

A CELEBRATED CASE.

HISTORY OF THE PROCEEDINGS IN THE SEVENTH DAY BAPTIST SOCIETY.

The Dispute Begins in 1879. When Two Sets of Trustees of the Congregation of Ephrata Were Elected—Struggle of the Factions Since for Supremacy.

The legislature of the state of Pennsylvania, on February 21, 1879, passed an act to amend an act to incorporate the German Religious Society of Seventh Day Baptists of Ephrata, in the township of Coalinga, in the county of Lancaster. This act incorporated the society which has taken up the court's time on many occasions during the past several years and caused disagreement between the president and associate judges, and the result is that a third judge will have to be called in to determine the dispute between the two factions of this denomination. The church at Ephrata is one of the four branches of the society of Seventh Day Baptists. The other three are located at Sny Hill, Bedford and Allegheny. The difficulties began a few years prior to 1880, when some of the members began complaining about the management of the affairs of the society, by the Konigsmacher faction. Lorenz Noide, who was foremost in the opposition to Konigsmacher's management, was elected by birth, and came to this county from Franklin county over twenty years ago. He was a member of the Franklin county society and connected himself with the Ephrata branch soon after locating in that town. When the controversy as to Konigsmacher's management was going on, Noide took sides against him, and finally became the opposition leader. He was elected a trustee several years ago. The charges against Konigsmacher was that he did not keep his accounts properly. The board of trustees was divided on nearly every question that came up, and Noide's opposition was very plain, when the matter was brought to their attention, as we did heretofore verbally, the propriety of exercising the power to call upon a judge from another district to decide the case for them, as suggested by the supreme court in their opinion of the case, delivered June 4, 1883.

After the rendition from the supreme court reversing Judge Patterson had been filed, Judge Livingston entered a decree sustaining the report of the master and directed the Noide party to pay the costs. A \$1000 was awarded to the Konigsmacher party for the costs amounting to about \$800 and the sheriff levied upon the goods of Noide to satisfy the claim. A motion was made to set aside the \$1000. Once more the judge differed, Judge Livingston said the execution should go on and Judge Patterson declared it should not. The Noide party took out a writ of habeas corpus, and the case taken to the supreme court. That court set aside the \$1000 on the ground that there was no judgment of the court on which it could issue. That ended the litigation for a time.

The quadrennial election was held again in January last, and the usual result followed. The trustees were elected, and each claiming to be the legally elected trustees. Rules were on this week's argument list to show cause which of the bonds should be approved, but the court would not hear argument and told counsel to try and agree as to a third judge to settle the dispute.

Counsel for Noide et al. wanted a third judge called in as early as April 1, 1884. On that day they presented to the court a petition, of which the following is a copy: Now, April 1, 1884, the honorable, the judges, not being able to agree upon a decision in the case of the Seventh Day Baptist Society of Ephrata, as very plainly appears by their respective opinions, filed December 22, 1883, and the fact that the matter was brought to their attention, as we did heretofore verbally, the propriety of exercising the power to call upon a judge from another district to decide the case for them, as suggested by the supreme court in their opinion of the case, delivered June 4, 1883.

The court's opinion was that the election of trustees for the Seventh Day Baptist Society of Ephrata, on Monday between the hour 1 p. m. and 4 p. m. The congregation of the Noide faction were all present by 1 p. m. The congregation of the Zerkas party came in 10 minutes later. When all had assembled Mr. Noide remarked that the time had arrived for the holding of the election. He informed the meeting that Justice Keller would read a paper to the society assembled. The justice then read the following paper: To A. F. Madlem, Joseph J. R. Zerkas and Timothy Konigsmacher and all concerned, please take notice that for the purpose of avoiding the necessity of holding two elections (which may result in litigation) for the election of trustees of the Seventh Day Baptist Society of Ephrata, to be held this day, we propose that you and your friends entitled to vote shall vote at the polls opened by us for that purpose, and if you do not so agree to receive our votes at the polls opened by you we shall abandon the polls opened by us and cast our votes at the polls opened by you in order that all dissenting and dissenting members may be avoided by a submission to the will of the majority of the members of the society, signed Lorenz Noide, James Spangler, Anna M. Kamb, Kate Fasig, Rachel Musser, W. Madlem, Susan Trego, James Trego, Jane A. Hahn, Clara Grogg, Margaret Howard, Elizabeth Shearer, Benjamin R. Bennett, Elizabeth Shearer, Belle Dennis, Wm. A. Reser, Mary King, David King, Maria Nies, Eva Henry.

