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Affidavit.

New Jersey Supreme Court

10

STATE BOARD OF MEDICAL EXAM-
INERS OF NEW JERSEY,
Complainant,
Defendant-in-Certiorari,

v.

RICHARD BLECHSCHMIDT,
Defendant,
Prosecutor-in-Certiorari.

In Certiorari.

20

State of New Jersey, }
County of Morris, } ss.:

ELMER W. ROMINE, of full age, being duly sworn according to law, upon his oath deposes and says:

I represented Richard Bleckschmidt at the trial of the above entitled cause.

A motion was made to dismiss the complaint on the ground that it being a summary proceeding under the statute the State Board of Medical Examiners were bound to set out in their complaint the facts so that the defendant would know what he was called upon to meet, whereas the complaint merely recited that in certain months in the years 1927 and 1928 the defendant practiced medicine and surgery, contrary to the statute in such case made and provided, without being licensed. The Court having denied the motion to dismiss, an exception was taken.

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Affidavit.

10 The defendant, a licensed chiropractor, was accused of practicing medicine and surgery in violation of the Medical Act. The evidence disclosed that he used a vibrator propelled by electricity, also a concusser which he operated up and down the spine in conjunction with hand manipulation. It also appeared that he used a colored light on the body for the purpose of eliminating toxic poisons from the skin so that his adjustments might take effect more readily.

The Trial Court concluded that he was guilty of practicing medicine and surgery, although there is nothing in the Medical Act which gives to the medical practitioner the exclusive right to use electricity.

20 It is contended by the defendant-prosecutor that he was entirely within his rights as a chiropractor, and that the definition of chiropractic gives him the right to use light, heat and air in conjunction with hand manipulation.

The defendant-prosecutor, therefore, desires to have the judgment of conviction reviewed, and the constitutionality of the Medical Act, insofar as it may attempt to restrict and define the rights of a prosecutor, determined.

30

ELMER W. ROMINE.

Sworn and subscribed to before me this }
10th day of March, A. D. 1928. }

ALBERT H. HOLLAND,
Master in Chancery
of New Jersey.

40

Writ of Certiorari.

(Filed March 13, 1928.)

NEW JERSEY SUPREME COURT.

<p>STATE BOARD OF MEDICAL EXAM- INERS OF NEW JERSEY, <i>Complainant,</i> <i>Defendant-in-Certiorari,</i></p>	} In Certiorari.
<p><i>v.</i></p>	

10

<p>RICHARD BLECHSCHMIDT, <i>Defendant,</i> <i>Prosecutor-in-Certiorari.</i></p>

State of New Jersey, ss.:

20

The State of New Jersey to Charles
L. Carrick, Esquire, Judge of the First
[SEAL] District Court of the City of Jersey
City.

GREETING:

We, being willing, for certain reasons, to be
certified of the determination or judgment given
and made before you in a certain proceeding
brought against Richard Blechschmidt at the suit
of the State Board of Medical Examiners of New
Jersey, do hereby command that you send under
your seal to our Justices of the Supreme Court of
Judicature of the State of New Jersey, on the 31st
day of March, instant, the proceedings, testimony,
exhibits, determination or judgment, as aforesaid,
with all things touching and concerning the same
as fully and entirely as they remain before you by
whatever names the parties may be called therein,

30

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Complaint.

together with this writ, that we may further cause to be done what of right we shall see fit to be done.

WITNESS, William S. Gummere, Chief Justice of our Supreme Court, at Trenton, this 12th day of March, A. D. 1928.

10

EDWARD J. KELLEHER,
Clerk.

ELMER W. ROMINE,
Attorney for Defendant,
Prosecutor-in-Certiorari.

Complaint.

(Filed .)

20

STATE BOARD OF MEDICAL EXAM-
INERS OF NEW JERSEY,
Plaintiff,

v.

RICHARD BLECHSCHMIDT,
Defendant.

30

State of New Jersey, }
County of Mercer, } ss.:

JAMES J. McGUIRE, being duly sworn according to law, on his oath says, that he is a member of the State Board of Medical Examiners of New Jersey, and that deponent is informed and believes that during the months of January, February, March, April, May, June, July, August, September, October, November and December, nineteen hundred and twenty-seven, and during the months of January and February, nineteen hundred and

40

twenty-eight, at the City of Jersey City, in the

Complaint.

County of Hudson and State of New Jersey, one
 Richard Blechschmidt of the City of Jersey City,
 in the County of Hudson and State of New Jersey,
 did violate section ten of an act of the Legislature
 of the State of New Jersey entitled "An act to
 regulate the practice of medicine and surgery, to
 license physicians and surgeons and to punish
 persons violating the provisions thereof," approved
 May twenty-second, one thousand eight hundred
 and ninety-four, as said section ten was amended
 by act approved April eighth, one thousand nine
 hundred and twenty-one in the following respect,
 to wit: that the said _____ at the time and
 place aforesaid, did commence and continue the
 practice of medicine and surgery within the mean-
 ing of section eight of said act, as said section
 eight was amended by act approved April twelfth,
 nineteen hundred and fifteen, without first having
 obtained and filed a license for such practice is-
 sued by the State Board of Medical Examiners
 of New Jersey, as provided for under the provi-
 sions of said act, all of which is contrary to and
 in violation of said section ten of said act and
 against the form of said statute.

Deponent therefore says that the said Richard
 Blechschmidt has incurred the penalty of two hun-
 dred dollars prescribed by section ten of the act
 above mentioned, as such section was amended,
 as aforesaid, for the aforesaid violation, and prays
 that the said Richard Blechschmidt may be appre-
 hended and dealt with according to law.

JAMES J. McGUIRE.

Sworn and subscribed before me this 15th day
 of February, A. D., nineteen hundred and twenty-
 eight.

LILLIAN HART,
 Notary Public of N. J.,
 Mercer County.

Warrant.

Hudson County, ss.:

The State of New Jersey to any Constable of the County of Hudson or to the Sergeant-at-Arms of the First District Court of the City of Jersey City or to the Inspector of the State Board of Medical Examiners of New Jersey.

10

WHEREAS, Proof has been made before me under oath that during the months of January, February, March, April, May, June, July, August, September, October, November and December, A. D. nineteen hundred and twenty-seven, and during the months of January and February nineteen hundred and twenty-eight at the City of Jersey City in the County of Hudson and State of New Jersey, one Richard Blechschmidt of the City of Jersey City in the County of Hudson and State of New Jersey, did violate the tenth section of an act of the Legislature of the State of New Jersey entitled "An act to regulate the practice of medicine and surgery, to license physicians and surgeons and to punish persons violating the provisions thereof," approved May twenty-second, one thousand eight hundred and ninety-four, as said section ten was amended by act approved April eighth, one thousand nine hundred and twenty-one, in that the said Richard Blechschmidt at the time and place aforesaid, did commence and continue the practice of medicine and surgery within the meaning of section eight of said act, as said section was amended by act approved April twelfth, nineteen hundred and fifteen, without first having obtained and filed a license for such practice issued by the State Board of Medical Examiners of New Jersey, as provided for under the provisions of said act,

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Warrant.

contrary to and in violation of said section ten of said act and against the form of said statute.

You are hereby commanded to take the body of the said Richard Blechschmidt so that you have him forthwith before the First District Court of the City of Jersey City at 20 York Street in said City of Jersey City in the County of Hudson and State of New Jersey, to answer unto the State Board of Medical Examiners of New Jersey, who sue for one penalty of two hundred dollars for the aforesaid violation, and that the said defendant may be dealt with according to law.

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Witness, Charles L. Carrick, Esquire, Judge of the First District Court of the City of Jersey City this 17th day of February, A. D. nineteen hundred and twenty-eight.

20

B. FRANCES MARRON,
Clerk.

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Judgment.

STATE OF NEW JERSEY,

HUDSON COUNTY,

CITY OF JERSEY CITY.

FIRST DISTRICT COURT OF JERSEY CITY.

