

EDDY CASE IN COURT

Hearing of Suit Brought by Next Friends Begins in Concord.

INTERVENTION OF TRUSTEES THE ISSUE

Judge Rules that Competency of Mrs. Eddy is Not on Trial.

TRUSTEES WISH TO DEFEND SUIT

Court Directs that Arguments Be Confined to This Point.

DEED OF TRUST IS PRODUCED

Counsel for Mrs. Eddy Attacks Motives of Volunteer Next Friends of Head of Scientist Church.

CONCORD, N. H., May 23.—There was an interested crowd of spectators, mostly Christian Scientists, in the Merrimack county court house today when the hour arrived for the hearing of the suit brought by the "next friends" of Mrs. Mary Baker Eddy against Calvin A. Frye and several other Christian Scientists for an accounting of the property of Mrs. Eddy, leader and founder of the sect. Women Judge Chamberlain announced regarding the motion made on Monday that he rule on the question of Mrs. Eddy's competency, that he would not try the main question at this time. He said that arguments should be confined strictly to the question of the intervention of the trustees.

General Frank S. Streeter of counsel for the defense addressed the court. This suit, he said, was brought, not by Mrs. Eddy, but without her knowledge and against her wishes. Three trustees appointed by Mrs. Eddy to take charge of her property wished to be substituted as complainants in this suit. They asked this as a matter of legal right, said Mr. Streeter, and they appeared in court under authority of Mrs. Eddy's trust deed.

Mr. Streeter produced the document mentioned.

It is admitted by both sides that there is a genuine deed duly signed by Mrs. Eddy and recorded. Under it the trustees took possession of Mrs. Eddy's property and have since managed it.

Provisions of the Deed.

Mr. Streeter summarized the provisions of the deed and its directions and reservations. He laid special emphasis upon the provisions continuing Mrs. Eddy's past policy in regard to investments, directing the termination of the trust at the death of Mrs. Eddy.

"If this deed is valid," said Mr. Streeter, "not only all Mrs. Eddy's property, but this estate as well has been transferred to the trustees, and they ask that they be allowed to carry it on. If Mrs. Eddy's competency to make this deed is regarded as a question, then this question must be decided first," said Mr. Streeter. "Next friends' action can be brought only when the nominal complainant is unable to protect his own interests. If the plaintiff is not thus incapacitated then the 'next friends' have no standing in court.

Mr. Streeter asked authority in support of this position and declared: "It is entirely in the discretion of the court to decide whether a 'next friend' suit shall be allowed to proceed, and in deciding this question the court shall be guided by the best interests of the incompetent person in whose name the suit is brought."

A decision by Judge Putnam of the federal court of this jurisdiction was cited upon this point.

"The person volunteering to bring a suit as a 'next friend' does so at his own risk and must be prepared to defend and vindicate the necessity and propriety of the proceeding at any time when called upon as they are now called upon," said Mr. Streeter.

Mr. Kelly of counsel for the plaintiffs interposed that Mr. Streeter had not so challenged the necessity and propriety of the proceeding as any time when called upon as they are now called upon," said Mr. Streeter.

Mr. Streeter replied that he was laying down a principle of law applicable to this case and quoting his legal authority.

Peril of Next Friends' Position.

The peril of the position of "next friends" was dealt upon by Mr. Streeter, who said that he absolutely believed Mrs. Eddy is not incompetent. If the "next friends" were to have any standing in court they must show her incompetent.

These "next friends" he said, are mere volunteers. They stand in peril that their act may be found to be not in good faith. "We submit," said he, "that this deed, being for the benefit of Mrs. Eddy, is valid without proof of her competency to make it which is not material and cannot be inquired into by this court."

Continuing this afternoon Mr. Streeter described Mrs. Eddy as almost 80 years of age, founder of a religion, followed by thousands of good and true people, who was living in peace in possession of property accumulated from her publications and had made a will disposing of the property.

"From the fact that only nine years ago she had devoted almost one-half of her property to the cause of her religion, it is a just inference, though not proved, that by the terms of her will she had devoted a considerable share of her property to that religion. She had one son, an adopted son, and other relatives. She kept herself in seclusion in order to devote herself to her religion. That was the situation March 1, when a bill in equity was brought by certain next friends."

This bill Mr. Streeter analyzed and vigorously attacked.

