ROY M'CARDELL BEGS FOR SMOKING ON CARS

Wife Won't Let Him at Home, New Haven Isn't Safe, and He Never Walks.

PLEADS WITH COMMISSION

Trolleys Last Refuge, He Says, but Dr. Pease and Women Oppose Him.

"Your Honors," said Roy L. McCardell yesterday, "I can't smoke at home. You gentlemen of the Public Service Commission will understand when I tell you that I used to smoke in the house, but now it is different. I'm married.

"'Roy,' my wife used to say to me, 'I do so like the smell of good cigars.' But now she knows how much they cost and my money is hers, so she tells me I can't spend it. And she won't stand bad cigars.

"I can't smoke on the way to my office because I live in New Rochelle. The New Haven Railroad always puts its smoking cars on the rear end of the train. Smoking is sweet, but life is sweeter.

"I can't smoke in my office. Joe Johnson has put a red sign up in front of my desk which says, 'No Smoking. This means YOU.'

"I can't smoke on the street because I never walk, and it so impolite. So the only place left to me is the street cars. Can it be that you are going to take even that refuge from us?"

Persistent talkers went to the hearing which the Public Service Commission gave yesterday on smoking in street cars and in subway and elevated stations. Incorrigible old flues who could give a chimney sweep a job any fine day, sat alongside Dr. Charles G. Pease, the smokers' aversion, and argued for their rights.

"You say that fresh air is a constitutional right," said one of them. "I tell you there is no such thing in the Constitution. But I can show you in the Declaration of Independence that one of the inalienable rights of human kind is the pursuit of happiness. And who, I ask you, is to deny that I pursue happiness in my pipe?"

Nobody denied it, not even Dr. Pease, mainmaster of the opposition. His allies, many of them women, complained that atrocities were committed on the four rear seats. One said a lighted cigar set fire to her sleeve. Another that the odors were simply appalling. A third that somebody on an elevated platform at 110th street and Eighth avenue flicked a cigarette which nested in her hat.

She was Miss Florence Smith of 418 West 115th street. She wore a suffragette button and carried a volume of James Whitcomb Riley's poems. Before the hearing began she went around telling people what the real remedy was for the vitiation of the atmosphere.

"I am emphatically opposed to the practice of smoking in open cars, or any cars for that matter," she said. "Votes for women is one way of stopping it. And the suffragettes will get you if you don't watch out."

When Miss Agnes Stewart of 158 West Seventy-sixth street was telling what evils were practised on the four rear seats a man got up.

"I want to ask that lady a question," he said.

"Your name?" asked the stenographer.

"William McCutcheon," he said. "I don't want any prominence, but I have to ask a question.

"You have complained of the four rear seats," he said, turning to Miss Stewart. "Now, isn't it a fact that you women deliberately crowd into those seats among the smokers?"

Several wizened old tobacco slaves revived from a narcotic stupor into which, no doubt, their last indulgence had lured them, and tittered. They clapped their hands. They sniggered. The accusing produced what Dr. Pease calls a craving for the poison. Each reached for a match, but remembered in time that the no smoking rule prevailed in the commission hearing room. Then each retired for an important engagement in the hall.

"Now," said Miss Stewart, "I just thought I would deliver a lecture on purity. I came here prepared to do so. If the body is the temple of the soul, it should be left uncontaminated. We should strive to keep it clean and pure as the efficient medium for soul expression."

But, as had been said, the smokers were out in the hall and didn't hear it.

FIRST CONVICTION FOR SELLING FROZEN FOWL

Funcke Pays $250 Fine for Saying Storage Poultry Was Fresh.

Louis Funcke, proprietor of four retail poultry stores, was convicted in Special Sessions yesterday of selling cold storage poultry without giving notice that it had been refrigerated. He was fined $250, which he paid.

Adam Kowski, a salesman, who made the actual sale in the case at Funcke's store at 255 Amsterdam avenue, was found guilty also, but his sentence was suspended.

Funcke was the first retail dealer accused of this offence. He represented of his stores that he obtained his chickens fresh from his poultry establishment at Elberon, N. J. The State Department of Health had tried to make out a case against him for some time.

On April 8 Abraham Wilbert, an inspector for the department, slipped into the storeroom of the Manhattan Refrigerating Company at 520 West street, where Funcke keeps large quantities of poultry. Working in an atmosphere of 11 degrees above zero, the inspector clipped off two claws from every chicken in one of the barrels. The department's agents watched this barrel until it was taken to Funcke's store on April 23.

The next day Abraham Wilk, another inspector, visited the place and was told by Funcke, according to testimony at the trial, that they did not sell cold storage fowls.

Inspector Charles Ferrin went to the dealer's market with Miss Margaret Fuller of the Housewives League on the following morning. They asked for a fresh chicken, and picked out one which had two nails missing.

STOLE FOR WIFE AND BABY.

Judge Gives Prisoner's Wife $10 and Promises Leniency.

A pale woman with a baby in her arms and carrying an empty milk bottle took the rear seat in Part 1, of General Sessions Court yesterday and waited for her husband to come up for sentence.

She was Elizabeth Whitman and her husband, Joseph, 23 years old, had pleaded guilty to grand larceny. Out of work for more than a month, the sight of a roll of bills in a man's hand on June 8 had been too much for him. He stole the bills, but was arrested before he had left the sight of his victim.

"Is there any one here to speak for this man?" Judge Foster asked.

"He's my husband," said the woman from the rear seat, "and he had been out of work for a long time and there wasn't anything to eat in the house."

By questions the Judge got the woman's story. Whitman was arrested last Sunday and no word was sent to his wife. She was alone in their flat at 305 West Twenty-seventh street, with nothing to eat and no money to buy food. Her husband did not come home. Perhaps he had been killed, she thought, so she did not dare to go out because at any time they might bring his body home.