10

Before—CHARLES L. CARRICK, Esquire, Judge.

No. 170167

STATE BOARD OF MEDICAL EXAM-
INERS OF NEW JERSEY,
*Plaintiff,**v.*RICHARD BLECHSCHMIDT,
Defendant.

20

IN DEBT \$200.00.

Edward L.
Katzenbach,
Plff's. Atty.Elmer W. Romine,
Deft's. Atty.

COSTS	CITY	AL
Warrant	1.50	.85
Service		.20
Mileage		
Trial Fee	1.50	
	3.00	1.05

30

February 17, A. D. 1928, the plaintiff filed a complaint alleging that Richard Blechschmidt was during the months of January, February, March, April, May, June, July, August, September, October, November and December, 1927, and during the months of January, February, 1928, at the City of Jersey City in the County of Hudson and State of New Jersey guilty of violating section ten of an act of the Legislature of the State of New Jersey, entitled "An act to regulate the practice

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Judgment.

of medicine and Surgery, to license physicians and surgeons and to punish persons violating the provisions thereof," approved May 22, 1894.

February 17, A. D. 1928, a writ was issued to John A. O'Grady, Constable, against the body of the said defendant, returnable forthwith. 10

February 17, A. D. 1928, said Constable returned said writ with the body of the defendant into Court and he pleading NOT GUILTY was released on bail for appearance March 6, A. D. 1928.

March 6, A. D. 1928, both parties appearing the trial of the cause was proceeded with as follows:

Upon application of plaintiff, A. W. Denham was appointed and sworn as stenographer.

On the part of the plaintiff—Faustina Hess, Delia Orr, Marie Manahan and Irma Spruce were sworn and testified. One package and one certificate offered and received in evidence. 20

On the part of the defendant—Richard Blechschmidt was sworn and testified.

WHEREUPON it is on this sixth day of March, A. D. 1928, by this Court considered and adjudged that the said Richard Blechschmidt is guilty of the charges alleged in the complaint filed, and that the said State Board of Medical Examiners of New Jersey, plaintiff, recover of Richard Blechschmidt, defendant, Two hundred dollars, penalty, and four dollars and five cents, costs of suit. 30

Upon application of defendant the Court gave said Richard Blechschmidt five days in which to appeal said case or pay said penalty.

March 13, A. D. 1928. Notice of Certiorari filed.

I, B. FRANCES MARRON, Clerk of the First District Court of Jersey City, CHARLES L. CARRICK, Esquire, Judge, do hereby certify that the foregoing is a 40

Testimony.

true copy of the complaint, warrant and transcript of a judgment of the said Court.

10 IN WITNESS WHEREOF, I do hereby set my hand as Clerk of the said Court and affix the seal of the said Court this twenty-third day of March, nineteen hundred and twenty-eight.

(Seal) B. FRANCES MARRON,
Clerk.

Testimony.

IN THE SECOND DISTRICT COURT OF
JERSEY CITY, N. J.

20	<p>NEW JERSEY STATE BOARD OF MEDICAL EXAMINERS, <i>Plaintiff,</i></p> <p style="text-align: center;"><i>v.</i></p> <p>RICHARD BLECHSCHMIDT, <i>Defendant.</i></p>	} Action at Law
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30 Transcript of testimony stenographically taken in the above entitled cause, at a hearing held in the Second District Court of Jersey City, New Jersey, on Tuesday the 6th day of March, A. D., 1928, at 10 o'clock in the forenoon, before the Hon. CHARLES L. CARRICK, Judge of that Court.

APPEARANCES:

GROVER C. RICHMAN, Esq., for the Plaintiff.
ELMER W. ROMINE, Esq., for the Defendant.

40 A. W. DENHAM,
Trenton Trust Building,
Trenton, N. J.
Sworn as Stenographer.

March 14, 1928.

Testimony.

Mr. Romine: If the Court please, representing the defendant, at the outset, I want to move for dismissal of the complaint. The complaint merely charges that in certain months of the year the defendant did violate an act to regulate the practice of medicine and surgery, in that he practiced medicine and surgery without a license. Your Honor will note there is nothing set out in the complaint by way of facts to show what they allege he did. We do not know what they contend. We don't know whether they contend he gave drugs or medicine, performed surgical operations, or whether they rely on some other facts. In this particular case, we know that the defendant is a licensed Chiropractor, and we know he didn't give drugs or medicine, or perform surgical operations, but we don't know what they contend he did which they say constituted the practice of medicine and surgery. It has already been decided by the Courts that this, being a summary proceeding, they must set out the facts, so that the accused may know what he is called on to meet; and that was first stated in the case of Staller against Bayonne, I think in the Supreme Court, where it was ruled that they must set forth the facts. Following that there is the case of Pierre versus Dixon, and I might say that in the case which I tried before the District Court of Elizabeth, there the Judge held that they are bound under these cases to set out the facts, so that the accused may know what he is called upon to meet. I submit to the Court under the cases, and the state of the law, not having done so, and this being a technical proceeding, therefore the complaint should be dismissed.

Mr. Richman: This same complaint has been to the Supreme Court a dozen times, and it is the

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Faustina Hess, direct.

same motion made by Mr. Romine, and I know it as well as he does. It has never been sustained in the Supreme Court or any District Court in which he has made it.

10 Mr. Romine: It was sustained in the Court in Elizabeth. It has been sustained in the Supreme Court in similar cases, not medical cases, but similar cases, that was the law.

The Court: I will refuse to dismiss and give you an exception.

THE CASE FOR THE PLAINTIFF.

FAUSTINA HESS, sworn.

By Mr. Richman:

20 Q. Did you visit the defendant in this case? A. I did.

Q. When? A. January 23, 26, 30, February 2, 1928.

Q. Where did you go? A. 2 East Street, Jersey City.

30 Q. What kind of place was it? A. A large house, and outside there was a sign over the door, a black sign with gold letters, Dr. R. Blechschmidt, Naturopath and Licensed Chiropractor, Spinal Adjustments. In the window, a white sign with black letters, Dr. R. Blechschmidt, Naturopath, Licensed Chiropractor, and office hours. All the treating rooms were in the basement, so I went down there, and the doctor, I told him I had not been feeling very well, and he told me to remove my hat and coat, and to take my glasses off. He shone a light into my eyes, and said I had heart trouble, and the liver was not right, and I had a catarrhal condition
40 all through my system, affecting the entire system. Then he told me to go to a small room and disrobe,

Faustina Hess, direct.

and put on I think he called them pajamas, a sort of bloomer-kimona like, open in the back. I put them on, and I went into a treating room, sat on the table, and he took his hand and pressed real hard and twisted my neck four times altogether, twice on each side. Then I laid face downwards on the table. He took his hands and pressed real hard about five times on the back, and then he had a machine, a real large machine, hitched to the ceiling, it had sort of four prongs. It worked up and down real hard, and he went all over your entire body with it.

10

Q. What was that machine connected with? A. With the wire in the socket, the electric.

Q. It was operated by electricity? A. Yes, it was.

20

Q. What did he do with it? A. That machine, he put that over the back, and I turned over, and on my stomach and arms and knees, and all over, and then he twisted and pushed the hips and knees in opposite directions, and then I placed my arms and hands in front, and he would take hold of me in the back and press real hard, so it hurt in the back. Then I went back to the little room, and there was a chair, and in front was a little square box, with a bulb inside, and there was a slide, a glass slide, one was green and one was yellow, and you sat there for about fifteen minutes and the rays of this lamp shone on the body.

30

Q. On your body? A. Yes.

Q. Were they strong rays? A. They were warm; you could feel them a little bit warm. I don't know that they were so very strong.

Q. What else happened? A. Then that was all. Then I dressed and asked him how much it would

40

Faustina Hess, direct.

be, and he said five dollars for three treatments, and he gave me a card and punched the card.

Q. Did he say anything about diet on that visit?

A. He told me that I should eat fruit and vegetables, no coffee or milk. He gave me a diet list, but not that time, the next visit.