YOUNG BOY DEAD IN BOX CAR

Son of Prominent Resident of Superior, Wis., Believed to Have Been Murdered.

SUPERIOR, Wis., May 23.—Walter O'Neil, the 11-year-old son of Thomas O'Neil, a prominent resident, was found dead in a Northern Pacific box car today. One side of his head was smashed and the police believe it is a case of murder. The boy has been missing since he started for school on Tuesday.

TWO-CENT FARE IN NEW YORK

Senate of Empire State Passes Bill and Measure Now Goes to Governor.

ALBANY, N. Y., May 23.—By a vote of 37 to 8 the senate today passed the bill fixing at 2 cents a mile the rate of passenger fare on all railroads over 100 miles in length in this state. It has already passed the assembly and now goes to the governor.

SUMMARY OF THE BEE

Friday, May 24, 1907.

Table with columns for dates 1907 and 1907, and rows for Sun, Mon, Tue, Wed, Thu, Fri, Sat.

THE WEATHER

FORECAST FOR NEBRASKA—Showers Friday, cooler in west portion. Saturday partly cloudy.

FORECAST FOR IOWA—Showers Friday, cooler in southwest portion. Saturday partly cloudy.

Temperature at Omaha yesterday: Hour, Deg. Hour, Deg.

DOMESTIC

Mrs. William McKinley was stricken with apoplexy yesterday and lies in her home in Canton, O., in a dying condition.

Trial of the suit for possession of property of Mrs. Mary Baker Eddy begins in Concord. Judge Chamberlain limits arguments to right of trustees of the Eddy estate to defend the suit.

Judge James Hargis is found not guilty of the murder of Town Marshal Thomas Cockhill of Jackson, Ky., by a jury in Lexington.

Mrs. Ellen D. Patterson of Houston, Tex., is appointed chairman of the board of managers of the Woodmen circle.

Dr. A. H. Strong, president of Rochester Theological seminary, was elected president of the Baptist convention of North America.

Speaker Cannon in an interview in Washington, says that congress will not revise the tariff because it is elected on the stand-pat issue.

Slow progress is made in selecting jury for Haywood trial. The new venire was partially examined for excuses and one taleman partly accepted.

Presbyterian general assembly passes resolution urging further reforms in matter of divorce. The report on church erection shows 208 churches and manse constructed during the year.

NEBRASKA

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DELAY IN SIOUX OPENING

Lands in Tripp County, South Dakota, Will Not Be Ready for Nine Months.

NO CHEAP RATES FOR OFFICERS' FAMILIES

Gamble Faction Lands Postoffice Plans Over Opposition of Senator Kittredge as Result of Congressman Parker's Work.

(From a Staff Correspondent.)

WASHINGTON, May 23.—The Sioux Indians before the all-Indian conference at the Tripp county, S. D., can be completely satisfied today, "it is not possible at the present time to open the date of the reservation will be opened. An all-Indian conference has been appointed by the Indian bureau and he began his labors about a week ago. Under the most favorable conditions of weather and taking all other problems into consideration it appears to me that this reservation cannot be thrown open to white settlement for at least nine months or a year." The lands that will eventually be thrown open to settlement and entry aggregate, approximately 335,000 acres.

After the allotments to the Indians have been made it is estimated that the above mentioned acreage will remain for homestead entry, excepting, of course, those reserved for school purposes.

The price to be paid for these lands entered under the homestead laws is to be as follows: For lands filed upon within three months after they shall have been opened to entry, \$5 per acre; for lands entered after the expiration of three months and within six months after they shall have been opened to entry, \$15 per acre, and for lands entered after the expiration of six months from the date of their opening to entry, \$25 per acre. Payment for these lands will be a cash payment of one-fifth of the purchase price at the time of entry and the balance in five equal installments.

No Cheap Rates for Army.

The Interstate Commerce commission has decided that families of officers and men of the United States army cannot, under existing law, be carried at reduced rates. This decision grew out of a question submitted to the Interstate Commerce commission through orders recently issued directing the United States army to transport troops from Fort Crook, Neb., to the Philippines. As the families of officers and enlisted men of the command are practically required to travel on the same trains with the troops, it was asked that the War department render a decision whether the railroads could carry the members of the families of officers and enlisted men on the same trains with the troops. The question involved was referred by Quartermaster General Humphrey to the Interstate Commerce commission and the decision was that families of officers or enlisted men must pay the full passenger tariff rate and cannot be carried at any reduced rate.

