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ROME IS KNOCKED OUT.

Joseph Bradfield Wins His Suit and Gets An Injunction

Against the United States Treasurer, Restraining Him From Paying to the Roman Corporation any Public Funds.

Judge Hagner, presiding in Equity Court No. 2, today, (Feb. 3), made a ruling of far-reaching importance, holding that it is unconstitutional for Congress to appropriate money for sectarian institutions. The court signed the order, for reasons set forth in his opinion, enjoining the treasurer of the United States from paying or delivering to any officer or agent, or to the directors of Providence Hospital, in this city, any moneys belonging to the United States or to the District of Columbia, under or in virtue of an agreement entered into between the Commissioners of the District and the directors of the Hospital.

The opinion was rendered in the case of Joseph Bradfield, filed November 21 last, praying for an injunction against Elias H. Roberts, treasurer of the United States. The object of the suit, so Mr. Bradfield explained, was to procure an order of the court enjoining and restraining Treasurer Roberts from paying or delivering to any officer or agent of Providence Hospital, or to the Directors of Providence Hospital, or to any person whatsoever for the use and benefit of the same, any money belonging to the United States or the District of Columbia, upon an agreement between the surgeon general of the army and the directors of the hospital, under color of an authority to provide "for the support and medical treatment of ninety-five medical and surgical patients who are destitute," contained in the sundry civil act of June 4 last; or by virtue of an agreement between the District Commissioners and the directors of the hospital, made August 16 last, wherein it is provided that the Commissioners "will erect on the ground of the hospital an isolating building, or ward, for the treatment of minor contagious diseases."

Mr. Bradfield appeared as attorney in his own behalf, while District Attorney Davis and Assistant District Attorney Baker looked after the interests of Treasurer Roberts. The case was argued during several days about the middle of December, and Judge Hagner has had the matter under consideration since. Mr. Bradfield contended that Providence Hospital is a private, eleemosynary corporation, composed, to the best of his belief, of a monastic order or sisterhood of the Roman Catholic Church, and is conducted under the auspices of the church, invested specially with "full power and all the rights of opening and keeping a hospital in the city of Washington for the care of such sick and invalid patients as may place themselves under the care and treatment of said corporation."

Mr. Bradfield further maintained that in view of the sectarian character of the hospital and the specific and limited object of its erection, the contract with the surgeon general and the agreement with the Commissioners were unauthorized by law, and, moreover, involved a principle and a precedent for the appropriation of the funds of the United States for the use and support of the religious societies contrary to the article of the Constitution which declares that Congress shall make no law respecting a religious establishment, and also a precedent for giving to religious societies a legal agency in carrying into effect a public and civil duty, which would, if once established, Mr. Bradfield held, speedily obliterate the essential difference between civil and religious functions.

Continuing, Mr. Bradfield declared that he and all other citizens and taxpayers of the United States are injured by reason of the contract and agreement whereof the public funds are being used and pledged for the advancement of a private and sectarian corporation. The agreement in question was that the Commissioners should erect upon the grounds of Providence Hospital an isolating building or ward for the treatment of minor contagious diseases; that the building or ward should be erected without expense to the hospital, except such as it might elect, but should be paid out of an ap-



PROBABLY HE IS FULLY ARCUSED AT LAST.

propriation for that purpose, contained in the District appropriation bill, approved March 3, 1897, and upon plans to be furnished by the Commissioners and approved by the health officer; that when the building or ward should be completed it should be turned over to the officers of Providence Hospital, subject to the following provisions:

"1st. That two-thirds of the entire capacity of said isolating building or ward shall be reserved for the use of such poor patients as shall be sent there by the Commissioners of the District from time to time through the proper officers. For each such patient said Commissioners and their successors in office are to pay at the rate of \$250 per annum, for such time as the patient may be in the hospital, subject to annual appropriations by Congress.

"2d. That persons able to pay for treatment may make such arrangement for entering the building or ward as shall be determined by those in charge thereof, and such persons shall pay to Providence Hospital reasonable compensation for such treatment, to be fixed by the hospital authorities; but such persons shall have the privilege of selecting their own physicians and nurses, and in case physicians and nurses are selected other than those assigned by the hospital, it shall be at the expense of the patient making the request.

"And said Providence Hospital agrees to always maintain a neutral zone of forty feet around said isolating building or ward and ground connected therewith, to which patients of said ward have access."

The act of congress referred to in the agreement is contained in the paragraph as follows: "For two isolating buildings, to be constructed in the discretion of the Commissioners of the District of Columbia, on the grounds of two hospitals and to be operated as a part of such hospitals. \$30,000."