10

Q. This is the card he gave you? A. Yes.

Mr. Richman: I offer it in evidence.

(Received and marked.)

Q. How much did you pay him on that visit?

A. Five dollars.

Q. Do you see the defendant? A. Yes.

Q. Where is he? A. At the end of the table.

Q. Next to Mr. Romine? A. Yes.

20

Q. That is the man you say on the 23rd and who gave you this treatment? A. That is the man.

Q. When did you go again? A. January 26th.

Q. What happened on that visit? A. The doctor asked me how I was, and I said I didn't seem to be much better, and—

Q. What else happened? A. About the same thing, only this time he used a vibrator, a large vibrator, besides the other concussion machine, he called that, the real large machine.

30

Q. How did he use that? A. That was connected with the wire, too, and he went all over the body with that.

Q. He turned on the electric current, did he? A. Yes.

Q. Where did he use it? A. All over the back, up and down the spine, and the abdomen.

Q. Did he use the lamp? A. Yes, that is just the small spectrochrome lamp this time.

40

Q. How did he use it? A. You sat on a chair, and the rays of the lamp, one shines on the back

Faustina Hess, direct.

and one on the front. You face one lamp, and the other one is in back.

Q. On this visit were you alone? A. I was with Mrs. Orr.

Q. Did you pay him? A. He punched the card.

Q. You returned again on the 30th, did you? A. 10
Yes.

Q. This time with Mrs. Orr? A. Mrs. Orr.

Q. Did you see the defendant? A. I saw the defendant.

Q. What happened? A. This time we, first I went into this room, and there was a very large lamp overhead, and we had to strip and lie on a sort of cot, and this lamp would shine down on the entire body. It had sort of a greenslide in the lamp, with a green globe, a green light. It was a real large lamp with a large electric light. 20

Q. Did the defendant operate this lamp? A. He just switched it on. I was in there.

Q. Who told you to take the position on the couch? A. The doctor.

Q. Then he switched on the lamp? A. Yes, he put it on first, and then I—

Q. How long was that on the body? A. I should think fifteen minutes.

Q. What else did he do? A. Then after that he twisted my neck and back, his hands pressed hard on my back about five times, and then that concussion motion all over the body the same as before, and I told him my bowels were not moving very good, and he recommended a herb that he had there called Innerclean. He said to take a half teaspoonful of that in a drink of water a couple of times a week. 30

Q. Did he give you some of it? A. Yes, I paid him fifty cents for it. 40

Faustina Hess, direct.

Q. This is the package he gave you? A. Yes.

Mr. Richman: I offer it in evidence.
(Received and marked.)

10 Q. He gave you a diet on this visit? A. On the second visit, the 26th.

Mr. Richman: I offer that in evidence.
(Received and marked.)

Q. When did you return after that? A. February 2nd.

20 Q. What happened? A. He asked me how I was. I said I was terribly sore all over and could hardly move. He said that showed that the treatment was helping me, and I had practically the same treatment, twisting the neck, and on the back, and pushing the hip and knees, and the concussion machine.

Q. That concussion machine, was that used all over your body? A. Yes, all over my body.

Q. How long was he using that? A. Ten or fifteen minutes, ten minutes anyway.

Q. Did you feel it? A. It was very hard, yes.

30 Q. What does it feel like? A. Your teeth all shake in your mouth, pretty near and your whole body jars.

Q. It is connected with the current, the house current? A. Yes, connected with the current.

Q. Did he use the lamp on that last visit? A. Yes, the lamp, just in another room, but there was two lamps in this second room, both the same kind of lamp, one right over the cot, and one to the right overhead. It was a different room.

40 Q. Did you pay him on this visit? A. I paid him two dollars and he punched the card.

Q. What, if anything, did he say with respect

Faustina Hess, cross.

to these treatments he was giving you? A. He was sure I was going to be very much better.

Cross examination by Mr. Romine:

Q. Did the doctor ever apply electricity direct to your body? A. Would you not call that direct? 10

Q. I am asking you. Did he apply electric current direct to your body anywhere? A. He put this machine and the vibrator.

Q. That machine was controlled by electricity. Is that what you mean? A. Yes.

Q. But you didn't feel any electricity going in your body at any time, did you? A. I felt something pretty bad, but I don't know what it was. It was awful hard treatment.

Q. Did he apply electricity direct to your body, or just simply use— A. He turned on a switch. That is all I know. 20

Q. When he used the vibrator on you, the electricity controlled the motor, did it not? A. I suppose so.

Q. That made the vibrator go? A. Yes.

Q. That was all he used up and down your spine, wasn't it? A. Yes.

Q. That is what you mean you felt hard at times? A. Yes. 30

Q. In addition to that he used his hands, is that right? A. Yes.

Q. When he used this vibrator up and down your spine, it was propelled by electricity. Did he use his hands on the vibrator at the time he was putting it up and down your spine? A. Did he control it with his hands?

Q. Did you feel his hands surrounding the lower part of the vibrator as he was moving it up and 40

Faustina Hess, cross.

down your spine? A. The vibrator was so hard I don't know as I could tell about his hands.

10 Q. You knew, didn't you, when he was going to place this machine up and down the spine, which vibrated the body, he had his hands surrounding it, didn't you? A. I don't know. I was lying face downwards, you know.

Q. You don't know as a matter of fact whether in connection with the operation of this vibrator up and down your spine, whether his hand was actually there manipulating it at the same time? A. His hand had to be there, yes.

Q. This light you speak of when you sat in a dark room was a little bit of an arrangement like this? A. Yes.

20 Q. One like that? A. Yes.

Q. It had an ordinary electric bulb in it, didn't it? A. There was a slide in the front part.

Q. I will put the slide in. What was the color of the slide? A. Green.

Q. A green slide like that showing through? A. Yes.

Q. No heat from it was there? A. I think so, yes, it felt warm.

30 Q. You felt there was, are you sure? A. I am sure there was a heat.

Q. Isn't it a matter of fact these lights were more than two or three feet away from your body on either side? A. A foot and a half, maybe.

Q. You don't mean to tell the Court you felt any heat from that, do you? A. I really did.

Q. Sure about it? A. Sure.

40 Q. Was it a heat such as you would get from holding your hands over a light like this on the table? A. Yes, it was not an intense heat. It was not really warm.

Faustina Hess, cross.

Q. Did he tell you why he used this light? A. The rays have some action on the body, all the different organs.

Q. It was just simply the color that came through the ordinary electric light bulb? A. He didn't say that. He said the rays from the light affect the organs.

10

Q. Didn't he tell you in connection with his treatment under chiropractic it was necessary to rid the body of all toxic poisons before his treatment could take effect? A. He didn't tell me that.

Q. Sure about that? A. Very sure.

Q. This large light that you saw was on the same principle as this machine, was it not? A. The same principle.

Q. That light was how far away from the body? A. It was up overhead perhaps five feet, maybe.

20

Q. And all that there was from that arrangement was just simply a colored light that came through? A. It warmed the body, that light. I could feel the heat from that.

Q. You could feel the heat from that? A. Yes, that was warm, very warm.

Q. Warmer than the other? A. Oh, yes, much warmer.

Q. Did he tell you why he used that light? A. It was a benefit.

30

Q. Didn't you see an ordinary electric light bulb in that larger lamp? A. That is what it appeared like.

Q. Just an ordinary electric light bulb with just an ordinary glass showing green, is that right? A. That is what it looked like.

Q. In addition to that, and after he used all these large lights you speak of, then he made the adjustments to your neck, to your spine, is that right? A. Yes.

40

Delia Orr, direct.

Q. And you spoke something about having a small vibrator. Was it similar to this in size that he used on your back? A. About like that.

10 Q. He ran that up and down the back, did he, with his hands around it in that condition? A. I was lying face downward.

Q. You could feel his hands? A. I could feel the wires.

Q. This package you say he gave you, did you understand that was a laxative? A. I presume so.

Q. It says so on the box, doesn't it? That is what he told you it was for, wasn't it, just a laxative, that would move the bowels and eliminate? A. That is right.

