

THE BASIL CASE BEING ARGUED

Before the Court of Appeal At Osgoode Hall, Toronto.

ENDEAVORING TO PROVE THAT ARCHBISHOP SPRATT WAS NOT RESPONSIBLE

For the Attempt to Remove Sister Basil to an Asylum—Mr. McCarthy Objects to Press Publishing Statement of Claim.

Toronto, Sept. 27.—The Appellate Court at Osgoode Hall is hearing the appeal of the defendants, Archbishop Spratt and others, in what has become generally known as the "Sister Mary Basil" case at Kingston, in which, after a trial developing markedly sensational features, verdict for the plaintiff was given in Justice Britton's court, with damages amounting to \$24,000.

Of this \$20,000 was against the archbishop, the Roman Catholic Corporation, the Mother Superior, Frances Regis, and Sister of Charity, and \$4,000 against Dr. Daniel Phelan.

It is from this judgment and the impost of damages attached that appeal is taken.

The case, which opened yesterday morning, is expected to be continued throughout to-day at least, an imposing array of counsel being engaged, these including Messrs. McCarthy and Tilley of this city, Rigney and Cunningham of Kingston.

The argument is before a full bench of five judges, Sir William Meredith, presiding, and Justices MacLaren, Magee, Hodgins and Ferguson.

What About Press Rights? D. L. McCarthy, K.C., for the Mother Superior, Archbishop and the other defendants, stated that he had objected to certain clauses in the pleadings when the trial began. The statement of claim was published by the Kingston papers.

"Wasn't that improper?" asked the Chief Justice.

Justice Hodgins—"The papers can get copies."

Sir William Meredith—"But I don't see that newspapers can publish a statement of claim without running the risk."

Mr. McCarthy—"They take the risk, I suppose."

Archbishop's Responsibility. An attempt to prove from the nun's evidence that responsibility for the offense of trying to remove Sister Basil did not rest upon the prelate characterized Mr. McCarthy's argument, which occupied the afternoon.

"It is suggested that the Archbishop was the author of the order for removal. Either he knew of it and did not prevent it, or ordered it himself," said Mr. McCarthy.

Chief Justice Meredith—"If he was consulted, and advised such action would be liable."

Mr. McCarthy—"I don't think so."

Mr. McCarthy endeavored to show that throughout the whole period of the conspiracy Archbishop Spratt's attitude was one of answering kindness, that his Grace's good-will was shown in having her removed from time to time to more congenial surroundings and in offering to give her dispensation from certain of her vows.

"What have events two years previous to the assault to do with his alleged part in the assault, on account of which damages were granted?" asked Justice Magee.

"This evidence was admitted at trial in spite of me, and I am using it now to show that his conduct was of unvarying kindness," replied counsel.

The presiding judge asked how it was that not all the vows were subject to the Archbishop's dispensation.

"The vow of chastity has to go to Rome," replied Mr. McCarthy. "His Grace could relieve her of the temporary vows, poverty and charity."

Counsel for the appellant told of her life at various communities of the order and her meeting with Father Mea, who was ill and was acting as chaplain at the place where she was in residence, all with a view to proving her suspicions against his Grace unfounded.

Sending of Postcards. "Rumor connected Sister Mary Basil's name with certain villainous postcards circulating at St. Mary's of the Lake," said Mr. McCarthy. "There is no evidence of the rumor or of their character," said Mr. Tilley.

"The Archbishop heard of these

cards and went there to investigate," continued Mr. McCarthy. "The Archbishop insisted to Father Mea that she had sent the cards, but Father Mea doubted the correctness of this.

"The Archbishop then told Father Mea that the person who wrote the cards had a diseased mind, and would find himself or herself in an asylum sooner or later. Father Mea then told her that the Archbishop planned to send her to an asylum."

"In October, 1915," he continued, "when she was living with private persons in Kingston the Archbishop induced her to return to the community to take care of the rooms of Father Mea, who was chaplain then at St. Mary's-of-the-Lake."

