

NO VERDICT IN TRIAL OF SCIENCE HEALER

Failure of Jury to Agree Proves a Real Disappointment to Believers in Court.

CONSIDERED CASE A TEST

Prosecution Plans Another Trial of Willis Vernon Cole on Charge of Practising Medicine Without a License.

The jury that tried Willis Vernon Cole, a Christian Science healer, for practicing medicine without a license, returned to Justice Seabury, in the Criminal Branch of the Supreme Court, at 5:55 o'clock last evening, and said it could not agree upon a verdict.

The courtroom was filled with spectators, many of whom were active and intelligent scientists. To them the prospect of a disagreement was a real disappointment.

Conviction, anything, would have pleased them better than that, as the Christian Science Church regards the trial of this healer as a test case, and it stands ready to carry it to the United States Supreme Court in the event of a conviction in order that the right to heal the sick through faith may be established by law.

"Gentlemen, don't you think that by further deliberation you can come to a unanimous decision? Remember, this is a very important case," said Justice Seabury.

"We are unable to agree as to what constitutes medical practice in the version of the statute or what constitutes a violation of the statute," he said.

"There's no use voting again. The four that stand for conviction say they will never, never vote for acquittal," explained Mr. Andrews.

Healer Will be Tried Again. Justice Seabury proceeded to discharge the jury, and the defendant was continued in the same bail.

Another trial will be ordered for Cole, either in the Supreme Court or in General Sessions, according to Charles C. Nott, Jr., Assistant District Attorney, who, with Morris Koenig, prosecuted. In the mean while Cole, confident and smiling, accepted assurances and even congratulations from Judge Clifford P. Smith, president of the mother church in Boston.

John V. Dittmer, chief lecturer of the church in Boston; Richard P. Verrill, first reader of the First Church of Christ, Scientist, in this city; E. R. Cox, head of the Christian Science public relations committee, at No. 1 Madison avenue, and a number of women Scientists more or less prominent in the First Church.

The morning session was taken up with the testimony of Mrs. Frances Benzery, the detective for the New York County Medical Society, who took four treatments from Cole at his office, No. 225 Fifth avenue, for defective eyesight, headache and stomach disease, paying him \$2 for the first visit and \$1 for each subsequent visit.

She said the healer was solicitous about her condition and told her she could be cured through prayer. He advised laying aside her glasses and removing a porous plaster from her back.

Then he sat opposite her in prayer, with his hands over his eyes for several minutes, after which he said the first treatment was at an end. He announced his fee, she said. She paid him \$2 and went away.

The healer took the stand after the noon recess. He said he was formerly an art student of independent means. His conversion to Science, he said, came about through his miraculous cure from threatened blindness, after he had been treated without success by several of the best known eye specialists in the country.

He found it difficult to tell the prosecutor how much money he took from his Science practice every year, but he thought it might be as high as \$7,000. He was sure it wasn't as much as \$10,000. When Mr. Nott tried to bring out his expenses, such as rent, etc., Samuel Untermyer, Cole's counsel, objected, and Justice Seabury sustained the objection.

God's Human "Channel," He Said. The defendant said he did not tell Mrs. Benzery to lay aside her glasses or to remove the porous plaster. He merely prayed and explained to her that sickness, physical, mental and moral, was the result of sin, and that her birthright, which was hers through God, was a healthy body and mind and that this heritage could only be enjoyed through oneness with God. Of himself alone, he said, he was unable to cure her. God alone could do that through prayer.

This, he admitted, was "treatment" in the eyes of the Scientists, and he admitted, it was for that treatment which came from God he charged Mrs. Benzery \$2 the first visit and \$1 for the three succeeding visits. On further cross-examination the healer admitted that he was the human "channel" through which the power of God flowed to the body and mind of Mrs. Benzery.

Justice Seabury's charge was regarded as unfavorable to the defence. He told the jury that the truth of the doctrines of Christian Science was no concern of theirs. Neither was it for them to say what the law should be if it did not permit the practice of religious tenets. "If the Legislature sees fit to enact such statutes, in my opinion it is competent to so provide," he said.