20 DELIA ORR, sworn.

By Mr. Richman:

Q. Did you visit the defendant in this case? A. I did.

Q. When? A. 26 and 30 January and 2 February, 1928.

Q. Did you accompany Mrs. Hess? A. I did.

Q. On each occasion? A. Yes.

30 Q. Where did you go? A. 2 East Street, Jersey City.

Q. Will you describe the place you went? A. It was a large house, and when we went in, we went into a little living room. We had to go into the basement for our treatments, and it had several booths down there, and when I went in he didn't even ask what was the matter, he said he could tell me, and he looked into my eyes with a light and a glass, and he said that the top of my head was not working right, and that I had poor circulation and a stomach condition.

40

Delia Orr, direct.

Q. Was that true? A. What?

Q. That the top of your head was not working right? A. I don't know what he saw in my eyes. He had me go into a little room, and disrobe, and he had me sit in front of a light, a little square light, one back and one front, and let that light shine on the bare skin, and then he had me go in another room.

10

Q. Could you feel that light, feel the heat from it? A. Yes, it was not so strong, but you would know it was there.

Q. Did he say why he did that? A. No, he didn't tell me that day why he did that.

Q. What else did he do? A. Then I went in and he had me lie on the table, and twisted my neck until it cracked three times, and went up and down my spine, and had that crack, and he then twisted my legs and arms, and then he had a machine there connected with the electric that he called a concussion hammer, and that had four like prongs on with rubber ends, and that would go up and down in different times. He put that up and down my spine, and down my legs, and he would hold it down at the end of the spine and you would feel that all through your body. It would give you an awful trembling sensation all through.

20

Q. It was connected with the electric current? A. Yes.

30

Q. Did you see him connect it? A. Yes, and then he had me go in and sit in front of these lights again. I was there five or ten minutes before I got dressed.

Q. Did you notice any signs there? A. In front of the house?

Q. Yes. A. He had a sign there Dr. R. Blechschmidt, Naturopath and Licensed Chiropractor,

40

Delia Orr, direct.

and Spinal Adjustments, in black and gold, and there was another one just the same only with office hours, in black and white on the window, except spinal adjustments, that was not on that.

10 Q. When he was using the concussion hammer what position were you in? A. I was lying face downward on the table.

Q. Was your body exposed? A. Yes.

Q. Was that electric— A. That was right on the bare flesh, and I went back again—

Q. Did you pay him on that visit? A. Yes, he wanted five dollars for three treatments, but I paid him two dollars, and he gave me a card, and he also gave me this diet book. He wanted me to keep it.

20 Q. On the first visit? A. Yes.

Mr. Richman: I offer that and ask that they be marked.

(Received and marked.)

Q. You paid him two dollars on that visit? A. Yes, I paid him two dollars on that visit. Then I went back on the 30th.

30 Q. What happened on the 30th? A. That day when I went in he asked me how I felt. I said I thought I felt a little better except that I had trouble with my stomach, and he said that day I had sciatic nerve trouble, and he had me sit in front of these large lights five minutes before I went on the treating table, and then he gave me about the same kind of treatment of my neck and spine, and used this hammer again, and that day he used the vibrator on my legs also.

40 Q. What was that connected with? A. The electric, and then he had me go in another room on a table, and take all my clothes off, and he

Delia Orr, direct.

said that was a Palm Beach sun bath I was getting. That time there was a large light, a spectrochrome light he called it, over me, about three or four feet up, and that was very, very strong.

Q. Did you notice the light counsel had? Is that what he used the last time? A. No, that is the little light he had the first time.

10

Q. It was a large light he used to give you the sun bath? A. Yes. I had to sit under it for about ten minutes on the stomach, and then after that on my back the same time, and then that day he gave me some medicine here for my stomach, and he said that I should take a teaspoonful of that in water every night.

Mr. Richman: I offer that.
(Received and marked.)

20

Q. Did you pay him that visit? A. I paid him three dollars that day for the treatments and fifty cents for the medicine.

Q. You returned again when? A. February 2nd. That day when I went in he complimented me. He said I was looking much better and I would not know myself in a little while. He said he could tell I was improved by the way the blood come to the skin, and I had that same treatment again, except that day he had me go in another room and there was three lights there.

30

Q. You mean the same electric treatments you had? A. Yes, I had the hammer, but I didn't have the vibrator that day. There was three lights in there, one shone on the stomach, and another one was red, looked like an electric heater, and then a blue light, and I stayed under these for about ten or fifteen minutes, maybe.

Q. Were you disrobed? A. Yes, and then he gave me my treatment after that.

40

Delia Orr, cross.

Q. Did you pay him? A. I didn't pay him anything that day because I had paid for my three treatments.

Q. You recognize him now, do you? A. Yes.

Q. Sitting at the end of the table? A. Yes.

10 Q. That is the defendant? A. Yes.

Cross examination by Mr. Romine:

Q. This little package he gave you, was that for elimination purposes? A. It was for the stomach.

Q. It was for laxative purposes, wasn't it? A. I don't know. I told the doctor I was having trouble with my bowels, and he told me that I should take that each night, a teaspoonful in water.

20 Q. He told you if you took that you would have a free movement of the bowels? A. He said in a month my stomach would be perfectly all right.

Q. Didn't he tell you to use that as a laxative? A. No, he didn't say anything about that.

Q. You understood that. The box itself was marked laxative—didn't you? A. Yes. I could read that.

30 Q. You knew that was what it was being given you for, to eliminate from the bowels, isn't that right? A. I suppose it was, but that is not what he told me.

Q. Did you ever use it? A. No, sir.

Q. Did you feel at any time any electricity going into your body? A. I certainly did.

Q. You did feel electricity going into your body? A. I suppose it was, through that hammer that he used. It was a dreadful feeling, coming all through you.

40 Q. Will you say it was a feeling of vibration to the body, or do you swear on your oath it was electricity going into your body? A. I could not

Delia Orr, cross.

say that, because I have never experienced it. I would not know what it was like.

Q. You don't want to say before this Court that any electricity went into your body, because you don't know? A. I could not say that. I don't know what else it could be. It was connected with the electric.

10

Q. Don't you know that any machine like this, and this was one of the machines he used? A. Yes.

Q. That when that is connected with the electric current there is a motor in there that vibrates the lower end of that machine, just vibrates it on the body, and that is what you feel, and not any electricity. Isn't that a fact? A. I don't know.

20

Q. Therefore, you are not prepared to say to this Court that any electricity actually went into your body, are you, you don't know? A. I would say no, I didn't know.

Q. When he used this small machine, and the large lamp, you also felt his hands going up and down the spine and on your body? A. No, I did not.

Q. You didn't have any feeling like that? A. No.

30

Q. Did you know he took hold of the lower part of the machine and manipulated it as the machine went along up and down your spine? A. No, sir.

Q. You don't know? A. No, I was lying face downwards, I could not see.

Q. You don't say he didn't and you don't say he did? A. No.

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Mabel Monohan, direct.

MABEL MONOHAN, sworn:

By Mr. Richman:

Q. Where do you live? A. 246 Summit Avenue.

Q. Where? A. Jersey City.

10 Q. Do you know the defendant in this case, Richard Blechschmidt? A. Yes.

Q. You recognize him now? A. Yes.

Q. Sitting at the end of the table? A. Yes.

Q. Did you have any transactions with him recently? A. Not very recently.

Q. When? A. January. I had been under treatment for the last five years.

Q. Did he come to see your child, your son? A. My child and myself, yes.

20 Q. How old was your daughter? A. Two and a half.

Q. When was it he came to see your daughter?
A. January 4th.

Q. 1927? A. Yes.

Q. What was the matter with the child? A. She had a high fever, and I thought it was measles and he said that was all it was.