Sister Basil's Charges. "That is all there is in her evidence to connect the Archbishop with the conspiracy to send her to an asylum," said Mr. McCarthy.

"For a time she lived there, apparently happy. Then the whole woods were set on fire by the letters of April 18, 1916, in which she charged gross mismanagement of the institution."

"Were these charges ever disproven?" asked Justice Hodgins.

"No," said Mr. Tilley. "An important charge was that of 'graft' against the Mother General in connection with the change of heating system."

"This matter was introduced to show that the Mother General would be embittered against her and to thus explain the conspiracy," said Mr. McCarthy.

The letter, it appears, was correct enough in form, being a formal report such as each member of the Order was entitled to make prior to the election of a Mother-General.

The accused Mother-General was however, re-elected in July.

"When she interviewed the Archbishop during his visit to the institution, and according to her, he declared that he believed her charges were made in good faith, this admission showing an improvement in their relations," said Mr. McCarthy.

The Case Resumed. Toronto, Sept. 27.—The argument in the Basil-Spratt appeal case was resumed this morning by D. L. McCarthy, K.C. The case against the archbishop, Mr. McCarthy said, was based on conversations that took place before the attempted removal and two of these did not show anything, and unfortunately this was not explained to jury at the trial by His Lordship.

As to another alleged conversation with Dr. Gibson, only part of this was read to the jury, who were asked to draw an inference upon it. Referring to a conversation between the archbishop and Father Mea, in which the archbishop objected to Father Mea interfering with his administration, the counsel claimed that the jury was placed in the position of having to guess what was the full significance of the conversation.

"You objected to the Court ruling in regard to the reading of only part of the archbishop's examination for discovery. Your objection was rather wide and if there are any questions which should have been read would not read them?" asked Justice Magee.

Mr. Tilley, counsel for Sister Mary Basil, however, objected that he was the only one, according to the rules of the court, who was in a position to read questions from the examination for discovery of any of Mr. McCarthy's clients.

So Mr. Dr. Phelan's part in the assault was concerned, Mr. McCarthy argued that his position was a good deal similar to that of a person in a house where a servant might go crazy and get the police to have the servant removed. "I cannot find any cases to show that he is criminally liable," stated counsel.

"I do not know that," stated Chief Justice Sir William Meredith, "but I should think he was criminally liable in aiding and abetting in this attempted abduction. He knew she was not sane."

"What he knew was that a sister asked him to get Naylon, the constable," answered counsel.

Mr. Tilley's Argument. In opening his argument, W. N. Tilley, K.C., counsel for Sister Basil, first dealt with the question as to the legality of making Archbishop Spratt a party to the suit and dealt with the contention that the corporation as such had nothing to do with the alleged assault. From the statutes he read certain sections to show that a dignitary of the church given the right to hold real estate on behalf of an institution can be sued.

"He is to have charge of a body corporate," stated Mr. Tilley. "He can sue or be sued. He is a corporation and may be sued as a 'corporate body' or as a natural person."

Enquiry was made by Justice Hodgins as to whether church property could be disposed of to satisfy such claims as this, to which Mr. Tilley replied that he could not see any reason why it should not.

