

HAVEMEYER OUT OF LAW'S REACH.

The Contempt Case Falls to Pieces---Secretary Searles Will Escape, Too.

But Senate Can Order Sugar Magnates to Answer, and Hold Them Captive Until They Do.

Washington, May 27.—Therefore the jury is instructed to return a verdict for the defendant.

These words came with the suddenness of a pistol shot at the end of Judge Bradley's charge to the jury in the Havemeyer case this afternoon. Throughout the entire charge it was evident that the jury would be instructed in accordance with the prayers of the counsel for the defense, but as he was proceeding there was no indication but Judge Bradley would talk for an hour or more longer, when this sudden termination was reached.

It fell like a shot upon the courtroom. There was a moment of dull stillness, and then the mob outside the wall slowly gathered itself together with much clattering of umbrellas and shuffling of heavy feet. Disappointment was visible upon the faces of the populace in attendance. Inside the

could not be regarded as amounting to an unreasonable search into the private affairs of the witness. In comparing the two cases Judge Bradley said:

"Testimony's Meaning."
"If this indictment charged the defendant with refusal to answer like questions, or questions pertinent to the investigation of alleged Senatorial misconduct, and the testimony tended to convey the charge, there would be no question as to the duty of the Court to overrule this motion. But the situation of the defendant with reference to the character of the questions put to him which he is charged with refusing to answer, and the public matters to which the questions related, is somewhat different."

Judge Bradley did not go into question as to whether or not Mr. Havemeyer was guilty of contempt, because the ques-

tion of third persons or by the examination of the records or documents. In brief, Judge Bradley held that under the statute Mr. Havemeyer could not be required to produce books and papers belonging to his firm unless upon the services of a subpoena duces tecum. The subpoena served upon him simply called for such testimony as he might be able to give in person. It was possible for the committee to call for the books and papers of the firm upon the service of a proper subpoena.

Inasmuch as the cases of Havemeyer and Searles are practically identical, there is no doubt but Searles will also be acquitted. Even in this case these gentlemen have not yet cleared the last wall. It must be remembered that the statute under which the committee investigation was conducted permits the Senate to deal with these witnesses for contempt. Mr. Havemeyer and Mr. Searles, if he be also acquitted, may both be brought before the bar of the Senate and held as contemptuous witnesses by that body until they agree to make the disclosures requested of them.

Senator Allen, in the Fifty-third Congress, introduced a resolution, instructing the officers of the Senate to bring both the sugar kings before the Senate and to hold them in custody until they had given answers to the questions propounded to them. In such case they would be held in the guard room of the Capitol, and while they might be permitted to live as sumptuously as they pleased they would, nevertheless, be deprived of their liberty.

Havemeyer Anxious to Leave.
There are many precedents for this action, notably that of Hallett Kilbourn, of this city, who was held for months in one of the dungeons of the Capitol. Mr. Allen is likely at any time to introduce and urge to adoption a resolution having as an object the incarceration of Havemeyer and Searles until such time as they shall answer the questions in dispute.

At present, however, Havemeyer is at liberty. He quitted the court room immediately after the decision of the Judge, apparently anxious to leave the forbidding confines of the court room. Mr. Searles accompanied him, although not near so

power of the Senate Investigating Committee in conducting this inquiry.

It has not been possible for the Court to cover carefully and accurately and consider the questions which underlie this graver question of the authority and power of the Senate committee.

Enough consideration has been given to the other propositions to enable the Court to dispose of the motion without reference to or a decision of the question of power of the Senate committee to conduct this investigation. I would not care to enter upon this question without further time.

Two Propositions Involved.
The facts as shown tended to establish the facts as given in the indictment, but was the defendant guilty of contempt?

This depends upon two propositions. First, did the committee have jurisdiction, and was the question pertinent? Second, did the question demand facts within the possession of the witness? A negative to either of these propositions would require the court to sustain the motion.

The answer by the subpoena that was called upon Havemeyer was called upon him to appear before this Senate committee and to testify as to any material facts within his knowledge—facts that were material and pertinent to the inquiry that was being carried on by that committee.

These facts to show that, although the question was directed to him by one of the members, it was sustained by a majority of the members. When the committee met the next day he was not asked regarding anything he knew personally, but to produce data regarding contributions, national, State and local. He had already answered the part referring to national matters.

Not Called Upon for This.
On this occasion he is not said to have had possession of the facts, but to have declined to look it up, or produce it from the books. The statute expressly provided that any one who shall be summoned to give testimony or to produce papers, and refuses to do so, shall be guilty of contempt.