Q. Did he come to 246 Summit Avenue where you live? A. No, at 62 Vroom Street.

30 Q. You sent for him? A. Yes.

Q. And he came to your home? A. Yes.

Q. What was the matter with the child? A. I thought it was measles. He claimed it was measles, but it was scarlet fever.

Q. What did he do? A. Gave her adjustments and electrical treatments.

Q. What were the electrical treatments like? A. With that vibrator on its back, and she ailed about a week and then I was taken down with it.

40

Mabel Monohan, direct.

Q. What did she have, that child? A. Scarlet fever.

Q. How do you know that? A. After we were taken to the hospital, they diagnosed it as diphtheria, scarlet fever and double pneumonia.

Q. What did the defendant say she had? A. 10
Only scarlet fever. First it was measles, but we found that she was much more ill, and she died in the hospital.

Q. How often did he come to treat her? A. From January 4, to January 13.

Q. Every day? A. No, about every other day.

Q. What kind of treatment did he give her on each day? A. Just the adjustments and electric treatments.

Q. What were these electrical treatments like 20
that he gave the child? A. That vibrator.

Q. The electric vibrator? A. Yes.

Q. How did he use it in your home? A. He attached it to the electric light and put it on the back.

Q. On the back? A. Yes.

Q. Any other part of the body? A. No, right from one end of the spine to the other.

Q. Did he use any other kind of electric machine? A. No.

Q. Only the electric vibrator? A. Yes. 30

Q. Did he give her anything? A. No.

Q. You say he came every other day from January 4, 1927, to January 13, 1927? A. Yes.

Q. When were you taken sick? A. On a Sunday, I just don't remember the date, about the 9th.

Q. In that same period? A. Yes.

Q. Did he treat you? A. Yes.

Q. How did he treat you? A. With the same adjustments and with the electric vibrator. 40

Mabel Monohan, cross.

Q. Where did he use the electric vibrator on you? A. On the spine.

Q. What happened to the child after the 13th of January?

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Mr. Romine: I object to that. That testimony will make no difference to—

The Court: I will allow it.

A. We were taken to the Jersey City Hospital.

Q. Both of you? A. Yes.

Q. Did the child live? A. She lived until January 20th, and then we knew what her ailments were.

Q. How long were you there? A. Thirty days. I was on the danger list also.

20

Q. How much did you pay the defendant for his treatment both for yourself and the child? A. Up until the time I was taken sick, and then I didn't. I paid for the time.

Q. How much? A. On each visit?

Q. How much a visit? A. Two dollars to the house.

Q. You paid that to the defendant in cash? A. Yes.

30

Cross examination by Mr. Romine:

Q. The child had double pneumonia after it went to the hospital? A. No, before she had pneumonia, when she entered the hospital. She must have had it a few days before.

Q. After Dr. Blechschmidt ceased to give her treatments, was that when she developed pneumonia? A. No, she had had it before. She was very ill as soon as she came into the hospital. The way she was breathing they knew she had pneumonia.

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Mabel Monohan, redirect.

Q. Do you know exactly when the child developed pneumonia? A. I presume about three or four days before we were taken.

Q. You don't know that as a matter of fact, do you? A. No, but she had it before and he didn't know.

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Q. All you know is that some one reported to you at the hospital that the child had pneumonia, and had scarlet fever and diphtheria, and the child died? A. Yes.

By Mr. Richman:

Q. When he gave the treatments to the child, where did he give them to her? A. He took her out of the bed there in the bedroom on to the dining room table in cold rooms.

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Q. He did that each time? A. Mostly each time.

Q. What did he do, carry the child? A. Yes.

Q. Was the child disrobed on this table? A. No, she had pajamas on.

Q. You say the dining room was cold? A. And the bedroom was cold through to the dining room.

Q. Was the room in which she was in bed warm? A. As warm as we could keep it.

Q. You say the other two rooms were cold? A. Yes.

30

Q. It was on the dining room table that he gave her these electric treatments? A. Yes.

Mr. Romine: No questions.

The Court: How did you summon the doctor, by telephone?

The Witness: By telephone. I first reached Mrs. Blechschmidt, and left word for him to come.

The Court: Had you known him before this time?

40

Erma Spruce, direct.

The Witness: Yes.

The Court: Had he treated you and your family before that time?

The Witness: Yes, about five years previously.

10

ERMA SPRUCE, sworn:

By Mr. Richman:

Q. Did you visit the defendant in this case? A. I did.

Q. When? A. February 7 and 9, 1928.

Q. Where did you go? A. 2 East Street, Jersey City.

20

Q. What happened? A. I told Dr. Blechschmidt I had pain and distress and bloating after eating, and he got a glass that looked like a magnifying glass and looked in my eyes, and he told me to undress, and he gave me some pajamas to put on. He told me when I got in the booth to take the pajamas off and sit in front of a light that was in there and get the direct rays of this light. I sat in there about fifteen minutes, and then he took me into another room that had a leather adjustable table. He told me to sit on the table, and he went up and down my back with his hands and twisted my head from side to side until it cracked. Then he told me to lie face downwards and pressed heavily in four different places on my spine. He said that one was for the liver, one for the spleen, one for the kidneys and the other for the stomach, and then he got a machine, an electrical machine he calls a concusser, had a black arm on it. It had a motor and there were four prongs on the end. The prongs were rubber, and he turned on the current, the electric current, and as he did that the

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Erma Spruce, direct.

prongs went up and down on my body and caused it to vibrate; and then I sat up, and he told me I had a lump of fat on my neck. He said if I didn't do what he told me I would have a stroke. He said that the blood can't go from the head to the heart on account of the fat, and he asked me if I read any books and I told him "yes," and he said, "while you are reading a book get two lemon drops and put them in your mouth, and have a pail alongside of you and let your saliva flow into the pail." He said the lemon drops would take care of the mouth and get rid of the mucous, and he told me to eat grape fruit without sugar for my breakfast, and at ten o'clock in the morning, if I got hungry, to eat grapes and dates or figs or raisins, for each meal to eat raw vegetables, and to take a glass of water and put some lemon juice in it, and drink it; and then he took me in another room with a cot in the room, and a large light suspended from the ceiling, and he told me to take the pajamas off and lie nude under the light, and get the direct rays of this light. He called it a spectrochrome. It was much larger than the one in the booth, and he said when the clock, the bell in the clock rings, to turn over and get the direct rays on my back, and when the clock rings again to get dressed; and he told me I had some stomach trouble, and after I got dressed I came out and asked him what I owed him, and he said five dollars for three treatments, and I paid him three dollars. He gave me a receipt and told me to come in a couple of days.

Q. Did you go back? A. I went back on the 9th.

Q. What happened on that visit? A. He told me to undress, and gave me a pair of pajamas, and go into the room with the cot, and lie on the cot,

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Erma Spruce, cross.

10 and get the direct rays of this spectrochrome on my body, and then when the bell in the clock rung to turn over on my back and get the rays on my back. Then when it rang again I got up and went into another room, and he told me to lie face down-
wards on the table and he pressed on my spine in four different places heavily with his hands, twisted my head from side to side until it cracked; and then he told me to get a bottle of milk and let it go sour and set it on the back of the stove for about an hour, and put some lemon juice in it, and he told me to eat that as a meal. He said it contained lactic acid, which would counteract the uric acid which I had in my system.

20 Q. Did he use any electric machines on you that day? A. Yes, then he got this electric machine with the electric motor on the arm that had four prongs on it, and turned on the electric current, and put that on my back, and on my abdomen and hips, and then he got an electric vibrator with a rubber disc on the end, and he turned on the electric current and put that on my neck. He said that would stimulate the glands of my neck and break up the poison.

30 Q. Did you pay him? A. Yes, I paid him two dollars and he receipted this.

Q. This card he gave you? A. Yes.

Mr. Richman: I offer the card and ask that it be marked.

(Received and marked.)

Cross examination by Mr. Romine:

Q. Is this the vibrator he used on your neck? A. Yes.

40 Q. The same thing that is on the end of this one now? A. Yes.

Erma Spruce, cross.