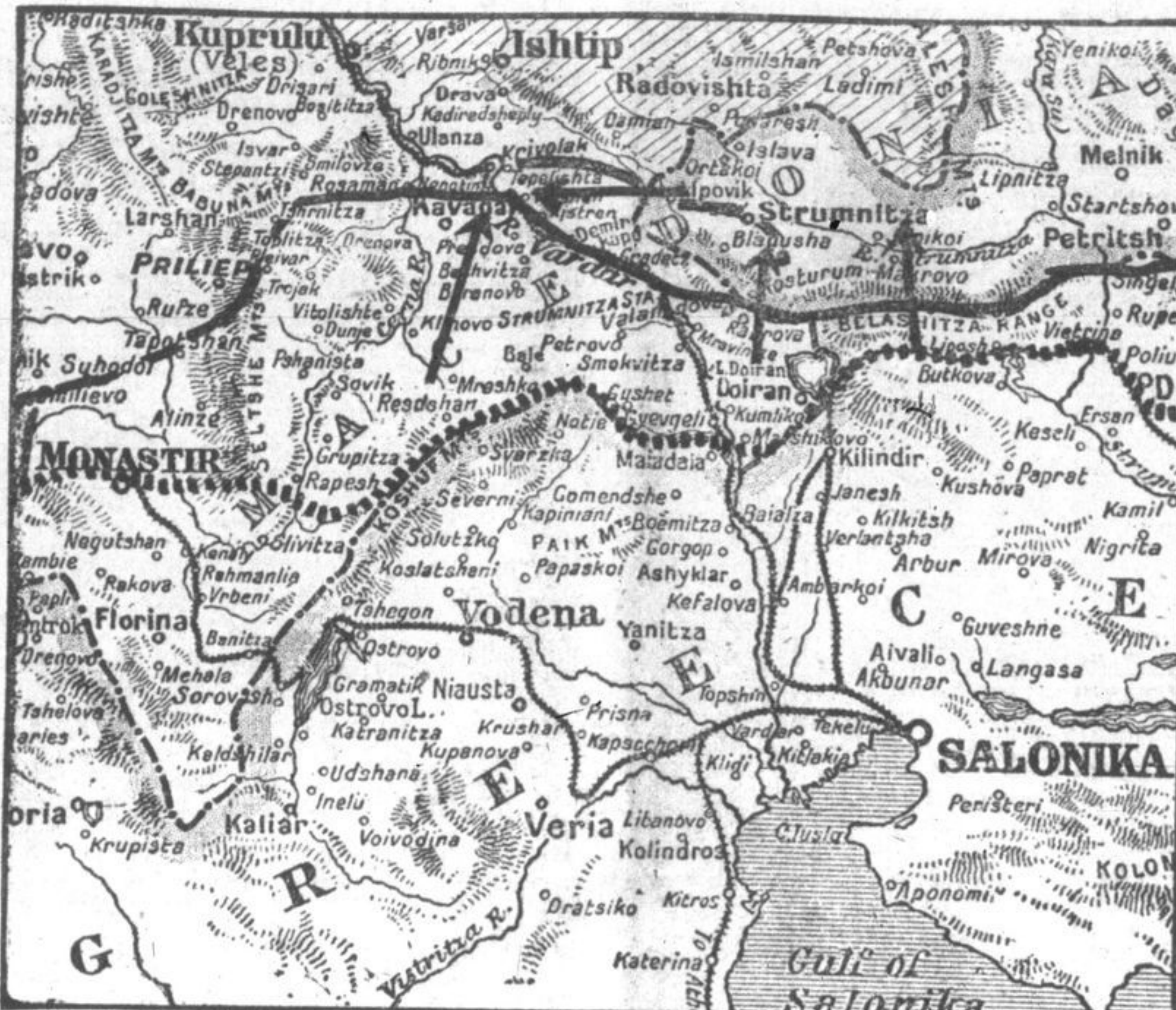
"How can a corporation be held liable, probably criminally liable, because he happened to be the archbishop?" asked Chief Justice Meredith. "If he had no authority to do an act and did it, would the corporation be liable?"

In reply, Mr. Tilley pointed out that the sisters in the institution had to obtain the sanction of their ordinary before they could remove Sister Basil. Counsel went on to show that the evidence of Dr. Gibson was in effect that the doctor himself came to the ordinary to consult him before giving a certificate as to her mental condition.

"Dr. Gibson said," declared Dr. Tilley. "I don't like to give a certificate without seeing her, but the ordinary told him that he couldn't see her."

Continuing, Mr. Tilley declared that Sister Basil's life was for years, one of obedience.