The provision in the Constitution of the United States referred to in the bill filed by Mr. Bradfield is contained in the first amendment to the constitution, introduced by Mr. Madison at the first session of Congress after the adoption of the Constitution, and reads: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise hereof."

The question for decision, said Judge Hagner in delivering his opinion, is whether either the provision of the act of Congress or the agreement made by the Commissioners under the authority conferred by it in words or in effect is in contravention of the prohibitions of the first amendment. It is scarcely supposable, Judge Hagner went on to say, that Congress

would ever pass a law in direct and palpable opposition to the prohibitions of the amendment. Probably the only instances where such violation would ever occur will be where some provision has been passed into the form of law without sufficient consideration and in the haste of legislation, which, though unobjectionable on its face, would yet in effect tend on the one hand to foster or to encourage religious societies in general or any one in particular, or, on the other, to prohibit the free exercise of religion on the part of any one or of all such societies and churches.

After stating that no man more fully understood the importance of maintaining the principle referred to than Mr. Madison, or more thoroughly comprehended its just scope and the danger in which it stood from careless legislation, Judge Hagner referred to the language used by Mr. Madison in vetoing certain acts providing for the incorporation of churches and the like.

"No one reading the two paragraphs of the act providing for the appropriation in question as though they were incorporated into one," continued Judge Hagner, "could possibly conclude that Congress had directed or expected the \$30,000 appropriated should be expended within the grounds of any hospital under such sectarian control, whether Lutheran, Methodist, or Roman Catholic. For when Congress, after making the appropriation, had plainly declared it to be the policy of the government to make no appropriation of money or property for the purpose of founding, maintaining or aiding by payment for services, expenses or otherwise any church or religious denomination or an institution or society which is under sectarian or ecclesiastical control, it would seem to have closed the discussion of the question.

"Whatever authority the Commissioners of the District of Columbia possess in reference to the subject," Judge Hagner said, further, "they could have only acquired from Congress, which, of course, could communicate to them no powers it did not constitutionally possess. Whatever acts were forbidden by the Constitution to Congress with respect to the assistance of religious establishments were, of course, forbidden to its agents, the commissioners.

"The statute undoubtedly authorized the isolating buildings to be constructed in the discretion of the Commissioners, either on the grounds of two hospitals or on other lands not belonging to any hospital. "It is conceded by the demurrer that Providence Hospital is a corporation composed of members of a monastic order or sisterhood of the Ro-

man Catholic Church, and that the title to its property is invested in the Sisters of Charity of Emmitsburg, a non-resident corporation. One who erects buildings on the land of another has no right to remove them against the will of the land owner. Whatever title the United States might claim in a building constructed by it upon the grounds of the Providence Hospital would be a species of continuing joint ownership or copartnership between the government on the one part and a sectarian corporation having its habitat in the state of Maryland on the other.

Continuing Judge Hagner remarked that he conceives the agreement in question undertakes in behalf of the public authorities to give "legal force and sanction" to articles in the administration of the hospital which "so far would be a religious establishment by law," and for that reason illegal. "It is also worthy of remark," added Judge Hagner, "that the Commissioners agree to pay at a designated rate for the patients they may send to the hospital, 'subject to annual appropriations by Congress while section 81 of the Revised Statutes of the District declares the Commissioners shall have no power to make contracts to bind the District except in pursuance of appropriations made by law and not until such appropriations shall have been made.

"Besides, in the words of the provision, 'it is hereby enacted, that from and after the 30th day of June, 1898, no money appropriated for charitable purposes in the District of Columbia shall be paid to any church or religious denomination or to any institution or society which is under sectarian or ecclesiastical control,' which would render this obligation assumed by the Commissioners in the agreement incapable of performance after the date named.

"However incongruous such an ownership may be where the other party is non-sectarian in character, I can see it would also be an unlawful one, is against the spirit and purpose of the first amendment, when such contracting party is a sectarian sisterhood or order under the auspices of a church or religious society.

"In the argument for the defendant reference was made to the great difficulty experienced by the Commissioners in obtaining suitable places for hospitals for contagious and infectious diseases." I understood this to be urged rather as an explanation than as a justification of the agreement, since the difficulty of properly performing an assigned duty can furnish no defense for its unlawful execution.

"But that difficulty, as I understood, existed only with respect to a hospital for contagious and infectious di-

seases of the gravest character, such as small pox and yellow fever; whereas the isolating building authorized by the agreement is to be used for the treatment of minor contagious diseases." As diphtheria and scarlet fever are named in the previous paragraph of the law, the Commissioners were doubtless right in supposing those diseases were intended to be provided for in the appropriation; which makes no mention of any disease, whether contagious or infectious, or whether of an aggravated or simpler description.