It was not called upon to produce himself for such office by any preparatory study, he was not called upon to obtain knowledge as to any fact or circumstance that they might anticipate would be inquired into by this committee by a search in record or books or by conversation with third persons. If, however, he had no personal knowledge of the fact that was sought to be elicited from an examination of the memoranda, it is perfectly apparent that such examination would not qualify him to give testimony.

"I have found one case that is somewhat in point. A referee ordered the defendant to produce his books and leave them, in order that the referee might examine them at leisure. This he refused to do, and the Court held that he was not in contempt, as he had not been so directed in the first order. If the witness had this data within easy reach, would his refusal to consult it amount to a refusal? There is no evidence to support the idea that such an examination would refresh the memory of the witness. Personal knowledge and evidence are all that are required of a witness."

Did Answer the Questions.
"The allegation is that he refused to answer the questions. The proof is that he did answer the questions, but that he did not produce data which he was requested or directed to produce. Upon these grounds, therefore, it appears to me that no court in Christendom would hold that a witness, under such circumstances, was guilty of contempt."

"If the witness were not guilty of contempt, then this prosecution is baseless, and it is not necessary to inquire whether the Senate of the United States was possessed of the jurisdiction to inquire of any corporation or individual whether it or he had contributed money for any local or State political services."

"There are other questions that are raised in support of this motion that are subsidiary to the main proposition which are worthy of serious consideration, but it is not necessary to pass upon them. The decision of this one question ends this case. Therefore the jury is instructed to return a verdict for the defendant."

The case of Secretary Searles, of the Sugar Trust, will be called up to-morrow morning.

Sawelle-Smith.
Miss Celestia Mills Smith and Edward Thomas Sawelle were married yesterday at noon in All Angels' Protestant Episcopal Church, West End avenue and Eighty-first street.

Rev. S. Delancey Townsend, the rector, performed the ceremony, and was assisted by Rev. Isaac Shipman, of Christ Church. The bride was given away by her father, E. Ronel Smith. She wore a costume of white satin, with duchesse lace tulle and orange blossoms. Her cousin, Miss Mills, of Pittsfield, Mass., was her maid of honor, and only attendant. De Coste Smith, a cousin of the bride, assisted as best man. Burnett Smith, a brother, William Henry Sawelle, a brother of the bridegroom, George Rust Rogers and Rev. Herbert Shipman, of West Point, N. Y., were the ushers.

Grant and Lee on the Advance.
The death of Louis L. Scovel, head bookkeeper at the Sub-Treasury, has resulted in almost a score of promotions. Cyrus S. Grant, who it is believed will be promoted to the position of general superintendent, succeeds to Mr. Scovel's place and Edgar Lee takes the place made vacant by Mr. Grant.

"BERESFORD" MAY FIGHT A DUEL.

Alleged Lord Angered by a Scathing Newspaper Denunciation.

BRIDE BELIEVES IN HIM.

Georgia Paper Says He Won the Rhode Island Heiress.

FRENCH WOMAN HIS ACCOMPLICE

Editor Declares the Ex-Convict Cleverly Foisted an Old Friend Upon the Family as Miss Pelky's Governess.

Atlanta, Ga., May 27.—Following upon the sensational and unexpected marriage of Sidney Lascelles, frequently called "Lord Beresford," is published an article in the Rome, Ga., Hustler, before which all previous stories regarding this most sanguine person Lascelles pales almost into insignificance. The editor of the paper, Colonel Philip Byrd, stands ready to defend every word of it.

It was in Rome, Ga., that Sidney Lascelles went when he married Miss Lillian, of New York State, and it was in that pretty mountain town that he fled his first Georgia victims. It was to Rome, too, that he fled when he escaped for a time from the penitentiary. So Colonel Philip Byrd had chances to get well ac-

quainted. Glaring Inside Facts About His Disgraceful Marriage! The "Hustler" of Rome Will Contain Some Sensational Reading This Evening.

The article charges "Lord Beresford" with being a most designing scoundrel, and says that he won his present wife through the scheming of an accomplice, a French teacher in Fitzgerald. It is charged also that he won the affections of a daughter of one of the employees of the Great Lumber Company, at Kramer, but threw her over when the Governor pardoned him.

Byrd also intimates that "Beresford" is guilty of bribery. He says "Beresford" went to Fitzgerald and was a "high-roller" for a time, but was finally reduced to straits and borrowed money from Mayor Goodnow, who took his notes.

As regards his last marriage, Byrd says that "Beresford" went to Alexander Pelky, father of his present wife, and flattered him about his daughter, saying that all she needed was knowledge of French. He influenced Pelky to employ a French teacher (Beresford's accomplice), and it was under "Beresford's" guidance, Byrd charges, that the woman lauded "Beresford" to the skies and did all she could to bring about a match.