STEADY PROGRESS IN THE BALKANS



The dotted line is the old trench system; the black line the present front. The arrows show the direction of the Serbian and French attacks on the left and the British on the right.

GERMANS DAZED BY THE ATTACKS

Of the French And the Americans in the Champagne.

THE ATTACKS CONTINUING

AMERICANS ADVANCE TO DEPTH OF FOUR MILES.

Seven Thousand Prisoners Taken—The Total Length of Line of Attack is Over Forty Miles.

(Special to the Whig.) London, Sept. 27.—French and American troops launched an attack Wednesday morning on a front of forty miles, between the Sulppe and the River Meuse. The Germans voluntarily abandoned their forward positions. The Americans attacked on the right and the French on the left. The Allied forces penetrated German positions for several miles. The French fourth army has taken Servon, which has been in the hands of the enemy since 1914, and Navarin farm, where there has been heavy fighting.

Attack Continues Satisfactorily. (Canadian Press Despatch.) Paris, Sept. 27.—The Franco-American attack on both sides of the Argonne is continuing satisfactorily. The total length of the line of attack is between forty and fifty miles. The Americans advanced to an average depth of four miles, taking over three thousand prisoners. An immense amount of booty was taken.

The Germans seemed dazed by the ferocity of the attacks. One American division took twenty guns and hundreds of prisoners.

Prisoners Number 7,000. (Canadian Press Despatch.) Paris, Sept. 27.—The successful development of the French offensive began yesterday in the Champagne region, reported to-day by the War Office. Over the entire field of attack by the French, between the River Sulppe and the Argonne forest, formidable German positions of a depth of more than three miles were brilliantly carried.

The French have captured Butte du Meuil, Butte du Souain, Butte du Tahure and the villages Tahure, Ripont, Rouvroy, Cernay-en-Dormois and Servon Meziouret. More than seven thousand prisoners were taken.

French forces resumed their attack this morning, and despite unfavorable weather conditions satisfactory progress is being made.

Medical Students Sent Back. London, Sept. 27.—In order that the supply of doctors and dentists may not be depleted, arrangements have been made for the return from France to England of all Canadian one-year students who desire to return to Canada to resume their medical studies. The same plan is being followed with returning students who have completed one year of studies.

Meanwhile the Canadian Dental Service is kept busy both in England and France. As many as 27,000 men have been treated in one month by the dental officers.

Reports from Quebec state that the Spanish influenza epidemic is under control there.

Bulgaria's Premier Asked Armistice

(Canadian Press Despatch.) London, Sept. 27.—Premier of Bulgaria has made an offer of an armistice to the Allies, according to a Berlin message. The message states that the premier's offer was made without the support of the members of the cabinet or of King Ferdinand. The Berlin message says that Malinoff's offer has created great dissatisfaction in Bulgaria and that strong military measures have been taken to support the Bulgarian front.

According to statements from Sofia by way of Jassy, it is added a counter movement against the action of the premier has already been set on foot. (This would seem to indicate that a revolution is in progress in Bulgaria.)

THE BULGARIAN OFFER TO ALLIED COMMANDER

Who Said He Would Merely Receive Only Qualified Bulgarian Delegates.

(Canadian Press Despatch.) Paris, Sept. 27.—The French commander in chief in Macedonia officially reports today that the Bulgarians have asked for a meeting to arrange conditions of an armistice and eventual peace. The French commander replied refusing to suspend operations, but saying he would receive duly qualified delegates of the Bulgarian Government.

Germany Protests. (Canadian Press Despatch.) London, Sept. 27.—Germany intends to send a solemn protest to Bulgaria against Premier Malinoff's request for an armistice according to Berlin reports received in Amsterdam and forwarded by the Exchange Telegraph Company.

Bulgarian King Consulted. (Canadian Press Despatch.) Paris, Sept. 27.—Despatches here this afternoon state that the appeal of the Bulgarian commander-in-chief in Macedonia for an armistice was made with the consent of King Ferdinand and with a view to eventual peace.