At the time of the January (1879) election, the membership of the society was about thirty of whom three-fifths were Noide. The male members were in general mechanics or laboring men, and a considerable number of the members were dependent, wholly or partially upon the funds of the society. The Seventh Day Baptists do not appear to have formulated any rules of faith or rules of discipline, but profess to take for their guidance simply the Bible and New Testament. The distinctive features of their practices are: Their observance of the seventh day of the week instead of the first as the Sabbath; the observance of the right of baptism by trine immersion; with outward action in a stream of running water; by the love feast held annually at their communion; by the washing of each other's feet by the members previously to the breaking of bread at the communion.

In pursuance of the notice the members met at 12 o'clock on January 2, 1879, to elect three trustees. The time for opening of the election was railroad time which was five minutes faster than Ephrata town time, and Lorenz Noide objected to the election proceeding until 12 o'clock town time. The election proceeded until Jacob S. Spangler offered his vote. It was objected to because he was a "Separatist," that is, he was one of the parties baptized by Rev. David C. Long, who was no longer in full communion with the society. Spangler's vote was rejected and his friends, including the late Lorenz Noide, went to another part of the room, chose another board to conduct the election and held it.

The returns showed that the first board organized received 10 votes, all of which were cast for A. F. Madlem, J. J. R. Zerkas and Timothy Konigsmacher. The second board received seven votes, all of whom were cast for William Madlem, Lorenz Noide and Jacob S. Spangler. Each of these sets of trustees were returned as duly elected for a term of four years. Each set filed their bonds and the court heard the argument of the counsel interested, and decided that they were not called upon to decide which were the regularly elected trustees and they would not approve any of the bonds, and suggested that another election be held. In pursuance of that suggestion Wm. Madlem, Lorenz Noide, present notices for an election to be held on July 2, for three trustees. At the time mentioned some of the members assembled (the Konigsmacher faction remained away) but they could not get into the "Saal" and they held an election in the building near by. Sixteen votes were cast and all were for Lorenz Noide, William Madlem and Jacob S. Spangler. This return with their bond was filed in court and a rule to show cause why the bond should not be affirmed was argued at the December term 1879.

On February 21, 1880, Judge Patterson delivered an opinion that Judge Patterson, Madlem and Spangler were elected in July to serve four years from January, 1879. From this conclusion dates the division of the court on this case. After Judge Patterson had read his opinion Judge Livingston dissented and the opinion of his colleague and objected to the approval of the board. Judge Patterson held that his approval was sufficient, and Judge Livingston that it required the approval of both judges.

On May 31st, 1880, Noide, Madlem and Spangler, returned as elected trustees, filed a bill in equity, and Judge Patterson, in chambers granted an injunction restraining A. F. Madlem, Joseph J. R. Zerkas and Timothy Konigsmacher from collecting the debts due the society, or attempting, as trustees, to exercise any control over its property. The defendants filed an answer denying all the allegations of the Noide party, and Anne Slaymaker was appointed master. The master's report was filed and testimony was taken and he reached these conclusions: That the bond of Noide et al. had never been affirmed by the orphans' court; that the act of one judge in the face of an objection and dissent of the other judge was not an approval; that Noide et al. had not been elected trustees, and were not entitled to the office; that A. F. Madlem, Joseph J. R. Zerkas and Timothy Konigsmacher were the duly elected trustees. To the master's report Noide et al. filed exceptions, which were argued before both of our judges. Judge Patterson delivered an opinion sustaining the exceptions, reversing the injunction directing a perpetual injunction to be entered against the Konigsmacher party. Judge Livingston dissented and on the decree entering the perpetual injunction the Konigsmacher party appealed to the supreme court and a writ of habeas corpus was granted, and the injunction making the injunction perpetual.

The land and tenant set of 1880, and the alderman decided in favor of the Konigsmacher party, and the tenants were ejected. Their only remedy was an appeal and this was taken at once, and although entered in the probatory office for the past three years and on the trial list several times, the appeals have not yet been disposed of by trial.