Q. That just simply vibrated over the skin and body, did it? A. On the neck.

Q. You didn't feel any electricity going into your body? A. No, I could feel the vibration.

Q. In other words, the electric current drove the motor that vibrated the end of this. Is that right? 10

A. I don't know anything about the mechanism.

Q. Did he use his hands at the end of the vibrator and work his hands with the vibrator as it went over the— A. I could not feel his hands. I could not see, it was on the back of my neck.

Q. You don't know whether he used his hands or not? A. No.

Q. These lights that were used were just ordinary electric light bulbs shining through one of these green glasses, isn't that right? A. Yes, he had a yellow glass when I had it. 20

Q. He had different colored glasses, red and yellow and green. It was just the electric light bulb shining through the green glass, or yellow glass, whatever it was? A. Yes.

Q. That gave the rays of color to the light on to the body, isn't that right? A. Yes.

Q. That large lamp was how many feet from the body? A. Suspended from the ceiling. I should judge about three feet. Three or four feet. 30

Q. Would you say whether or not there was any amount of heat from it? A. Yes, there was intense heat from that light.

Q. Intense heat? A. Yes.

Q. You had other lights put on your body, close to your body, haven't you? A. Yes.

Q. It was not as intense a heat as that, was it? You could feel the warmth of it, like the warm rays of the sun on a summer day? A. I could feel it more so than you would get from the sun. 40

Erma Spruce, cross.

Q. Did he tell you you were getting a Palm Beach Sun Bath? A. No.

Q. He didn't tell you that? A. No.

Q. How did you come to go there? A. I was sent there.

10 Q. By whom? A. By the Medical Board.

Q. So the Medical Board sent you there? A. Yes.

Q. You are in the employ of the Medical Board?

A. Yes.

Q. Is Mrs. Orr in the employ of the Medical Board? A. Yes.

Q. And the other witness, Mrs. Hess? A. Yes.

Q. You all make your rounds to pick up what information you can and report it back, is that it?

A. We go around to make investigations.

20 Q. This concusser he used, that was on the spine, wasn't it, up and down the spine? A. The first visit was on the spine, the second visit was on the abdomen.

Q. Didn't you say he used the vibrator the second time? A. No.

Q. He did use it up and down your spine? A. Yes.

30 Q. Did you notice whether he held his hands there on that concusser, and gave kneading treatments, or moved his hands around in conjunction with the vibrator or concusser? A. He didn't use his hands when he used the concusser.

Q. How do you know? A. I could see it.

Q. Were you on your stomach? A. Not at that time.

Q. You swear on your oath he didn't hold his hands down there and use the concusser, and move his hands around with it? A. He did not use his hands.

40 Q. Did he tell you why these lights were being used? A. No, he didn't.

Richard Blechschmidt, direct.

Q. Did you ask him why? A. I didn't.

Q. You detailed everything else he said about your body, about your condition of health. You were there to find out all you could find out. Why didn't you ask him why the lights were being used?

A. I didn't just happen to think about asking him. 10

By Mr. Richman:

Q. Did you notice any certificates in the room where you were? A. No.

Mr. Richman: I offer in evidence certificate made evidential under the Act of 1924, to the effect that the defendant is not licensed to practice medicine and surgery in this State. 20

The Court: This is a certificate from the Secretary of the Board?

Mr. Richman: Yes.

(Received and marked.)

THE CASE FOR THE DEFENDANT.

RICHARD BLECHSCHMIDT, sworn:

By Mr. Romine:

Q. You are the defendant in this case, are you? 30

A. Yes, sir, I believe so.

Q. You are a licensed chiropractor? A. Yes, sir.

Q. Is this the license you received from the Chiropractor Board of the State of New Jersey?

A. Yes, sir.

Q. Dated October 1, 1920? A. Yes, sir.

Q. Number 59? A. Yes.

Mr. Romine: I offer it in evidence.

(Received and marked.) 40

Richard Blechschmidt, direct.

Q. Where do you live? A. 2 East Street, Jersey City.

Q. Your practice is there? A. Yes.

Q. Do you use what some of the witnesses have referred to as a concusser? A. Yes, sir.

10 Q. How is that operated? A. By an electric current, which turns the motor, which in turn drives the hammer seven or eight hundred times a minute. On the bottom of it is rubber covered prongs, and I hold it with my right hand to control it, and with the left hand I have a cushion, a pad, so the hammer don't hit so hard, and with my finger I control it, and use the concusser with my fingers and go up and down the spinal cord on the nerves, to stimulate him and help him, to get the best results.

20 Q. Is there any electric current that goes into the body by the use of the concusser? A. Absolutely no.

Q. In addition to that do you use a small vibrator such as the one we have referred to here? A. Yes, sir, I do.

30 Q. When this is hitched up to the electric current how do you operate it, and how do you hold it? A. I generally hold it with my right hand this way, and when I get hold of the trouble, the part of the back which needs stimulating, between my fingers and stimulate this here, working with my hands. It gives what we call a stimulant to the body, so as to eliminate the different toxins which make trouble in the system.

Q. When you use that you use it in conjunction with your hands? A. Yes.

Q. Is there any electricity which goes into the body by the use of the vibrator? A. No, sir, it can't.

40 Q. There has been some testimony here about

Richard Blechschmidt, direct.

the use of small lights, similar to the one which is here? A. Yes.

Q. Do you use these? A. Yes, sir.

Q. What is inside of that? A. Hundred and fifty watt what we call a standard white light. They use them for stereopticons. 10

Q. An electric light bulb? A. Yes.

Q. In front of it you put different colored glass, do you? A. The main color of the spectrum is red, blue, green, yellow, and so on.

Q. Is there any heat generated from this? A. Very little.

Q. How far from the body are they placed? A. From a foot to two feet, just according to what trouble they got.

Q. Do you use this in an open room? A. No, in closed rooms. 20

Q. Dark rooms? A. Yes, sir.

Q. What is the object of using these lights? A. The reason for the use of these lights is to help the body to eliminate different toxic poisons which are generated throughout the body, either through overwork or wrong combination of food, and so on, which makes people sick, and when they are sick they come to us. 30

Q. Is it necessary in the practice of chiropractic to eliminate toxic poisons from the body? A. The quicker the better.

Q. The reason you do that is that the treatment may take better effect? A. I give my people the benefit of these lights. I like to use them, and I want the people to have the benefit of them.

Q. In connection with chiropractic treatment, is it a fundamental principle that the toxic poisons be eliminated? A. You can't cure the body without it. 40

Richard Blechschmidt, direct.

Q. Before the use of these lights, how did you eliminate the body in chiropractic treatments? A. I gave adjustments, but it took longer.

10 Q. Did you use anything else besides the adjustments in an effort to rid the body of toxic poisons? A. Not until about five years ago.

Q. In other words, if these lights were eliminated you would have to keep the treatments on much longer in order to have them take effect? A. If I would not use the lights, sure.

20 Q. This large light that has been spoken of that is the same principle as these small lights? A. The very same thing, with a larger glass, the very same bulb in it. All the other parts are the same. One hangs overhead with this slide, so as to cover the whole of the body as it lies on the couch.

Q. Did you tell one of the witnesses that you used the large light for the purpose of giving them a Palm Beach Sun Bath? A. A Palm Beach Sun Bath. It is so agreeable. It makes you feel good as you lie there.

30 Q. Will you kindly explain the reason for the use of this light and bath? A. Yes. In the first place we have got to know the reason why we are going to use them. In the first place you see a rainbow, you see the color waves in it, that the white light is composed of, and these color waves which are thrown out by the sun in the shape of energy waves, into the air. And as they come through the ether, these colors, one vibration goes fast, and one goes slow, so that each color has different rays in the vibration; and as they come through the ether they produce gases, and together make a white light, which is of great help when we are sick. Most of us find it very beneficial

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Richard Blechschmidt, direct.

when we get to the woods, and we have the green grass and the trees around, which makes us feel good.