Would Fight the Huns. Wants to Pilot Henry Ford's Eagles to Coast. (Special to the Whig.) London, Sept. 27.—Captain Hiram Clark, who is seventy years old, has made application to the Government to pilot some of the submarine chasers styled eagles which Henry Ford is building for the war on their trip from Detroit to the ocean.

Captain Clark is hale and hearty, has good eyesight and for years was a lake captain and knows every channel and shoal on the route the submarine chasers would have to take.

He is more than anxious to get into the fight against the Germans, and thinks this will be his chance.

Dr. Starr, consulting surgeon, Toronto General Hospital, has arrived in London and been appointed one of the consulting surgeons to the British forces in France.

The Lord Bishop of Birmingham, Right Rev. Dr. Wakefield, is coming to Canada on a tour and will tell the Canadian people of Britain's war activities.

BRITISH ATTACK ON WIDE FRONT

South of the Seneze River And Are Making Good Progress.

OBJECT OF THE ATTACK

TO DRIVE WEDGE BETWEEN DOUAL AND CAMBRAL.

The Seneze River Passes Through Doual and is One of the Most Important German Bases on Artois Front.

(Canadian Press Despatch.) London, Sept. 27.—British troops attacked on a wide front south of the Seneze river this morning. The first reports indicate that satisfactory progress is being made.

The Seneze river is a small stream flowing to the north-east and paralleling on the south, the Scarpe river, which flows past Arras and passes through the important city of Doual, one of the principal German bases on the Artois front in France. It is probable that the British attack is made for the purpose of driving a wedge between Doual and Cambrai, about fifteen miles to the south.

The British lines were advanced slightly north of Seneze in a local operation during Thursday night, and there were successful local attacks in Flanders. The text of Field Marshal Haig's report follows: "At 5.20 o'clock this morning our troops attacked over a wide front south of the Seneze river. First reports indicate that satisfactory progress is being made. During the night successful local operations were carried out in the neighborhood of Arieux, north-west of La Bassée, and south-west of Fleurbaix. Our line was advanced in these localities and prisoners were captured."

Canadians in Attack. (Canadian Press Despatch.) London, Sept. 27.—Canadian troops pushed forward on the northern flank of Marshal Haig's attack this morning. Favorable progress is reported on a front of three miles to a depth of a mile and a quarter across Canal du Nord.

Sixteen thousand German prisoners were taken by French and Americans in the Champagne drive.

War Tidings. German headquarters statement says seven Allied airplanes, which were attacking Frankfurt-on-Main, were shot down Thursday.

German airdromes at Buhl, twenty-five miles south-west of Karlsruhe and at Wehrstadeln, between Metz and Mannheim, have been bombed by machines of the British independent air force.

To Occupy German Ships. (Canadian Press Despatch.) Santiago, Chile, Sept. 27.—The Chilean Government has ordered the naval authorities to occupy with armed forces all interned German ships in Chilean harbors.

The British are still making slight advances and have taken several hundred prisoners between Selency and Chateau wood.

Sir Wilfrid Laurier will arrive in Toronto on Oct. 5th, and not on Sept. 30th, as has been erroneously reported.

REPORT THAT USKUB HAS BEEN CAPTURED

The Serbians Have Seized Babuna Pass—20,000 Prisoners Have Been Taken.

(Canadian Press Despatch.) Athens, Sept. 27.—The Allies are pursuing the enemy on the entire front between Monastir and Veleo. Franco-Greek detachments are marching toward Friep, which has been occupied by French. On the left bank of the Vardar, British and Greeks are pursuing the fleeing enemy toward Valandova.

Veleo, twenty-five miles southeast of Uskub, in Macedonia, has been captured by the Serbians.

Uskub Reported Taken. (Canadian Press Despatch.) London, Sept. 27.—The Bulgarians are still retreating rapidly and it is reported Uskub has been captured. The Serbians have seized Babuna Pass. Twenty thousand prisoners and two hundred guns are reported taken.