AFTER THE CAFE MARTIN SITE Same Syndicate Bought Nearby Hotel Victoria Last Year. George F. Johnson, Jr., Leopold Kahn and Frank H. Kahn are the interested principals who are negotiating to get the Cafe Martin site, on the south side of 23rd street, Broadway and Fifth avenue. The brokers in the pending transaction are the Douglas Robinson, Charles S. Brown Company and David H. Hyman.

HOE ESTATE SETTLES SUIT Mrs. Johns Agrees to an Adjustment.

As forecast in The Tribune on Wednesday the suit brought by Mrs. Margaret Johnson Johns against the estate of Robert Hoe, the manufacturer of printing presses, will never be tried in court. The case was called yesterday in the Supreme Court before Justice Henshaws after having been on the day calendar half a dozen times before, and the announcement was made that there had been a settlement. The amount was not made known.

Mrs. Johns, now the wife of a New York lawyer, when she was Mrs. Brown lived in London, where her father was in the employ of the Hoe firm. It has been told in depositions taken in London that Mr. Hoe spent much of his time at the home of the rent of which the press manufacturer paid. Mr. Hoe, by a deed of gift, gave Mrs. Brown securities valued at \$300,000 and gave her outright a mortgage of \$30,000. When he died the executors of his estate refused to recognize these gifts, and Mrs. Johns sued to enforce them.

Counsel for Mrs. Johns gave out the following statement: "The claims of Mrs. Margaret Johnson Johns against the estate of Robert Hoe have been adjusted out of court, and Mrs. Johns has received a satisfactory sum. The defense was made by Mrs. Johns, and involved some interesting questions as to the law of England, upon which eminent English law experts were called upon. However, the executors of the Hoe estate finally made an offer of settlement, which was acceptable to Mrs. Johns, and the intricate questions will not be passed upon by the courts."

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ORGANIZE AGAINST ENGLAND American Truth Society Sure Carnegie Wants to Betray Us.

"Diogenes, Incorporated," was suggested by an interested spectator who did not really belong there, as a popular abbreviation for the name of the American Truth Society, which was formally organized last night by a score of men who met at the Hotel Astor. The charter had been duly obtained from the court earlier in the month, and a certificate of incorporation was filed at Albany several days ago.

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STOVER NEEDS A FENCE

Thinks It Would Solve Difficulties in Morningside.

PARK IS NOW "FORLORN"

Superintendent Beatty Blames the Police for Failing to Stop Destructive Games.

Park Commissioner Stover does not consider himself to blame for the deplorable condition of Morningside Park, which has called forth in the last few days protests from many residents of that section of the city. Admitting that a large area of the park is in a "forlorn condition," Commissioner Stover says that he has asked time and again for a \$75,000 appropriation with which to erect a fence around the park. A fence, the Commissioner contends, would soon remedy conditions.

Superintendent Beatty yesterday charged the police in Morningside Park with inaction, and said that even with a fence little could be accomplished unless the police carried out the orders of Commissioner Stover.

In a letter to E. A. Pennell, who had complained of existing conditions, Mr. Stover said: "Neither yourself nor any other resident of your neighborhood can be more interested in the condition of the northwest end of Morningside Park than I am, and so was my predecessor. The entire eastern border of this park, from 19th street to 123d street, is also, as it long has been, in a forlorn condition. But we believe, as doubtless you must, that to conquer this park and keep it in good condition it is absolutely necessary to erect on Morningside avenue East, and on the borders of the portion to which you have called by attention, a fence."

"To erect this fence both my predecessor and I for several successive years have asked for an appropriation, but in vain. When last I appeared before the Budget Committee and asked for \$75,000 to incorporate stock for this purpose, I said emphatically that I regard this item of appropriation as more important than any other affecting my department, and yet thus far in vain has the Park Department asked for this necessary appropriation."