Q. The use of these lights, the large light especially, has the same effect as if a person is taking an ordinary sun bath? A. No, very much more concentrated. 10

Q. It is the same principle? A. This is the same principle.

Q. Do you understand under the definition of Chiropractic as laid down by the statute you have the right to use these—

Mr. Richman: Objected to. He cannot answer that.

The Court: What difference would it make what his construction was? 20

Mr. Romine: I think if he understands under the definition as laid down by the statute that chiropractic is based on that principle, he has the right to use these.

The Court: Although the Court may find it means something different? No. I think that is improper, and overrule the question.

Q. Is it a fundamental principle of the chiropractic teaching that they use light, heat and air in the treatment of disease? A. No, chiropractic straight, chiropractic straight as far as I understand it is the adjustment of the spine only, but there is other chiropractic. They say chiropractic means the elimination of all toxins all over the body, not the spine, all joints of the body. That is the teaching of Carver, to which I went, and the mean teaching is to get the body well as near as you possibly can. 30

Q. Is it the object of this light to generate heat or merely to— A. Only colors. 40

Richard Blechschmidt, direct.

Q. So you do not actually treat by electricity applied to the body? A. No, sir, I never touch them.

10 Q. I think Mrs. Hess testified that you used a concusser or vibrator on other parts of the body. Did you use it on any other part of the body, other than the spine? A. Sometimes I use it on the legs, the sciatic nerve, which needs stimulation, and sometimes with pain in the feet.

Q. Why do you use it on there? A. Merely to circulate, and eliminate toxins.

Q. When you use it on the limbs, if you do use it, do you use it in the same manner as indicated, in the same manner? A. With my hands. It helps to get the manipulation through the aid of the electric power, which takes up that motion.

20 Q. Did you tell the various parties that have testified here about the use of that diet? A. Certainly.

Q. What is the object of that? A. Because they have all more or less got stomach trouble, each one of them, and mostly produced through a wrong combination of food. I told them if they want to remain healthy, and keep healthy, they must keep away from wrong combinations of food.

30 Q. What would that have a tendency to do in the body? A. Usually provides the so-called citric acid, oranges, grapes, strawberries, apples, and so on, helps to break down the blood pressure and eliminate the uric acid.

Q. If the body is in a good healthy condition, and the organs are good, and there is any subluxation of the vertebrae, and you straighten that, the fact that they take this diet enables them to keep the body in good shape? A. They can't get sick.

40 Q. These treatments you give them have better effect if the body is healthy than otherwise? A. Sure.

Richard Blechschmidt, cross.

Q. Is that the object of the use of these diets so that your treatments may take effect? A. Better effect, yes.

Q. There has been some offer here of a box or container, which it has been testified you gave to some of the witnesses for the State Board of Medical Examiners. Where do you get this from? A. I get that from the Innerclean Company of California.

10

Q. What is it? A. Just plain herbs.

Q. It says on here "laxative"? A. It may be. I know it helps to clean out the stomach and intestines. Sometimes they come to me complaining that for years and years their intestines have been very sluggish, so I sometimes give them the advice to use that.

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Q. Is it the fact that you use this merely as a laxative, such as salts? A. Much easier, and less dangerous.

Q. The whole sole object of this is to clean the bowel? A. Yes, sir.

Q. You can buy it anywhere? A. Up at any drug store.

Q. Without a prescription? A. Without a prescription.

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Cross examination by Mr. Richman:

Q. You did treat Mrs. Hess as she testified? A. I believe so.

Q. And Mrs. Orr? A. Yes.

Q. And Miss Spruce? A. Them three women, yes.

Q. As they testified to? A. Yes.

Q. You did treat the child of Mrs. Monahan as she said? A. She says I took it in the cold room, which was not so. The dining room was warmer than the bedroom.

40

Richard Blechschmidt, cross.

Q. You did pick the child up and take it out? A. Yes, I did.

Q. Took it in the dining room? A. Yes.

Q. Laid it on the dining room table? A. I believe I did.

10 Q. Did you put it there? A. Yes.

Q. How long did you keep the child there? A. About two or three minutes.

Q. Each time you went? A. While I worked on it. Now as we talked about this—

Q. What was the matter with that child? A. It had scarlet fever.

Q. You knew it? A. We knew—

20 Q. You knew it? A. I told them I believe it is going to be scarlet fever. That was the first day. The second day, sure enough, the rash broke out all over the body.

30 Q. That was at the time you were treating it? A. The first time I was called there, the first time the lips were all cracked and bleeding, showing that she was burning up with fever, and when I got hold of her she was wet from way up under the arms down to her feet. I said to the mother that she had no business carrying around that baby that way. That baby is wet. She must be first dried off before she is in a fit condition for me to work on it.

Q. How many times did you see that child? A. I believe six times.

Q. You gave her these electric treatments? A. No, adjustments, and then this vibrator up and down the back very light, so as to stimulate. I told them to give the child nothing else but water and a little orange juice.

40 Q. Is that all the child was getting at the time

Richard Blechschmidt, cross.

you visited there? A. Every three hours they gave it orange juice and water.

Q. Orange juice and water for thirteen days?

A. Maybe, but when I came there the first time—

Q. Is that so? A. I guess it is.

Q. You know whether it is or not? A. I said 10
nothing else but orange juice and water. The last time I said "Pop, she's coming around fine."

Q. She still had a rash when you left, didn't she?

A. Very little.

Q. The fact is that you attended her for scarlet fever? A. I did.

The Court: Is your treatment for scarlet fever any different than for anything else?

The Witness: You have got a piano. 20
There the strings are there and you strike them. It is the same with the human body. Each string controls a nerve—

The Court: Is your treatment for all kinds of disease, no matter what it may be, what part it may be, is by manipulation of the spinal cord?

The Witness: Certainly.

The Court: That is all.

The Witness: What do you mean by that? 30

The Court: I am asking you.

The Witness: That is not all, no.

The Court: What do you do besides that?

The Witness: In case of fever, when the fever don't break up, we generally, the so-called coccygeal, which is the base of the spine, and there, too, is the so-called ganglion of impar, which is a very powerful nerve, with control over the whole body, and put some vaseline on our fingers, we enter 40

Richard Blechschmidt, cross.

our fingers into the rectum, up to the bottom part of the coccygeal and straighten it out gently, and inside of two or three minutes the body will start to perspire, and thereby we break the fever.

10

The Court: To come back to the question, the only treatment you give for any disease of any kind, any variety, is some manipulation or treatment of the spine?

The Witness: The spinal column.

By Mr. Richman:

Q. In connection with this you use this electrical apparatus? A. They are electrical apparatus, but I don't use electric current to the body.

20

Q. You use them— A. To help me manipulate the body, to keep the circulation and eliminate the body.

Q. It is part of your treatment? A. Yes.

Q. In every case? A. Sometimes, if I find it is a matter of just one or two adjustments, and will not take any more, I don't give it to them.

30

The Court: I think it is quite clear in this case that he has been practicing medicine and surgery under the statute. There will be a judgment against the defendant for two hundred dollars, the penalty imposed by the statute.

40

Exhibit P-1.

DR. R. BLECHSCHMIDT,
 Naturopath and Licensed Chiropractor

Phone Montgomery 3999 Hours: Mon. Wed. Fri.
 2-8 P. M.

1	:	7	:		:	13	:	19	10
2	:	8	:	Date Jan. 23		7	:	14	20
3	:	9	:				:	15	21
4	:	10	:				:	16	22
5	:	11	:	SCIENTIFIC			:	17	23
6	:	12	:	SPINAL ADJUSTMENTS			:	18	24
	:		:				:		
	:		:	LET NATURE CURE.			:		
	:		:				:		
	:		:	Issued to Mr. F Gray			:		

2 EAST STREET NEAR MAGNOLIA AVE. JERSEY CITY. 20
 N. J.

note in the above numbers 1, 2, 3, and 6 are punched.

on the back of the card appears.