Serbians Take More Places. (Canadian Press Despatch.) London, Sept. 27.—In the successful continuance of their drive northward, the Serbians have entered Ishtip and captured other important points, says the Serbian official statement of Thursday.

A great number of additional Bulgarians and Germans have been captured by the Serbians, who also have taken enormous quantities of war materials.

The Serbians now are west of the Ishtip-Veleo road and have captured the height of Bogoslovet, south of the road. North of Desnikapu, in the direction of the Bulgarian border, the Serbs have captured the ridge of Bar Kamen.

The Allied troops in Macedonia have captured more than 10,000 Bulgarians and German prisoners, says a statement from the French office. More than 200 guns also have been taken.

\$69 PER TON FOR NEWSPRINT Paper Controller Sets New Price as Result of Long Inquiry.

Ottawa, K.C., Sept. 27.—Robert A. Pringle, K.C., the Paper Controller, has set new prices for newsprint paper. The price for all the mills is \$69 per ton, instead of \$67, with the exception of the Fort Frances mill, which was allowed \$74 per ton, subject to certain deductions for freight rates and duty on sulphite, which charges may be reduced later on.

The new order of the controller is for sixty days, or to December 1, and retroactive to July 1. It was for the price the manufacturers felt they were entitled to receive.

DECREASE IN LOSS OF BRITISH SHIPS But Sinkings of Allied Vessels Slightly Greater in August Than in July.

London, Sept. 27.—Although the British shipping losses were lower, there was a slight increase in the total Allied and neutral shipping losses, due to enemy action and marine risks, August over July, according to a statement by the Admiralty issued yesterday. The total figures are 327,676 gross tons, an increase of 3,904, divided as follows: Allied and neutral losses, 151,275, an increase of 10,027; British losses, 176,401, a decrease of 6,123.

PRUSSIAN WAR MINISTER Has Resigned According to Advice From Copenhagen.

(Canadian Press Despatch.) London, Sept. 27.—Lieut-General von Stein, Prussian war minister, is reported to have resigned, according to advices to the Exchange Telegraph Company from Copenhagen.

General von Stein became Prussian war minister late in October, 1916, succeeding Lieut.-Gen. Wild von Hohenborn, who was placed in command of an army corps on western front. General von Stein had been in command of 14th reserve army corps, after having served as quartermaster-general. Before his appointment as war minister, he was in command of troops on the Somme front in France. General von Stein tendered his resignation as Prussian minister of war on July 13th, 1917, but it was not accepted.

HAD TO SEEK REFUGE Kaiser And Other Royalty Down in a Cellar.

(Canadian Press Despatch.) Geneva, Sept. 27.—Emperor Wilhelm, Field Marshal Duke Albrecht, of Wurtemberg and Prince Stephen of Schaumburg-Lippe were in Mannheim last week when the British army raided the city. The royal party was staying in the Royal Palace and the emperor and his staff promptly took refuge in the cellar, remaining there twenty minutes. The palace was not hit, but the bombs fell in the vicinity.

Alberta Minister Resigns. Edmonton, Sept. 27.—Hon. Wilfrid Garripy, for some years Minister of Municipal Affairs in Alberta Cabinet and in the recent changes made Provincial Secretary, has resigned. He claims his reasons are those of business. He will still retain his seat in the legislature.

The liberation of Palestine by the British forces will be celebrated here by a demonstration at Carnegie Hall, New York, next Sunday night.

Eighteen nurses are leaving Toronto for Boston to help fight Spanish influenza. This disease has spread rapidly through many U.S. army camps, causing many deaths.

HEAVY ATTACKS ARE PREDICTED

German Newspapers Preparing People For Further Retreat of Armies.

THEY ADMIT SOME DEFEATS

AND SAY THE SITUATION IN PALESTINE IS SERIOUS.

The Palestine Situation is Also Bad. They Say—German Soldiers Who Refuse to Fight Are Now Interned.