In his investigation of park conditions in this city last spring, G. B. Maynard, Jr., of the Department of Agriculture, reported that Morningside Park could never be brought back to its original beauty without the expenditure of many hundreds of thousands of dollars.

The things chiefly mentioned in the complaints of residents are the damaging of shrubs and trees by youthful vandals and the disfiguring of hillsides by pedestrians. Stone steps, it is said, have become insecure and the fences now in place are dilapidated. Along the terrace overlooking the park what should be a strip of lawn has been appropriated as an exercise ground for dogs and a running track for city boys.

At the northwest corner of the park the recent rains have washed great holes in the hillsides. Overlooking Amsterdam avenue and 123d street what was once a gradually sloping incline is now a mass of bare rocks, great quantities of soil having been swept into the street during the freshets after a snowfall.

Superintendent Beatty said that already numerous baseball games had been played on the soggy lawn, and that the park police watched, but did not interfere.

The police were also responsible, according to the superintendent, for failing to stop destructive coasting on the hillsides in Morningside Park when there was little snow on them.

FORMER JEOPARDY POINT UP

Court Sets Date of March 11 for Harris and Blanck Pleadings.

Justice Seabury, in the Criminal Branch of the Supreme Court yesterday, set March 11 as the date for jury pleadings on the question of the former jeopardy of Isaac Harris and Max Blanck, proprietors of the Triangle Waist Company, who were acquitted of manslaughter in General Sessions in December. The evidence of the plea on that date will be the records of the case, which grew out of the Asch Building fire that cost 146 lives on March 25, 1911.

It is decided that Harris and Blanck can again be placed in jeopardy, Charles F. Bostwick, Assistant District Attorney, will move for a new trial of the men on one of the six remaining indictments.

Max D. Steuer, counsel for Harris and Blanck, told Justice Seabury that his clients wished to change their plea from not guilty to that of former jeopardy on the grounds that the case had been transferred from General Sessions to the Supreme Court without their knowledge, and also the same set of facts involved in their first trial would figure in any possible trial on any of the six remaining indictments.

When the Brooklyn Rapid Transit Company put into effect its long promised five-cent fare to Coney Island yesterday, the residents of that district found they had won only a half victory. Some of them go so far as to say they stand a fair chance of paying the road more money by the new rates than they did under the old. They find they will have to buy commutation books to take advantage of the new rate, and that the books are all dated for two weeks ahead. The only tickets which can be used are those which bear the date on which they were issued.

The thing of these tickets lessens the economy of their use by school children, because in order to take advantage of the reduced rate for five days in the week they have to buy tickets for all six working days in advance and are ill or unable to use them lose the tickets and their money.

The new schedule applies to passengers coming to the city between 6 and 9 a. m., and returning to the island between 2 and 5 p. m. on weekdays, from yesterday up to and including May 14 next, and beginning again on September 15 next.

During the intervening summer season there is to be no concession to residents of the island, but there will be a reduction the other way, about the same as was tried during August and September last.

HONOR FOR RABBI GROSSMAN

Congregation Makes Gift on His Fifteenth Anniversary. The congregation of the Rodolph Shalom Synagogue, in Lexington avenue, celebrated last night the fifteenth anniversary of the installation of their rabbi, the Rev. Dr. Rudolph Grossman. The congregation presented the rabbi with a handsome silver tea and coffee set as a token of their affection.

Fifteen young girls from the religious school of the synagogue presented the rabbi with a bouquet of flowers. The sisterhood of the congregation tendered a framed resolution of thanks. President Blumenthal told how in the last year the synagogue had paid off \$100,000 of its mortgage of \$150,000. The Rev. Dr. Joseph Silverman and Representative Henry M. Goldfinger united in praising the pastor for his services to the congregation and to Judaism.

Dr. Grossman summed up his attitude toward his congregation in the words of the psalmist: "I belong to my beloved and my beloved belongs to me."

