assistant Attorney General James N. Tyrer and ex-Law Clerk Harrison J. Barrett, both of the postoffice department, growing out of the postal investigation. The court had already sustained the demurrer to the other indictment.

Will Be the Death of Three.

Chicago, Jan. 5.—Fritz Frank was killed and his sons Willie and Robert were fatally injured by a passenger train near Negawese, Ill. The three were driving home in a closed milk wagon.

Nobody Hurt in This.

Portage, Wis., Jan. 5.—The fast mail of the Chicago, Milwaukee and St. Paul railroad was wrecked at Lyndon by the breaking of an engine driver. No one was hurt.

ONE WING DESTROYED

Loss of \$500,000 in Capitol Fire at Des Moines.

Des Moines, Jan. 5.—The supervising engineer, C. L. Lindley, of Chicago, fell 60 feet to death today while inspecting the capitol building ruined by the fire yesterday.

FLOODED AND SMOKED

Supervising Engineer Falls 60 Feet to Death.

Des Moines, Ia., Jan. 5.—Fire gutted the northwest wing of the state capitol, with an approximate loss of half a million. The chamber of the house of representatives is a charred mass of ruined debris, and cannot be fixed up in time for the approaching session of the legislature. The fire gained great headway before it was checked, starting about 10 a. m. At noon it was thought the entire building was doomed and Governor Cummins ordered the contents of all the offices removed. However, it was finally confined to the wing of the capitol in which it originated, and by 6 p. m. was practically extinguished.

No Postponement of Lawmaking.

The executive council of the state, consisting of Governor Cummins, Secretary of State Martin, State Auditor Carroll and State Treasurer Gilbertson, held a brief session and announced that the convening of the legislature would not be postponed. It will meet Jan. 11 and arrangements will be made so that the sessions can be comfortably held. The plans are not completed, but the idea is to have the house sessions in the senate chamber, the senate sessions in the room of the supreme court, and the supreme court will either adjourn or hold its session in one of the committee rooms.

Thought the Building Doomed.

The origin of the fire is a mystery. The supposition is that it started either from a lighted candle carelessly left burning or from an electric light wire. The fire originated near a shaft in committee room No. 5, and spread upward and all around the ceiling of the house chamber. The fire department was unable to fight the flames effectively, the height of the building and elevation of the capitol site making pressure impossible. When the house gutters fell everywhere through the building doomed, including the governor. The state library and funds in the treasury were lastly removed to places of safety.

Governor in Rubber Boots.

Governor Cummins laid aside gubernatorial dignity and clad in rubber boots and rough coat engaged in the work of fighting the fire. The fire finally burned itself out in the wing in which it started and was prevented from invading other wings. The beautiful state capitol presents a scene of desolation. Many beautiful frescoes in the chamber of the house can never be replaced. The Iowa capitol is one of the most beautiful in the United States. It is built along the lines of the capitol of New York.

Pride of the State and Cost \$3,000,000.

It has been the pride of the state and of the city of Des Moines and was erected at a cost of \$3,000,000. The state capitol commission, appointed for this purpose, had just completed the restoration and repair of the building at a cost of \$125,000, most of which had been expended in the chamber which is ruined. The building was supposed to have been fireproof. Iowa carries her own insurance, so that the loss is total.

QUAWKA BOYS CONFESS

ATTEMPT TO WRECK A TRAIN

Oquawka, Ill., Jan. 5.—Charles and Alfred Kennett, aged 16 and 18, have been arrested here by Deputy Sheriff Stewart and Benjamin Buckley, special agent for the Burlington, charged with attempting to wreck a Burlington train Dec. 25. The boys confessed and will be given a hearing immediately.

Charged with Robbing Uncle Sam.

New York, Jan. 5.—John A. Benson, who was arrested several days ago by United States secret service officers, charged with defrauding the government out of thousands of acres of land, was released in the United States circuit court upon furnishing \$10,000 cash bail.

Scare Crosses the Ocean.

Berlin, Jan. 5.—The Royal Opera House will remain closed by Emperor William's order until certain alterations necessary for protection from fire and other dangers are completed.

Chicago Board of Trade Election.

Chicago, Jan. 5.—W. S. Jackson was elected president of the board of trade. Jackson has been a prominent member of the board of trade for many years.

Dr. Thomas Kerr Dead.

Rockford, Ill., Jan. 5.—Dr. Thomas Kerr, a prominent "liberal" minister, for many years pastor of the Church of Christian Union of this city, is dead. He was 79 years of age.