The Hague, Sept. 27.—The German people are being prepared for a fresh retreat of the German armies, and are told to expect renewed and heavy attacks on all sections from French, English and Americans.

The German soldiers who refuse to fight are no longer shot, but that they are interned in a big camp near Hanover. Cases of drafts refusing to return or go to the front are now quite frequent.

The Kohlenache Volks-Zeitung predicts fighting on a large scale on the west front. "There is no longer any doubt," it says, "that our enemies in the west, namely, the French, English, and Americans, are preparing for a new attack, with which they hope to change the luck of the war."

It asserts that a big attempt to break through Cambrai and St. Quentin has failed, but Allies succeeded in driving the Germans back on a front of 35 kilometers, but argues that the attacking forces reached the Siegfried positions in only a few places, and that the counter attacks were severe and resulted in tremendous losses to the English. Big new attacks may be expected, it says, especially as the English line has not advanced much.

Indicates Further Attacks. The paper pays special attention to the fighting between the Ailette and the Aisne, and says that the fact that the French are putting in fresh reserves indicates further attacks which it thinks will be delivered by French and American forces in co-operation.

"It must be admitted," it proceeds, "that the American troops had a partial success near Thiaucourt, the importance of which we don't wish to overestimate."

"Undoubtedly," however, they have not obtained what they strove for. The Americans have not attempted fresh attacks against the new position which our troops took up, and have only now brought up their artillery. It is therefore, to be expected that fresh attacks will follow.

The losses which we suffered at Thiaucourt were only those which might have been expected during a retirement, and were proportionately small. We cannot, however, tell whether the Americans will undertake their next attack on this sector. With the heavy fighting which is to be expected on three big sectors of the front in the near future, a certain nervousness will be felt at home, but the military command looks with confidence to the results of the coming battles."

The Volks Zeitung admits the recent breaking through on the Turkish front, and remarks that the British appear to have been well prepared to exploit their successes.

"The Turkish troops," it says, "are at present in a serious situation in Palestine, especially as their rearwards are menaced by the Arab insurgents."

DEALERS MUST ROTATE A DELIVERY OF COAL Regulations for More Uniform Distribution are Promulgated—Preferred Consumers.

Ottawa, Sept. 27.—Regulations providing for the more uniform distribution of coal needed for industrial uses in Canada have just been approved by the Governor in Council at the instance of the Fuel Controller.

While the Fuel Controller endeavors as far as possible to avoid the imposition of irksome restrictions on the coal trade, action was, in this case, forced upon him through arrangements recently completed for the shipment of United States coal to Canada on a system of regular monthly allotments.

Complaints had also been received to the effect that many importers were discriminating in their coal deliveries in favor of their most valued customers. The regulations now passed are intended to promote fair and equitable distribution of industrial coal.

It is provided that all mine operators in Canada and importers of industrial coal into this country shall rotate deliveries of such coal among their customers in proportion to their requirements, so that no one industrial consumer shall at any time have advance supplies on hand while others are under-supplied.

A preference list of coal consumers is also outlined in the regulations. These preferred consumers include railroads, public utilities, government buildings, public institutions, and manufacturing plants chiefly engaged on war contracts. These must be given preference in supply over all other users in the order named.

- WHIG CONTENTS 1—British Attack on Wide Front; Heavy Attacks Predicted; Germans Dazed by Attacks; Basil Case Argued. 2—Run Away From Police; Incidents of the Day. 3—Wolfe Island Prize List. 4—Editorial; Rippling Rhymes. 5—Merry Crowds at the Fair. 6—Kingston's Big Plans. 7—Announcements; The Forum. 8—Military; Theatrical. 9—Music in Home; Catholic Army Hut Fund. 10—The Wife Talking It Over. 11—Correct Blouses and Dresses. 12—A Diplomatic Trug; Meet and See Her. 13—Jeff. 14—New Air Service of Allied Armies. 15—In World of Sport.