

IOWA COURT HANDS DOWN IMPORTANT DECISION ON TUBERCULIN COW TESTS

With Judge M. H. Kepler Presiding, Middle Western Jury Finds Many Irregularities in Federal Law. Trial of Case Required 12 Days.

PART II
(Condensed from full text of decree by Judge M. H. Kepler.)

The court finds that the tuberculin test is not reliable, efficient or economical test, and does not accurately point out the presence or absence of tuberculosis in cattle tested, and does not protect human or bovine health, and does not conserve or protect the property of cattle owners. The owners of herds are endangered in their property rights by the tests, which causes cows, which do not react, to abort and lose their calves; to give stringy milk, unfit for food, to dry up and fail to give milk; and to lose the use of portions of the udder; and in some cases cows so tested give milk which causes severe sickness in children and calves. In some instances the tuberculin test is dangerous to human health, and human life, and to babies and children that are fed milk from cows that do not react.

It has been admitted by both sides to this case that beef from cattle which the defendants claim are tuberculous is sold to an unsuspecting public as clean, sweet meat, along with other beef, and no notice that the Department of Agriculture believes it to be tuberculous beef. If the defendants are right in their contention and this beef is from tuberculous animals, then the opinion of the court is that the practice is not conducted for the protection of human health and life, and that the law and rules which permit same are not within protection of police powers of the State. From 89 to 90 per cent. of the cattle slaughtered in Mitchell County, Iowa, were passed as fit for food, as clean, sweet meat, and sold to the unsuspecting public as good beef.

The reason given for the use of the tuberculin test according to the evidence, is primarily to save babies, but under the regulations of the Department of Agriculture the products of cattle, such as milk and butter, may be used for the babies of the cattle owners of Iowa, even though these female animals giving milk are allowed in the same pasture and drink water from the same trough with other untested steers and feeders. The court is at a loss to see how this practice protects the babies of farmers. In fact, if the claim of the defendants is true, as to infection, this practice will simply tend to perpetuate the practice which the defendants claim necessary to the protection of public health. The test is not a self-terminating institution. There is evidence tending to show that in localities where the tuberculin test has been used for many years the prevalence of tuberculosis in cattle as shown by the tuberculin test is much greater than it was when the test was first commenced. The object seems to be to test herds that will no longer react to tuberculin, and they are then claimed to be non-tuberculous, but the evidence shows the many of the worst diseased cattle will not react to the tuberculin test. If so-called free herds are established they must be tested from time to time, and the testers have before them a never-ending line of work which can only be terminated by the death of all cattle.

The court has been farther impressed during the trial with the almost unlimited power which the rules and regulations, statutes and practices give to the veterinarians who make the test. Under our form of government, the legislative branch should not interfere with the judicial branch, and should not appoint agents who have more authority than the courts under the constitution. Laws which delegate absolute judicial functions without giving any right of review and without providing for any appeal, seem to the court clearly unconstitutional.

Based on what this court believes to be the law, the Code of Iowa rules and regulations of the Department of Agriculture, and the inspecting agents, in so far as they seem to authorize the taking of property from the cattle owners without notice, are unconstitutional.

The right under the police power to give the tuberculin test to cattle without the consent of the owner must be based upon the presumption that such herd is so afflicted as to be a menace to public health. No such menace has been shown to exist.

There is no provision for full compensation to the owners of slaughtered reactors that are found to be non-tuberculous, or for compensation to owners for damages sustained by the use of the tuberculin test where the tested animals are non-reactors. There is no remedy to the cattle owners after the damage is done.

It is an open question whether in the making of tuberculin, the tuberculin bacilli are killed. There is evidence that the most virile bacilli will live through the heating process. It

Day Huey Bin She Ab?



The line above the picture is Chinese for "Number, Please?" and these are three of the "Hello girls" who operate the switchboards in San Francisco's long distance telephone exchange.

is a well-known fact that ptomaine poisoned meat is not rendered safe by boiling, and it is an open question whether the use of tuberculin in cattle may not be an active agent in the propagation of the disease.

The use of the hypodermic syringe and the needle without being disinfected between the injections of animals in the same herd makes probable the transmission of infection from diseased cattle to those being healthy. It is the opinion of the court from all evidence that proper ventilation and sanitation and the use of ordinary diagnostic agents more than the tuberculin, would do much more than the present system as employed by the Department of Agriculture, to eliminate tuberculosis in cattle and at a much less expense and without the terrific loss to the cattle owners. There isn't any reason to believe that the Department of Agriculture and those in its employ have any greater interest in the children of our State than have their fathers and mothers, and it is absolutely contrary to the spirit of our government to place absolute power in a governmental agency to the exclusion of any right to the individual to protect his

"VERY LATESTS"

By MARY MARSHALL

For the little girl in kindergarten or the first two or three grades there is always an advantage in every-day dresses of cotton material. In northern climes it is usually advisable to wear cotton dresses over underwear



containing some wool. For practical purposes cotton over wool is better than wool over cotton for a school girl until she is eight or nine.