POSTPONE SUBWAY ACTION

Commission May Decide Before New Appointment Is Made.

WILL MEET ON MONDAY

Cram Is Against Offer and Says Preferential Payment Is Unconstitutional.

As had been expected, the Public Service Commission postponed action yesterday on the subway offer of the Interborough Rapid Transit Company, referring it without discussion to the committee of the whole. The commission then adjourned until Monday. Tuesday is the regular meeting day, but the commission wishes to be in a position to put the plan through at once in case it appears that a successor to Commissioner McCarrall is to be appointed and confirmed.

The feeling is that Governor Dix will confirm the appointment of Edward G. Higgins and name some one who will be confirmed at once. Commissioner McCarrall is favorable to the plan as worked out, and the injection of a brand new man in the situation would probably raise serious complications at this time.

If on Monday it is deemed safe to hold over final action on the plan it will probably be postponed until Tuesday, when Commissioner McCarrall will have returned from his vacation. Commissioner Cram declared that the Steingard tunnel in its present shape was useless for the operation of subway trains and that it would cost at least \$3,000,000 to build it over, which, with the \$3,000,000 more it is to pay for it and the \$3,000,000 more it proposes to expend in connections, would more than pay for a brand new tunnel.

Cram Wants City to Build. "In my judgment," declared the commissioner, "the city should either build the subway itself, then operate it or lease it or issue permits to the Interborough for extensions of its present system to be built by it wholly at its own expense."

The provisions for this tracking the elevated line were the only ones receiving the Commissioner's approval. The Interborough yesterday sent to the Public Service Commission a statement showing how it had arrived at the figure of \$6,335,000, which it demands as a preferential payment. It is the average of the net income for the years ending June 30, 1910, and 1911. The statement is as follows:

Year ended June 30, 1910. Gross operating revenue, \$10,176,500. Operating expenses, 4,136,449. Net operating revenue, \$6,040,051. Interest and sinking fund, 2,181,204. Total, \$8,221,255.

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It is understood that the conference committee of the Board of Estimate will have ready its report on the proposed routes of the suggested 14th street line, which is to run out into Williamsburg after going through an East River tunnel, before the next meeting of the Board of Estimate is held.

May Reopen Situation. According to a report yesterday, Mayor Gaynor has suggested to both Controller Prendergast and Chairman Wilcox of the Public Service Commission that if the Interborough is to put up some of its own money for subway construction the Brooklyn Rapid Transit Company should be compelled to do the same. If such a proposition were put up to the Brooklyn Rapid Transit Company now it would open the entire situation again, in so far as it referred to that company. In so much as the Brooklyn Rapid Transit Company has offered to put forth the entire money of its own for the extension and improvement of the elevated lines it is not believed that the conference will attempt to make any change in the agreement.

Discussing the benefits to be derived from the completion of the proposed dual system of transportation as outlined, Borough President McAneny said yesterday that it would do away with strap-hanging both in Manhattan and Brooklyn for at least ten years.

President McAneny pointed out that with the 115 miles of track which the Interborough and the Brooklyn Rapid Transit offer to-day there were only two express services in Manhattan and one, for a part of the year only, in Brooklyn. The proposed dual system, with its 400 miles of track, will have five express services in Manhattan and seven services from as many points in Brooklyn.

CONY ISLAND DISSATISFIED

Residents Say New Five-Cent Rate Is More Costly than Old. When the Brooklyn Rapid Transit Company put into effect its long promised five-cent fare to Coney Island yesterday, the residents of that district found they had won only a half victory. Some of them go so far as to say they stand a fair chance of paying the road more money by the new rates than they did under the old. They find they will have to buy commutation books to take advantage of the new rate, and that the books are all dated for two weeks ahead. The only tickets which can be used are those which bear the date on which they were issued.

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FARMERS GET EGG PROFITS

Franklin Taylor Says That High Prices Do Not Benefit Dealers.