"The Commissioners were doubtless of the opinion that the requirements as to space and air could be best fulfilled by placing the new building within the grounds of Providence Hospital, and were justified in assuming that the competent and careful nursing needed for the patients would be secured there at the skillful hands of the humane attendants, for it is believed this hospital, like the others in the city, is managed by kind people, who find their chief reward in the consciousness of relieving the poor and suffering.

"But this consideration cannot prevail against the grave objection to the location of the proposed building on the grounds of a hospital under sectarian management," concluded Judge Hagner. "For the reasons given I shall pass an order for an injunction against the treasurer as prayed for in the bill, with reference to the argument."

To a Star reporter, District Attorney Davis stated this afternoon that it is his intention to appeal to the Court of Appeals from the ruling of Judge Hagner in the Providence Hospital case.—Washington, D. C., Daily Star.

Another Roman Boast.

From a report of the proceedings of "the Child-Study Congress," which began its sessions in the Columbus Hall of the Paulist Fathers, New York, on December 29 last, we select the following:

The congress began work on Wednesday morning with a discussion on the general subject of Catholic education. The Rev. James P. Kiernan, of Rochester, presided, and opened a discussion with a paper on "The Parochial School," in the course of which he said, after having dwelt on the importance of distinctly Catholic schools for Catholic children:—"To this it may be objected that the teachers in the state schools do teach morality, both by word and example, and that some of the best Catholics never went to a Catholic school. To the first of these objections I answer that I know that the majority of the teachers in the state schools are leading noble, pure, unselfish lives. I have found association with them pleasant, profit-

ble, and inspiring; but a saint from Heaven could not teach morality under these circumstances. The conflicting beliefs of the pupils make it impossible to put it on a secure basis, for religion is the only basis.

"My answer to the second objection is that the persons alluded to are good Catholics in spite of having gone to the state schools, not because of it. Their home environment was favorable, but there are millions of children without such environment who would be lost to the church without the parochial school.

"Another objection is that the Catholic schools give too much time to religion and too little to other branches. This is entirely untrue. I have taken the trouble to ascertain the average age of children graduating from the grammar grade in the Catholic schools of Rochester, and I have found it considerably under that of children passing the same examination in the state schools."

Smelled a Rat.

"An attempt was made to play a dirty trick upon Patrick Egan at Montreal recently," says National Committeeman Dick Kerans of Missouri, "by the same people who put an affront upon Consul General Bittinger by having him blackballed when proposed for membership in the Saint James Club. This is a rampant Tory organization, and its members set a trap for Mr. Egan, who proved too smart for them. It was suggested to Egan when he arrived at Montreal on a mission for the United States government that his name be put up at the Saint James Club in order that he might have a place to pass away the time pleasantly. Egan smelt a large rat immediately, and, although the proposer was enthusiastic about the matter, he was forbidden to post the name of Egan on the bulletin board at the club.

"By this means the representative of the United States was spared the humiliation of being blackballed as Consul General Bittinger was a few weeks ago by this same organization. Had Consul General Bittinger been warned in due season and prohibited the use of his name he would have been saved from an apparent stigma upon it. But being turned down by such an organization as the Saint James Club should be esteemed an honor by any true American.

"Although the action of the club was ostensibly directed against Mr. Bittinger, it was in reality a deliberately planned insult to the government which he represents at Montreal. Egan, however, was too smart for the Tory toadies to everything pertaining to her Majesty, and is entitled to credit for the course he pursued. He knew as well as any member of the Saint James Club that the mere suggestion of his name at the club-house would bring down a perfect shower of black-balls, and he turned the laugh upon the representatives of Johnny Bull by declining an honor which was intended to result in an affront."—Washington Dispatch to Chicago Tribune.

The Chicago Chronicle professes to believe the Republicans will lose the national House of Representatives in the fall of 1898. We sincerely hope that neither the Republican nor Democratic party, as such, will elect a majority of the next Congress, but that patriotic Americans will gain control of that body. Hundreds of thousands of loyal Americans, representing every section of the Union, are unloosing the party shackles that have heretofore bound them, and are taking their places in the ranks of sovereign, free and independent American citizens. Patriotic Americans will henceforth know no north, no south, no east, no west—and in the congressional election of the current year they will vote only for those candidates for the Congress who are known to be men of undoubted honor and probity, men who will at all times place the interests of country and patriotism far above party fealty and party aggrandizement.

The editor of this paper takes pleasure in recommending to all patriots Rev. Christian's great anti-Roman book, entitled, "Americanism or Romanism, Which?" It is bound in cloth, neatly printed on good paper, and it is full of facts. It is interesting. Price only \$1.00. It is worth \$2.00. Order of American Pub. Co., Omaha, Neb.

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