This season there are practical cotton dresses for the young school girl that are as substantial and durable as those of wool. There are printed sateen-like materials that in their blending of color suggest the lighter and more colorful tweeds. One such dress made of material of several shades of green was finished with fine pique collar and cuffs piped with green and a double row of green buttons at the front of the bodice and a little tie of green velvet ribbon which may be easily removed when the dress is washed. The fullness of the skirt is introduced by means of wide side pleats at the sides and there is a narrow green leather belt held at a slightly lower than normal waistline by means of small straps of the material.

There are firm cotton materials reminiscent of old-time calicos in numerous small pie printed designs—and the always acceptable ginghams in checked or plaid effect introducing warm tones of red, brown and orange or trim blues and the greens that are so generally becoming to

The practical dress for the school girl, shown in the picture, is made of a new cotton material in tweed design, with stitched-in belts, white pique collar and cuffs and blue tie.

own property. It is bureaucracy in government to the limit; a practice under the guise of law as tyrannical and with as little regard for the property rights as recognized in this country as the edicts of Mussolini.

It is the opinion that if the use of the tuberculin test upon the cattle in the county of Mitchell is in the interest of public health, then public should pay the expenses and not attempt to compel the individual cattle owners to bear a loss upon animals that are tested and found to be non-reactors, and upon animals that react and have not the disease of tuberculosis to the extent that it is a menace to public health. The tuberculin test by any reaction does not disclose whether an animal has generalized tuberculosis or simply bacilli within its body which the probabilities are, will never develop into the disease.

Based on the record, the evidence in this case and what the court believes to be the law governing the facts shown, the court finds, adjudges and decrees that the temporary injunction issued in this case should be, and is hereby made permanent, and the defendants and all of them are hereby strictly enjoined from in any way testing the plaintiff's cattle with the tuberculin test under the provision of Chapter 129 of the Code of Iowa, of 1927, or amendments, thereto or under the rules of the defendants and are enjoined from in any way interfering with the property right of plaintiffs, in or to their said cattle without the consent of plaintiff, and are enjoined from testing with the tuberculin test or examining, appraising, condemning or quarantining any herds or cattle or individuals of cattle or livestock belonging to the plaintiffs. This said injunction shall apply to and protect the cattle of each and every plaintiff; and the court further enters judgment for costs of this case against the defendants.

M. H. KEPLER.

Eleven head of shorthorn cattle were purchased by Alleghany County farmers recently to build up the beef cattle industry of the county.

Uncle Si Tinklegough says as near as he can figure it out, success means working so hard to ruin your health so to make money enough to go to Florida to get your health back.

WAKE FOREST COLLEGE ADOPTS NEW RULING

A tradition of 95 years standing went by the board recently at Wake Forest College when its faculty authorized that the sole basis for unconditional entrance next session be simply that of graduation from a state-accredited high school and that its new catalogue be modified accordingly.

While the policy of this institution in previous years was to admit all graduates of accredited high schools, it nevertheless penalized upon entrance those who presented only two units of foreign language by requiring that additional foreign language be pursued without credit toward degrees, thus handicapping a majority of its students who came from small high schools. In September of this year foreign language required for admission to Wake Forest will be precisely that required for graduation from high school; namely, two units of either Latin or French.

In view of the fact that fully half of the high schools of the State are located in either rural areas or small towns where fewer than five high school teachers are available and the foreign language offering is necessarily limited to two units, it has appeared unfair to set up entrance requirements that would operate against their graduates, thereby causing academic handicaps such as to discourage and compromise many men in their college courses. Such discrimination has always worked to the disadvantage of the country boy who, although presenting his fifteen bona fide units upon entrance, still has hitherto been denied an equal footing with graduates of the larger schools merely because he was not born in town.

The system of majors and minors recently authorized by the Wake Forest faculty and in keeping with the new certification scheme of the State Department of Public Instruction will affect superior scholarship in two fields of concentration for all students, meet adequately the certificate requirements for high school teachers, and avoid handicaps that many a college graduate meets who late in his course turns to teaching.