French Woman Does Her Part.
"In the meantime," the article continues, "Mayor Goodnow wants his money and demands payment, and on 'Beresford's' failure to pay grows angry and threatens to put him back in the penitentiary. After some talk the Mayor decides not to jail him. In desperation, 'Beresford' arranges a big birthday party and the Mayor presides. Papers all over the State are hoodwinked and report the affair grandiloquently. The French woman shows Miss Pelky the account and she is bewildered and dazzled and marries him in a jiffy."

The article goes on to charge that now "Beresford's" accomplice is laying siege to the heart of Alexander Pelky, and may become "Beresford's" mother-in-law. It is also stated that "Beresford" wrote to the girl at Kramer that he had to marry Miss Pelky—or go back to the penitentiary.

This article was telegraphed to Fitzgerald this morning, and the town is in a stir over it. The Mayor says that it is false throughout and that there is not a thing questionable about the marriage. Byrd sticks to his article also, and reiterates that "Beresford" is "an infernal scoundrel and a reckless adventurer." It

JOHN CLAFLIN UNDER ARREST.

The Millionaire Dry Goods Man and Reformer in Brief Custody.

SWORN 'N AS JUROR.

At the Office of Commissioner Gray the "Prisoner" Explained His Absence.

SAID THE MAILS WERE TO BLAME

Had Received the First Two Notices to Appear, but Didn't See the Last Two.

John Clafin, a prince of the dry goods trade, an intimate in business and politics of Mayor Strong, member of the Executive Committee of the Wholesale Merchants' Association recently organized to boom trade in New York and a millionaire many times over, was placed under arrest yesterday—technical arrest is the proper way of putting it.

It was because, as the Journal told yesterday, he persisted in ignoring the jury summons which the Special Commissioner of Jurors, Henry Winthrop Gray, caused to be served on him.

The order for his arrest was placed in the hands of Deputy Sheriff Walzing for execution, and that official, true to his trust and Sheriff Tamsen, placed the war-



Judge Bradley Quoting Senate Testimony in His Decision.

all there was a decent scurrying among the lawyers and the friends of the defendant.

Congratulations for Havemeyer.
Several crowded over and vigorously shook the fat, pudding-like hand of Mr. Havemeyer, Mr. Davis, with that courtesy which always distinguishes him, congratulated Mr. Havemeyer upon escaping the fate of Chapman. The out-of-town lawyers were also heartily congratulated by those of their local brethren acquainted with them.

"Certainly I am satisfied with the verdict," said Henry O. Havemeyer. "The verdict ought to be satisfactory to every decent man in this and every other community." That was the only expression the President of the Sugar Trust would make upon the result of his trial.

Mr. Havemeyer had been expecting this decision. Nevertheless he was apparently pleased as Punch. He threw his head back until the fat collops under his chin almost disappeared and chuckled with a glee that was almost hysterical. Half rising from his chair, he turned and asked for Chapman with the evident intention of gloating over that victim of the same law which had threatened him so seriously but a short time before. During the entire proceeding he clutched with firm grasp the cheap umbrella he has carried during the entire trial, and seemed in a state of almost nervous exaltation, if such a stolid creature can be guilty of nervousness.

Why Chapman was Convicted.
To some the Judge's decision came as a great surprise, as they were unable to differentiate between the cases of Chapman and Havemeyer. Briefly stated the difference between the two cases may be summed up as follows:

Chapman was charged with contumacy under the statute provided for Congressional investigation, in that he refused to answer from his own personal knowledge a question clearly within the scope of the investigation. He was asked whether or not any members of the Senate had been buying or selling sugar stock through his firm. The Senate resolution directed the committee to inquire among other matters whether any Senators had been speculating in what are known as sugar stocks during the consideration of the Tariff bill then before the Senate, and the questions put to him were as to whether that firm was employed by any Senator to buy or sell for him any of the stock of the American Sugar Refining Company, whose market price might have been affected by the Senate's action on the pending bill.

In that case it was settled that such an investigation inquiring into the conduct of any Senator in buying or selling stocks the value of which might be affected by his vote, as affecting the Senate, was within the jurisdiction of that body. The questions asked Mr. Chapman were held by the court holding the trial to be pertinent to the subject matter of the inquiry, and

tion was not pertinent to the investigation. He took the ground that the statute contemplated he giving of testimony, and explained that the meaning of the word "testimony" was too well settled to require a definition by the court. The witness was called upon to appear before the committee and testify as to any material facts within his knowledge—facts that were material and pertinent to the inquiry that was being carried on by the committee.