MORE LITIGATION. After the rendition from the supreme court reversing Judge Patterson had been filed, Judge Livingston entered a decree sustaining the report of the master and directed the Noide party to pay the costs. A \$1000 was awarded to the Konigsmacher party for the costs amounting to about \$800 and the sheriff levied upon the goods of Noide to satisfy the claim. A motion was made to set aside the \$1000. Once more the judge differed, Judge Livingston said the execution should go on and Judge Patterson declared it should not. The Noide party took out a writ of habeas corpus, and the case taken to the supreme court. That court set aside the \$1000 on the ground that there was no judgment of the court on which it could issue. That ended the litigation for a time.

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After the paper was read the Zerkas party were silent. Mr. Noide arose and said, "Now, you can say yes or no. If you refuse we shall be obliged to proceed with the election." He appointed John Spera, Geo. Ulrich and Frank Good as a board of election, and the election proceeded. Mr. Noide's faction consented while Mr. Zerkas party still remained silent. Mr. Noide told all the members that they were to give their votes to the board of election. Zerkas organized his board of election and began to vote. The elections resulted as follows: Noide's party had 20 votes, Lorenz Noide, W. Madlem, and John Wolf, of Quincey, Franklin county, were elected trustees. It is to be noted that a judge will be agreed upon at an early date and this lengthy litigation ended, which has been a great relief to all, as well as the church they represent, a large sum of money and any amount of trouble.

There is nothing new under the sun. Old Solomon said so, and he was wise enough to know what he was talking about. It applied in his generation, and is equally applicable in this. Our Board of Trade is making tremendous efforts to secure new industries for Lancaster, and a general impression goes abroad that we are much more progressive than our forefathers. Yet when the big majority of the present Board of Trade were launched in the fall of 1885 at Fort Lafayette, for Zerkas's dynamite gun are claimed the advantages of lightness, freedom from report and flash, and cheapness (its cost being but a trifle compared to other guns of equal power of destruction. Lieutenant Zalkinski is making more experiments which may prove of great value, relative to the effect of an electric current on molten iron. Preliminary tests showing that iron cooled while a strong current of electricity is passing through it is increased fully one-half in tensile strength and ductility.

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Weekly Intelligencer. LANCASTER, MARCH 26, 1887.

The Hunter Fallers. Mr. A. H. Hoeckley, city editor of the Philadelphia Press, who was accused by the Philadelphia Times of receiving fifty dollars a week for keeping the Press harmless as to the operations of the gamblers of the Quaker city, has practically confessed his guilt.

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People will breathe freer at the announcement that Governor Beaver has not forbidden his aid to indulge in malt or spirituous liquor.

Editor W. A. Dinsmore of the Wayneburg, Greens county, Pa. Messenger, in referring to the paper and giving place to A. E. Patterson, the paper and proprietor, delivers himself of this biting shot at some of the people who helped to make editorial life miserable.

With the earnest labor of a life. Railroads Making Mistakes. News comes from various quarters of the withdrawal from sale by railroad companies of commutation and thousand-mile passenger tickets and it is said that the Baltimore & Ohio road has announced that this action is due to the interstate commerce bill.

Attention has been called in these columns to that clause of the bill which expressly provides that nothing in it shall apply to the issuance of mileage, excursion or commutation passenger tickets. It is also provided in the first lines of the act, that its provisions shall not apply to the transportation of passengers or property wholly within one state.

It is not pleasant to a senator when you have a son who is sued for \$30,000 for recklessly pointing a pistol. Such is Senator Fair's mournful situation.

PERSONAL. CARDINAL GIBSON has been installed with great pomp in his titular church of Santa Maria Trastevere in Rome.

POWDERLY TO THE LEGISLATURE. Mr. Powderly has something to say about the Pennsylvania legislature. He has been asked to advocate certain measures which he says he knows nothing about, and refusing in his ignorance, proceeds to make several caustic remarks upon the peculiar ways of the Pennsylvania legislators.

Commenting on the custom of introducing labor measures at each session of the legislature, he notes what has been plainly apparent to every man who has paid the least attention to the proceedings of that body, namely, the insincerity of the pretenses of interest in the labor cause.