

## COURT-MARTIAL PUT OFF

### Medical Inspector Kershner's Trial Postponed for a Week.

#### HE HAS EMPLOYED LAWYER CHOATE

#### Not Usual for Officers to Have Civilian Counsel—Proceedings in Open- ing the Court—Inspector Kershner's Career.

For the purpose of determining whether a high-rank officer of the United States Navy disclosed matters forbidden by navy regulations to be divulged, and whether he told the truth when he denied, as charged, any connection with the publication of the details of the case, a naval general court-martial of imposing weight was yesterday convened at the New-York Navy Yard, by order of Secretary Herbert.

The trial, when it finally gets under way, is likely to prove one of the most interesting that the navy has furnished in a number of years. The charge against Medical Inspector Kershner, Fleet Surgeon of the North Atlantic squadron, is a serious one, and, if proved, may not only involve a dismissal from the service, but a prosecution in the United States courts. The officer to be tried holds a high rank, and, recognizing this, the Secretary of the Navy has assembled a court of commensurate dignity to sit in judgment on the accused.

With one exception, there has not been convened a court-martial having among its members so many officers of high rank since 1864, when Commodore Craven of the United States ship Niagara was tried on the charge of cowardice for failing to engage the Confederate ironclad Stonewall Jackson.

That Medical Inspector Edward Kershner, the accused, has determined to make a strong fight for his reputation and commission was shown yesterday soon after the court convened. The employment of civilian counsel is rarely resorted to by officers undergoing trial by court-martial, and it was therefore something of a surprise when the accused, being asked if he desired counsel, replied very quietly that he did. He was asked who, and answered suavely that Joseph H. Choate had been retained.

As was shown in the McCalla court-martial, the quality of Mr. Choate's sarcasm is as unstrained before such tribunals as elsewhere, and gold stars 'neath an Admiral's chin, simple gold stars are to him.

The announcement that Mr. Choate had been engaged to appear for the defense caused a bit of quiet excitement in the court, and the veterans who composed it said to themselves, if they did not say to each other, that the proceedings would at least be worth hearing.

When the members of the court had been sworn, Judge Advocate Lauchheimer asked the accused about the arrangements for his defense. Lawyer E. B. Hinsdale, representing Mr. Choate, arose to reply. He explained that the latter is now engaged as counsel in the rehearing on the constitutionality of the income tax law before the Supreme Court in Washington, and was not able to be present. He pointed out that the charge was a serious one, said he was reluctant to proceed with the case in the absence of the chief counsel, and asked for an adjournment for three days. Then followed a series of questions as to when the defense would actually be ready, ending in the admission on the part of Mr. Hinsdale that he was not certain that Mr. Choate would be free within three days.

He thought he would certainly be ready to appear within one week, and after consultation the court decided to telegraph to Washington for authority to adjourn for a week. Then the court adjourned to await a reply to the query. It reassembled at 3 P. M., discussed informally various matters of more or less importance until 3:50 P. M., and then sat up straight and stiff as the President rapped for order and proceeded to tear open a telegram which an orderly had brought.

The message was from the Secretary of the Navy, and briefly announced acquiescence with the defendant's wishes for an adjournment. The President of the court as briefly announced that the court stood adjourned until Monday, May 13. And that closed the business of the day.

The officers who have been ordered to serve as members of the court have been ordered here from the various ships and stations to which they are attached—some from Boston, Portsmouth, N. H., Norfolk, and other places. Lieut. H. McL. P. Huse of the cruiser Cincinnati was on hand as a witness, he having been Judge Advocate of the court of inquiry which examined the accused at Kingston.

Naval regulations require that all officers report for such duty in full service uniform and wearing side arms. There are twelve officers on the court, and eleven of the number had assembled in regulation dress and with swords clicking about their heels in the court-martial room of Building No. 7 a few minutes before the hour appointed for the convening of the court. Then the door opened, and into the flag-draped apartment there strode a figure clad in a dark suit and carrying under his arm a bundle wrapped in a copy of The New-York Times.

The new arrival, who was no less a person than Citizen J. G. Walker, shook hands with everybody, and then disappeared behind a curtain, taking his bundle with him. A few minutes later Rear Admiral John Grimes Walker, United States Navy, and President of a court-martial, reappeared in full regalia, but minus sword. He took his seat at the head of the table, the other members settled into their places, and the business of the day was on.

Admiral Walker's associates on the court are Commodore Rush R. Wallace, Capts. Albert Kautz, Theodore F. Kane, Winfield S. Schley, Silas Casey, and T. F. Picking, Medical Directors Edward S. Bogert and Henry M. Wells, and Medical Inspectors Charles H. White and T. N. Penrose. First Lieut. C. H. Lauchheimer of the United States Marine Corps has been appointed Judge Advocate.

Medical Inspector Kershner, the accused officer, has a fine war record. He was born in Maryland and was appointed an Assistant Surgeon in the navy in 1861. His first duty afloat was on board the old frigate Cumberland, on which he served until the Confederate monitor Merrimac destroyed her in Hampton Roads in March, 1862. The Cumberland, it will be remembered, was subjected to a merciless fire from her mailed antagonist and many of her people were killed and maimed. Kershner, then an Assistant Surgeon, was in the sick bay attending to the wounded when the word was shouted down the hatchway to "abandon ship." Just as he reached the deck the ship gave a heavy lurch preparatory to sinking. He sought to save himself from falling, but his hands were slippery with blood, and he tumbled over the side. There he probably would have drowned, as he could not swim, had he not been rescued by a marine, who plunged overboard and succeeded in getting him into a boat.

A few months after that event, Kershner was ordered to the New Ironsides, and was present at the siege of Charleston. He subsequently served on the monitor Passaic, and, after that, did duty on the iron-clad Choctaw until the end of the war. He was commissioned Surgeon in 1872 and two years later accompanied the Swatara on the transit of Venus expedition. Upon returning he served on a number of ships, and one year as Fleet Surgeon of the Asiatic station. Then he received his commission as Medical Inspector and was ordered as Fleet Surgeon of the North Atlantic squadron.

There are a number who think that a grievous mistake has been made somewhere and that the accused will be able to prove his entire innocence of the charge which has been brought against him. Perjury is the chief offense with which he is charged. If proved it will doubtless involve his dismissal from the service.