He was not called upon to prepare himself for such office by any preparatory study. He was not called upon to obtain knowledge as to any fact or circumstance that he might anticipate would be inquired into by this committee by a search in records or books or by conversation with third persons. He was bound to know, the Judge held, and it was to be assumed that he did know, that he was to be asked for competent testimony and for nothing else.

The Subpoena Insufficient.
The Court stated that he was bound to know that if a fact was not within his personal knowledge he could not prepare himself to give competent testimony by

merry as his fat-necked partner. Mr. Searles is a sombre, pessimistic sort of a millionaire, and does not share the confidence of his attorneys as to the outcome of the trial.

When the court convened this morning Attorney Davis began his argument in opposition to the motion of the defence and talked for an hour. He took up the six reasons given by the defence for requesting a dismissal of the case, and while he treated of them out of the order in which they were given, he covered them all fully.

The Judge's Decision.
He was followed by Mr. Johnson, who in an opposing argument sustained the propositions he had advanced. When he had concluded at 11:30 Judge Bradley announced a recess until 1 o'clock. During the recess Judge Bradley carefully reviewed the evidence and the arguments and announced his decision as follows:

This case involves questions of large and important effect, questions which could not be disposed of without the closest and gravest consideration. Especially important and grave is the question of the authority and



Havemeyer Makes Friends with a Little Girl in the Court Room.

Just after lunch, when the sugar king was sitting with Searles and Dittenhoefer, a child ran up to him. He took her on his knee and kissed her.

quainted with Lascelles, and when he heard of the marriage to the wealthy Rhode Island girl, Miss Pelky, he began an investigation. The result of that investigation is the above mentioned article.

Article Widely Advertised.
It seems that before printing the paper, Colonel Byrd had handbills scattered upon the streets of Rome bearing the following words: "Lord Beresford Threatened With the Penitentiary by the Mayor of Fitz-

is needless to say that "Beresford" denies it all and that his wife believes him.

Mayor Goodnow also denies the Byrd story. He avers that Beresford is an honest, hard working gentleman, and that the discipline in the penitentiary was worked wonders in reforming and remodelling his character. He denounces the French accomplice story in all of its details as absolutely false, and asserts that he reposes the utmost confidence in "Beresford" in every particular. He points to "Beresford's" brilliant and upright record in Fitzgerald, and says that it is impossible to believe him other than a reliable gentleman.

rant in turn in the hands of Merchant Clafin.

Sheriff Tamsen is a product of reform, as is the deputy sheriff. When the latter left the Sheriff's office yesterday the injunction was ringing in his ears: "Don't put handcuffs on Mr. Clafin." That was enough for Mr. Walzing. He found the merchant at the big desk in his office and approached, but in hand. There was a perceptible tremor in his voice as he laboriously drew forth the official papers bearing the Sheriff's great seal and signature, and said, in words to this effect: "By your leave, Mr. Clafin, I will place this in your hand as the law requires me to do. Oh! no, sir. This paper we will regard in the nature of a summons. I trust, sir," and here the polite and considerate deputy sheriff gave an apologetic cough. "I trust you will present yourself at the office of the Commissioner of Jurors."

Then he bowed himself out and reported to his chief. An hour later the merchant alighted from a cab at Fifth avenue and Eighteenth street and, stepping into the elevator of the Constable building, was carried to the tenth floor, where are located the offices of the Commissioner of Jurors. To one of the door attendants he gave the warrant instead of his card, and was at once shown into Commissioner Gray's office.

His excuse, as expressed to Commissioner Gray was that the mails had for the nonce failed. He admitted having received two notices to appear, but the two additional notices which the Commissioner informed the merchant and reformer he had sent, the latter guessed were lost in the mail shuffle, thereby scoring one on Uncle Sam.

In the meantime, a clerk was preparing the affidavit which all jurors are required to swear to. Mr. Clafin was asked if he had a prejudice against any of the laws of the State of New York. Merchant Clafin answered, "I do not favor the Anti-Trust laws. They interfere with business. But I would not be prejudiced against them as a juror," added Mr. Clafin, pleasantly.

"You should have no objection to serving on this jury," said Mr. Gray. "It is regarded as a juror's privilege."

"Glad to hear it," said Mr. Clafin. When the affidavit, with questions and answers, was drawn up, Mr. Clafin signed his name, and, raising his hand, repeated solemnly, "So help me God," after the notary public who administered the oath. Then Mr. Clafin left.

CHARACTERS IN SUGAR TRUST TRIAL