E. G. Urner, publisher of "The Price Current Daily," who fixes the daily quotations on eggs for the New York Mercantile Exchange, which is under investigation by Magistrate Murphy for alleged conspiracy to fix prices of butter and eggs, was the only witness at the public hearings yesterday in the Tombs court. He said that he was accustomed to see only five or six big buyers and one or two dealers every day before going on the floor of the exchange and fixing the quotations.

Franklin Taylor, the lawyer for the exchange, issued a statement yesterday denying the existence of a "butter and egg trust." He said that there was no concerted action to put butter and eggs in cold storage, and that, contrary to popular belief, the farmer, rather than the dealer, reaped the benefit of high prices.

"The margin of profits to the dealer is small," said Mr. Taylor. "The business is done to pieces by competition, and naturally the farmer driven to a low level. The farmer simply 'holds up' the dealer and forces him to pay the market price or more for his goods."

SUES T. F. RYAN FOR \$100,000

L. E. Julian, Jerome Case Witness, Makes Charge of Slander. Louis E. Julian, formerly a claims investigator for the Metropolitan Street Railway Company, is suing Thomas F. Ryan for \$100,000 for alleged slander in making a statement that implied that Julian had committed perjury.

The suit grew out of the investigation into the alleged conduct of William Travellers Jerome when he was District Attorney. Julian was a witness and he testified that Jerome had committed perjury in the case of the Metropolitan system and caused the nomination of a certain Supreme Court justice. When Ryan was asked about this assertion he said there was not "the slightest truth" in it. A statement, Julian says, was slanderous.

Julian was indicted for alleged jury fixing, but the indictment was dismissed. Counsel for Ryan obtained an order yesterday restraining Julian to file a bond to pay the costs of the suit if he loses.

MARINE INTELLIGENCE

MINIATURE ALMANAC. Sunrise, sunset, 5:34, moon rises, moon sets, 12:15.

HIGH WATER. A. M. P. M. Sandy Hook, 10:00, 4:30. Governor's Island, 9:07, 3:40. Hell Gate, 8:57, 3:30.

WIRELESS REPORTS. The Campania, reported as 800 miles east of Sandy Hook at 11 a. m. yesterday, is expected to arrive tomorrow.

The Caedonia, reported as 825 miles east of Sandy Hook at 9 a. m. yesterday, is expected to dock Sunday afternoon.

INCOMING STEAMERS. TO-DAY. Vessel, Port, Line, Mail, Vessel, Port, Line, Mail.

MONDAY, MARCH 4. "Minneapolis," London, Feb. 25, Atlantic Transport Line. "Pinar del Rio," Havana, Feb. 24, Cuban Mail Line.

TUESDAY, MARCH 5. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

WEDNESDAY, MARCH 6. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

THURSDAY, MARCH 7. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

FRIDAY, MARCH 8. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

SATURDAY, MARCH 9. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

SUNDAY, MARCH 10. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

MONDAY, MARCH 11. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

TUESDAY, MARCH 12. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

WEDNESDAY, MARCH 13. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

THURSDAY, MARCH 14. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

FRIDAY, MARCH 15. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

SATURDAY, MARCH 16. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

SUNDAY, MARCH 17. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

MONDAY, MARCH 18. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

TUESDAY, MARCH 19. "Campania," New York, Feb. 29, Ansaldo. "Caedonia," New York, Feb. 29, Ansaldo.

TRANSPACIFIC MAILS

Destination and steamer. Close N. Y. P. M. Japan, Korea, China (via Seattle) 11:00 a. m. Hawaii, Japan, Korea, China (via Seattle) 2:00 p. m.

Monday, March 4. Minnewaska, London, At. 10:00 a. m. Pennsylvania, London, At. 8:00 p. m.

Shipping News. Port of New York, Friday, March 1, 1912.

ARRIVED. Steamer California, Puerto Mexico, Feb. 27, to the coast, 8 a. m.

ARRIVED. Steamer La Florida, Dutch, Antwerp, Feb. 27, to the coast, 8 a. m.

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