Victory for Gamble.

The long drawn out fight over the Mitchell, S. D., postoffice was ended today by the mailing of a commission to J. E. Wells. When the commission was mailed the republican party failed to get together last summer, the Gamble and Crawford faction winning in the state convention and in the election, Senator Kittredge, leader of the opposition, declared open war, and the first thing he did was to hold up the nomination of postoffice at Mitchell. The commission was made by the Gamble faction and J. E. Wells was among the members and congress adjourned without his confirmation. Colonel Parker, who succeeds Mr. Martin as congressman from the Black Hills section of the state, has been in Washington on a bill hunt for several days and as a result has been pulled out of a commission for Mr. Wells. This is a distinct Gamble-Crawford-Parker victory.

"It was the result of no compromise with Kittredge," said Congressman Parker. "There will be no compromise with the reactionaries headed by Kittredge. If Senator Kittredge was made to feel sure the Gamble-Crawford wing of the party will be fair. We have no concessions to ask, however. We are in the fight for decency and good order."

Sold for Roosevelt.

Anted here South Dakota felt on national politics, Congressman Parker emphatically said "We are for Roosevelt for the nomination and we will carry the state for him. A delegation pledged to Mr. Roosevelt will be sent to the next republican convention. Then if it appears that Mr. Roosevelt will not have the nomination the delegation will be permitted to go whither it pleases, but the delegation will not be instructed as to a second choice. It will have no second choice. It will be for Roosevelt until he is nominated or wholly out of the question because of his previous declaration. You cannot emphasize this too strongly," said Mr. Parker. Colonel Parker paid his respects to the president today, but politics was not discussed. He also saw Postmaster General Meyer and it is believed had a satisfactory talk with that official over the postoffice appointments, at least Colonel Parker seemed to regard conditions exceedingly favorable to his friends. He will leave for home Saturday, going via New York.

Changes in the Army.

Lieutenant Colonel John Y. White, upon the discontinuance of the southwestern division, will proceed to Omaha on June 30 for duty as adjutant general of the Department of the Missouri, relieving Major Charles R. Noyes, who will proceed to Vancouver barracks for duty as adjutant general of the Department of the Columbia.

Minor Matters at Capital.

Miss Annie Butler, daughter of B. F. Butler of the treasury department, left today with Mrs. Ralph Sabin for a visit to the latter's home in Hastings, Neb. Mrs. Sabin has been on a visit to her father and mother, Mr. and Mrs. Speck of this city. Mr. Speck formerly resided in Tecumseh.

Mr. Spencer Johnston has been selected to deliver the Memorial day oration at the Grant statue in the rotunda of the capitol on Memorial day. It is expected Major General F. D. Grant will be present at these exercises.

E. B. Spaulding and P. J. Rogers of South Omaha have been appointed meat inspectors in the Agricultural department.

Max W. Witter of Wymore, Neb., has been appointed engineer in the reclamation service.

Rural carriers appointed for Iowa routes: Dyersville, route 1, Bernard H. Dentmyer, carrier; route 2, E. Angman, substitute; Indiana, route 1, C. H. Rietzsch, carrier; route 2, E. Peck, substitute; Leona, route 1, George R. Wood, carrier; Andrew R. Fowler, substitute.

A postoffice has been established at Colville, Sioux county, Neb., with Zelma Brown postmaster.

SLOW PROGRESS IN BOISE

New Venire is Examined for Excuses and One Juror is Partially Accepted.

BOISE, Idaho, May 23.—The net results of this, the tenth day of the Haywood trial, were the partial weeding out of the talesmen of the second special venire entitled to statutory examination and the partial qualification of one juror. The examination of the venire has not proceeded very far, but it shows that re-creation of interest in the Steinberg murder and the reconstruction of the facts established and disputed is, by natural process, disqualifying many citizens for jury service in the case, and indicates that the publicity given to examination of talesmen has widely increased popular knowledge as to the means of artistically avoiding jury service in the case.

The sixty men of the second special venire presented themselves when the judge ascended the bench at 2 o'clock this afternoon, and when it was announced that the court would hear excuses, twenty-three of the sixty marched forward. Judge Wood said that he would accept only those excuses which clearly came within the statute, and when he made good his announcement the hand of petitioners melted very quickly. Five petitions were filed, denied, nine were temporarily denied and six were granted. The other three petitioners did not bother to present their excuses.