The baby was crying for food. After a time she went out and borrowed 10 cents. She spent this for condensed milk for the baby. For three days, until yesterday morning, when she called upon a friend, Mrs. Whitman had almost nothing to eat.

"This is a case for clemency," said the Judge. "Is there anybody in court who will give this man work as a tinsmith?"

No answer.

"He can do anything," said the woman.

"Who will give him any sort of a job?" the Judge asked.

Still no answer.

Judge Foster then took a $10 bill from his pocket and handed it to Mrs. Whitman. He sent her husband back to the Tombs to wait until the probation officer could find work for him.

The baby appeared to be sick and the probationer called up the nearest milk station for advice. Mrs. Whitman and the baby are at present with a friend in West Twenty-sixth street.

GUY LOWELL DEFENDS HIS ROUND COURT HOUSE

Architect Says His Plan Is Best, but He Can Change It if Necessary.

Guy Lowell came to the defence yesterday of the round court house he planned for New York county and which the Justices of the Supreme Court rejected on Tuesday. He said he was willing to make such changes in the plan as the Judges wished, but that in some cases he was sure the original plan was best. L. Laflin Kellogg, secretary of the Court House board, which in the beginning approved Mr. Lowell's plans, made remarks to the same effect.

"The principal objection of the Judges," said Mr. Lowell, "was to the annular court. If they do not want it it can be eliminated easily. The whole thing is a question of opinion. If they do not think it is worth the cost I would take it out, enlarge the central court, push the elevators back and thus give enough space to provide the court rooms with light on both sides from the exterior and from the central court.

"As to their objections on the ground of cost, experience with Federal buildings, custom houses and court houses shows that they cost about 50 cents a cubic foot. The Judges have figured on 75 cents or a dollar a cubic foot. Taking the expense of Government buildings the Judges' own figures would produce the proposed court house well within $10,000,000, the amount allotted by the city.

"The circular form does not increase the cost that objection I feel to be a mistake. The only increase would be in the external walls, and even there we figure that the increase would not be great. There would be a certain uniformity in cutting the stones. It is also clear that the stones would have to be finished on only one side, because there are no rectangular corners, save for window and door openings.

"The circular form was a development. In the first place, I planned the building as a square, then according to the irregular outline of the plot. For the preliminary competition I planned a hexagonal building. I presented the circular form only in the final competition. I can reverse my steps if it is considered advisable."

If it is decided that a new plan must be drawn, it was said yesterday, Mr. Lowell will be able to demand payment for his additional services. In the case of a deadlock between the Court House Board and the Judges the law would have to be amended before the city authorities could go ahead with the construction. The board will take action on the Judges' rejection at their meeting next Tuesday.

Duffy on Trial Again Wednesday.

Next Wednesday has been set for the re-trial of Police Sergeant Peter J. Duffy, charged with accepting a bribe. At the first trial, the jury disagreed because one juror, Harry I. Whaley, held out for acquittal. Justice Seabury will hear the case.

MITCHEL TO GIVE HOUR DAILY FOR SUGGESTIONS

Colector Invites Public to Help His Experts Improve Customs Service.

John Purroy Mitchel, the new Collector of the Port, announced yesterday that he would devote one hour, between 12 and 1 o'clock, every working day at the Custom House to receiving suggestions, information and complaints.

He had looked over the reports of the President's Economy and Efficiency Commission and had talks with William Loeb, Jr., his predecessor, and officials and citizens with intimate knowledge of the customs business and it became apparent, he says, that there was "still room for constructive work in the improvement of the service."

As the commission had gone out of business because of the exhaustion of the appropriation provided for it Mr. Mitchel conferred with President Wilson and Secretary McAdoo and this special staff of experts was chosen to assist the Collector:

Dr. Frederick A. Cleveland, who designed the tax collecting and water collecting systems for this city; Francis Oakey, certified public accountant; John L. Pultz, mining engineer, head of the Bureau of Economy and Efficiency of the Department of Water Supply, Gas and Electricity; Ernest C. Meyer, several years experience in the customs service; Edgar V. O'Daniel, special investigator for the Board of Aldermen of the reporting system and methods of the New York Police Department; Robert Von Reutlinger, investigator of the accounting system of the Custom House and the pension system of the Police Department here; Julius J. Pallay, formerly special agent of the United States Census Bureau and accountant; Arthur W. Procter, accountant for the President's Economy and Efficiency Commission.

Mr. Mitchel believes that with this help he will be able to cut out much of the red tape of the customs service. He had a conference with the staff yesterday and its members will report to him from time to time with recommendations.

The Collector gave no hint of any "shakeup" that might result from the work of himself and the experts. He said he could not tell just yet what might be done to increase efficiency but that it would not mean a reduction of force, but rather a more profitable use of the force.

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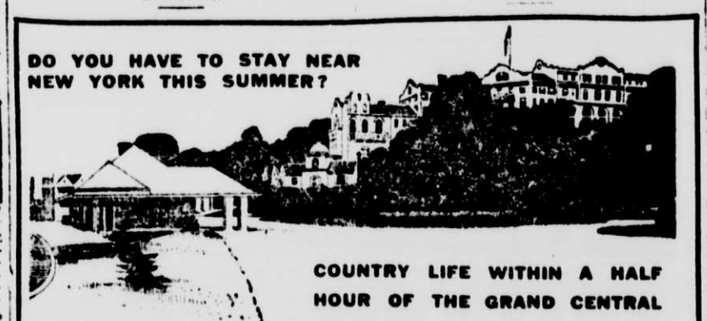

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