McLENDON CONSIDERED AS PROBABLE BAILEY CHIEFTAIN

L. P. McLendon, of Durham, is said to be under consideration as chief marshal of the Bailey forces, or chairman of the Bailey campaign committee, according to Washington advices to the Greensboro Daily News. Members of the North Carolina colony in Washington do not know whether he is for or against Mr. Bailey; but persons concerned in what is transpiring in the Bailey camp have an idea that Mr. McLendon will be chosen as chairman and will direct the fight against the renomination of Senator Simmons.

Others have assumed that C. L. Shuping, of Greensboro, who led the Bailey campaign for the gubernatorial nomination and who is uncompromising in his opposition to Senator Simmons, would be chairman of the Bailey committee. Many have supposed there would be something automatic about this, that Mr. Shuping would step right to the head of the class, following the Bailey announcement of his candidacy for the Senate. Now it is "guessed" that he will not direct the campaign for Bailey, as chairman of his State organization.

In the background of this chairmanship proposition one finds an impression that a division exists in the Bailey strategy board. There are said to be two separate and distinct schools of thought. One set of advisers—said to include R. A. Dougherty and W. D. Siler—very much favor a quiet, lady-like campaign with the shouting of the captains reduced

to the minimum. From this point of view, the less sneaking by Mr. Bailey and others is the better. It is not a nice thing to say with the best people and the moral forces in mind, but those friends of Mr. Bailey who would cut out the oratory and the rousements, think sleeping dogs should not be disturbed.

Now Mr. Shuping has been sending out questionnaires and he has been standing right out in front to be shot at. It is reasoned that if Mr. Shuping should be made chairman of the Bailey committee, all the fighting instincts of the Simmons people would be aroused and, among other things, they would come out on primary election day and put another blow against Al Smith, rum and Romanism.

One report has it that Mr. Bailey is inclined to sympathize with the idea that it would be wise, when possible, to avoid the noise and excitement. It would be the easy way and it would fit in admirably with the policy of individual health conservation.

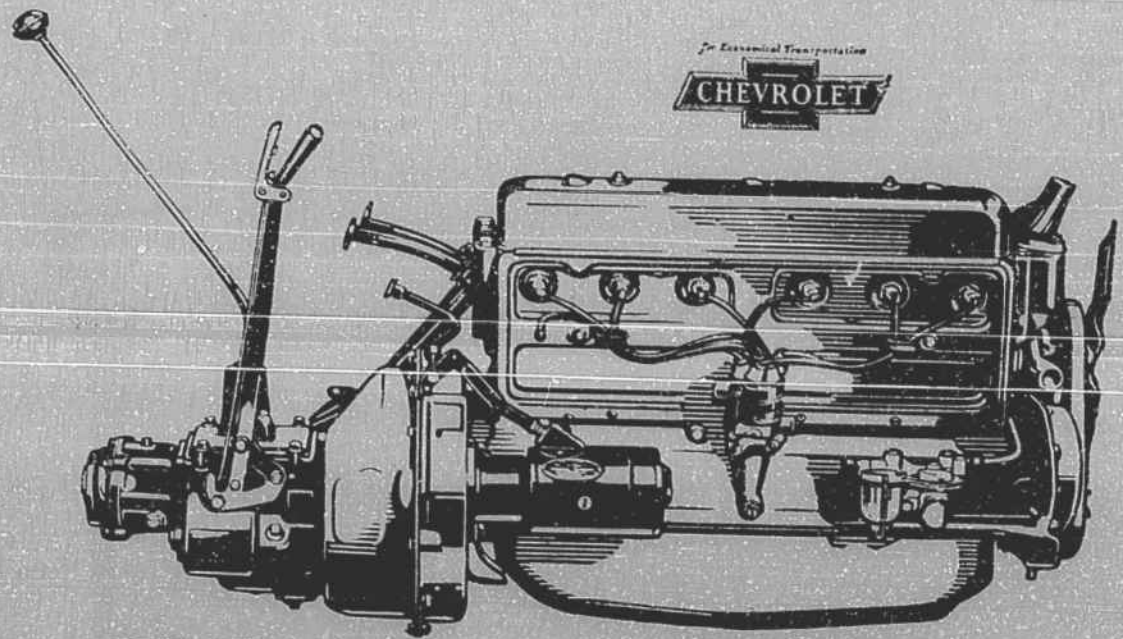
However, it is thought by a number of persons that Mr. Bailey ultimately will adopt a sort of compromise and fill a limited number of speaking engagements, taking care upon such occasions to say nothing calculated to arouse the angry passions of the people.

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