Then began the attempt to fill seat No. 9, made vacant by the release of Juror Curtis Cole on account of illness. The first five talesmen had opinions that would require evidence to change—one of them said his opinion would last regardless of the evidence—and they all went down on challenge from the state.

Next the clerk successively drew the names of four talesmen whose petitions for excuse had just been temporarily denied in order to give them time to get certificates from physicians as to the illness of themselves or their wives, and it was agreed that they should all be passed until the court finally decides on their applications.

The tenth and last talesman called was Henry Curtis, a farmer, and he gave every indication of qualifying. Senator Borah led him over a long examination that showed that he was free from opinion or bias and to be quite open-minded. Just as the state passed him for cause and he went to the hands of the defense for examination, the trial was adjourned until 9:30 tomorrow morning.

JUDGE HARGIS NOT GUILTY

Decision of Jury Comes Three Years After the Shooting of Cockhill.

LEXINGTON, Ky., May 23.—Almost exactly three years after the shooting of Town Marshal Thomas Cockhill at Jackson, a verdict of not guilty was returned here today in the case of Judge James Hargis, the first of those who were jointly charged with that murder, and another chapter in the famous Breathitt county feud annals was concluded.

On June 1, 1904, Cockhill was shot in the court house at Jackson, dying later at Lexington, where he was taken for medical attention, and during the trial several witnesses swore that Judge Hargis, his brother and Sheriff Ed Callahan had entered into a murder conspiracy, promising immunity to anyone who would assist them in the shooting of Cockhill. The conspiracy was broken up by the state and the case was referred to the federal grand jury at Lexington. The grand jury returned a verdict of guilty against Hargis, his brother and Callahan, and they were sentenced to life imprisonment. The case was then referred to the federal grand jury at Lexington. The grand jury returned a verdict of guilty against Hargis, his brother and Callahan, and they were sentenced to life imprisonment.

The next trial in this series will be called at Sandy Hook, Elliott county, next Monday, when the same defendants will be tried for the murder of Dr. B. D. Cox at Jackson on April 14, 1902, charged with the murder of Dr. Cox and J. B. Brecht, both of whom were slain in the same shooting. The evidence is practically the same against the other three men, as well as Bill Britton, who is awaiting a third trial for this killing.

CANNON STILL STANDPATTER

Takes Occasion in Interview to Say that Present Conditions are Satisfactory.

WASHINGTON, May 23.—Speaker Cannon, having his attention called to a report which has gained currency that he is out for tariff revision as a presidential candidate and has abandoned the standpatters, yesterday said:

"I do not know where the 'grape vine' originated. The only knowledge I have in the matter is the report that he was given a life sentence."

"In the campaign of a year ago the republican party won a victory which gave the republicans a majority of fifty-eight in the Sixtieth congress, which organizes in December next, upon the cry 'let well enough alone,' and I have no doubt that the Sixtieth congress will be true to the pledges made in the campaign."

"Just wait until congress convenes in December and get the real news and not 'think' stories," added the speaker.

In a jocular vein, however, he replied to questions affecting his own presidential prospects.

One of his observations in reply to the suggestion that Senator Cullom had said he would be the party's choice was to the effect that he would rather that the people had it in their power to make him president than to be president.

WOODMEN CIRCLE ADJOURNS

Mrs. Ellen D. Patterson of Houston, Tex., is Appointed Head of Board of Managers.

NORFOLK, Va., May 23.—The Woodmen Circle, the women's auxiliary to the sovereign camp, Woodmen of the World, in biennial convention here, adjourned this morning following the appointment by the supreme guardian, Mrs. Emma B. Manchester of the following officers:

Chairman of the board of managers, Mrs. Ellen D. Patterson of Houston, Tex.; Committee on laws, Mrs. Fannie Frazer, Dallas, Tex.; Mrs. Emma Webber, New Orleans; Mrs. Emma Schroeder, Davenport, Ia.; Mrs. Mary A. Gardner, Miami, Fla.; and Mrs. Emma Campbell, Fort Huen, Miss.

BEST RAIN OF THE SEASON

Precipitation of Wednesday Most Beneficial to Largest Area.

WELL DISTRIBUTED OVER THE STATE

Not Only Nebraska, but States as Far East as Ohio Get Some of This Much Needed Moisture.

The best and most generally distributed rain of the spring season fell over most of Nebraska Wednesday night. The precipitation varied from 1.33 inches at Grand Island to .26 of an inch at Omaha. The heaviest precipitations were at Grand Island, 1.52; Ashland, 1.46; Fairmont, 1.30; while elsewhere throughout the state the average ran from one-third to one-fourth of an inch. The rain extended eastward over Ohio and upper lake region with heavy downpours in northern Illinois, Indiana and Ohio.

The southern part of the corn and wheat belt was not so well favored. The rain extended to the southern line of Nebraska and rain is reported in Kansas and Missouri.

The rain is timely and will be of immeasurable benefit throughout the cattle country, where there has been some apprehension of a shortage of grass. Cattle men in Omaha Thursday from the northern and western parts of the state say the rain means millions of dollars' benefit for the cattle country and that in the wheat and corn sections the value will be even greater. There has been a very perceptible shortage of the wheat stalks, but, as the wheat crop is not yet in the hands of the packers, the impulse of the rain will develop the berry rapidly and that prospect for a wheat crop are yet good.

Everything is Lovely.

Albert Lewis from southwestern Nebraska, who is stopping at the Merchants hotel said: "We have had more rain and moisture in the southwestern part of the state than has fallen in the eastern portion. Corn is most all planted there and looks fine. We are standing more rain, but still the corn is not suffering badly. Wheat is short, but with continued rains I think it will cause the speculators to drop a cent or two a bushel before harvest.

If this rain has extended into the western part of the state it will have a splendid effect on the wheat crop. We are more interested in corn and alfalfa in our part of the country and are calculating on anywhere from half to a two-thirds average crop."

SOIL GIVEN A GOOD SOAKING

Reports indicate the Rainfall was General.

SEWARD, Neb., May 23.—(Special.)—A small tornado struck Ruby, Seward county, last night at 5 p. m. and blew an elevator over; blew the Burlington depot from its foundation and then some of the cars from the track. Three and three-quarters inches of rain fell here last night. There were five distinct thunder storms. The Blue river raised six feet. Corn is all up and the rain was much needed.

YORK, Neb., May 23.—(Special.)—York county was thoroughly soaked last evening. Farmers are rejoicing over the fine crop conditions. Weather and soil conditions have been such that all ground is prepared and over two-thirds of the corn in York county has been planted. There was scarcely, if any damage to the winter wheat, which comprises 30 per cent of the cultivated acreage in York county. Oats are making a great growth.

BRADSHAW, Neb., May 23.—(Special.)—About 5 o'clock yesterday evening a fine rain visited this vicinity and continued almost constantly until about midnight. The rainfall was over two inches. Some time during the night lightning struck the Christian church, damaging the steeple and tower considerably. Telephones are nearly all out of order, but everybody is happy. The drought is broken.

PLATTSBURGH, Neb., May 23.—(Special.)—Yesterday mercury registered 84 degrees above in the shade, and last night about two inches of rain fell in this locality.

LINWOOD, Neb., May 23.—(Special.)—It began to rain here about 8 o'clock last night and rained most of the night. About one-half inch of water fell. It came just in time as it was very dry. This was the first good rain this spring. Wheat, oats and corn were feeding rain very badly. The green-bugs are thicker in the oats here than elsewhere. It is hoped this rain will stop their ravages.

NELSON, Neb., May 23.—(Special.)—A good rain fell over this section last night. There was from a half inch to an inch of rain in different parts of the county. It came in good time as wheat was beginning to need it, as well as alfalfa. Corn planting is finished and this rain brightens the prospect a great deal.

NORFOLK, Neb., May 23.—(Special Telegram.)—Just one-third of an inch of rain fell today over northern Nebraska and the rest of the state.

SIOUX CITY, May 23.—(Special.)—Rain in measurable quantities fell here today for the first time this spring and was general throughout northwestern Iowa. The Dakotas at the same time reporting scattering showers. Rain fell gently during the greater part of the day and this evening the weather bureau measured nearly half an inch. Lack of moisture has greatly retarded the growth of vegetation in this district and the rain of today will be of immense benefit.

ASHLAND, Neb., May 23.—(Special.)—The rain last night and today has been of untold worth to the crops in this vicinity. A good-sized wheat crop is practically assured, and the rain came in time to greatly help the