DO YOU KNOW THAT

Life is what you make it. If you are well, you should be happy. If your health is less than normal you should be interested in Chiropractic. Spinal adjustments will do more than all other health sciences to restore health conditions to the body. Let us talk it over. Consultation costs nothing and may mean health to you. 30

CHIROPRACTIC IS RIGHT.

Exhibits P-4 and P-7 are the same as above with exception that P-4 is dated Jan 26—with \$5.00 pay-

Exhibit P-3.

ment issued to Mrs. Wilson and P-7 is dated Feb. 7—with \$5.00 payment issued to Mrs. Wilson.

P-4 shows 3 punches on card and P-7 shows 2 punches on card.

10

Exhibit P-3.**DIET HINTS**

DR. R. BLECHSCHMIDT

Chiropractor and Naturopath

Hours Daily 2 to 8 P. M.

Mornings and Sundays by Appointment.

No. 2 East Street,
Near Magnolia Avenue
Jersey City, N. J.

20

Phone Montgomery 3999

FOR BREAKFAST

ONE KIND OF FRUIT ONLY.

Grapefruit
Oranges
Grapes

Apples
Pineapple
Pears

Berries in Season
Prunes fresh or stewed

30

DRIED FRUIT

Raisins
Currants
Pears

Figs
Dates

Be sure to eat only one kind of fruit at one time,
wait at least two hours before eating again.

40

Exhibit P-3.

MID-DAY MEAL

Spinach with soft Boiled Eggs.		
Vegetable Soup	Cauliflower	
Carrots and Peas	String Beans	
Asparagus	Butter Beans	
Brussels Sprouts	Peas	10
Kohl-Rabi	Mushrooms	
Savoy Cabbage	Waxbeans	
Red Beets	Parsnips	
Brown Rice with butter or honey or maple syrup.		
Season with butter and salt.		

MEATS.

Lamb	Fowl	
Baked Fish	Eggs	
Protose	Nuttose	
All kinds of nuts except peanuts.		20

DRINKS

Fresh Water	Cocoa
Fresh Fruit Juices	Chocolate
Fig Cereal	

OILS.

Sweet Butter	Salt Butter
Olive Oil	Nut Butter
Cotton Seed Oil	Peanut Butter

EVENING MEAL

Lettuce	Tomatoes	30
Cold Slaw	Cucumber	
Dandelion	Field Salad	
Water Cress		
Chives, Onions or Fresh Peppers can be used in serving the above salads.		
Combinations of two or more can be used when serving.		

DAIRY PRODUCTS.

Pot Cheese, Cream Cheese, Chives, Onions, Sweet or Sour Cream, Caraway Seeds and Salt may be mixed in serving pot cheese.	40
---	----

Exhibit P-3.

BREAD

10 2 Cups Bran Flour, 2 Cups sweet or sour milk, 1/4 lb. any kind of nuts, except peanuts, 1 teaspoon salt, 1 teaspoon Baking Soda, 1 tablespoon oil or butter, 2 cups whole wheat flour, 1/2 lb. raisins or currants, 2 oz. of citron, 1 teaspoon sugar, 1 tablespoon molasses.

Mix sugar, milk, molasses, oil, salt and soda. Be sure soda is dissolved. Add flour, raisins, nuts and citron and mix well. Put in a well oiled pan and bake 2 hours in a moderate oven.

SALAD DRESSING.

20 Use Brown Sugar, oil, lemon juice and salt. Never use pepper or vinegar at any time. Salad can be eaten for a meal 3 or 4 times or more a week.

COOKING VEGETABLES.

Never cook in salt water, Season when served with salt, butter or oil. Use as little water as possible. Do not throw the water away.

YOUR HEALTH PROBLEM

30 Health results from the Natural Energy the Brain makes and sends through the nerve strands 95% of disease has its first and most important cause in spinal displacements which compress the nerves and obstruct Health Energy.

CHIROPRACTIC

40 Provides an art of skilled adjustment by hand for the removal of the cause of disease. "Cures" that follow necessarily result from Nature within as no drugs or remedies are used or recommended.

Reasons.

IF YOU ARE BELOW PAR IN HEALTH

I offer you the opportunity for a means of solving your health problem that has availed with satisfaction to hundreds of thousands of ailing men, women and children the country over.

Investigate, No Expense or Obligation.

10

Exhibit P-5 is the same as Exhibit P-3.

Reasons.

NEW JERSEY SUPREME COURT.

STATE BOARD OF MEDICAL EXAMINERS OF NEW JERSEY,
Complainant,
Defendant-in-Certiorari,

v.

RICHARD BLECHSCHMIDT,
Defendant,
Prosecutor-in-Certiorari.

In Certiorari.

20

The judgment of the District Court of the City of Jersey City in the above entitled case is illegal, erroneous and unlawful for the following reasons:

30

1. Because said Court was without jurisdiction to hear said cause.

2. Under the law and facts of the case the Court could not pronounce judgment against the defendant-prosecutor as the act entitled "An act respecting the practice of medicine and surgery and the punishment of persons violating said Act," approved 1894, with its supplements and amendments, under which the complaint was made, as it applied to the facts and circumstances of the case in question, is unconstitutional and inapplicable.

40

Reasons.

10 3. Because under the act respecting medicine and surgery approved 1894, its supplements and amendments, the Legislature could not include forms of healing which did not embrace or include the use of medicine or drugs, as constituting the practice of medicine, as such objects of the act were not expressed in the title of said act.

20 4. Because the Court under the act respecting medicine and surgery approved 1894, and its supplements and amendments, being the act under which the complaint was made, was without legal authority to convict prosecutor of practicing medicine and surgery, as the evidence disclosed that defendant at no time ever used any medicine or drugs or performed any surgical operations.

5. Because the complaint was defective and insufficient in that it did not set forth the facts upon which the complainant relied as constituting a violation of an act entitled "An act respecting the practice of medicine and surgery and the punishment of persons violating said act," approved 1894, with its supplements and amendments.

30 6. Because the Court erroneously found the defendant guilty.

7. Because the Court erroneously gave judgment for the complainant and against the defendant.

8. Because the Court under the evidence should have found the defendant not guilty.

9. Because the judgment of the Court is erroneous, illegal and contrary to law.

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ELMER W. ROMINE,
Attorney for Defendant
Prosecutor in Certiorari.

Opinion of Supreme Court.

NEW JERSEY SUPREME COURT.

No. 241. May Term, 1928.

STATE BOARD OF MEDICAL EX-
AMINERS OF NEW JERSEY,
Complainant-Respondent,

vs.

RICHARD BLECHSCHMIDT,
Defendant-Prosecutor.

10

On Certiorari.

Submitted May Term, 1928: Decided June 27th,
1928.

20

Before Justices MINTURN, BLACK and CAMP-
BELL.

For the Prosecutor: ELMER W. ROMINE, ESQ.

For the Respondent: GROVER C. RICHMAN and
EDWARD L. KATZENBACH, Attorney-General.

Per Curiam:

The defendant, Richard Blechschmidt, a licensed
chiropractor was convicted before the First Dis-
trict Court of Jersey City of a violation of P. L.
1921, p. 702, Sec. 10 of the practice of medicine
and surgery without a license. The penalty of
\$200.00 was imposed. The acts complained of
done by the defendant are not in dispute. In fact,
they are admitted by the defendant as true. The
only problem, therefore, for solution is, whether
the defendant as a licensed chiropractor has the
legal right by virtue of his license to commit the
acts complained of by the complainant? P. L.

30

40

Opinion of Supreme Court.

1920, p. 15, Chap. 4, defines the practice of chiropractic. By the terms of the Statute, the practice of chiropractic is limited to the manipulation of the body and spinal column by hand. The acts done by the defendant, speaking generally, were the use of a machine called a concusser, light to shine in the eye, which was connected with an electric current.

10

The question involved in this case has been substantially decided by this Court in several cases, so far, in this Court, it is not an open question, but is controlled by such cases as *State Board of Medical Examiners of New Jersey v. De Young*, No. 84 and the *State Board of Medical Examiners v. Livesey*, No. 69, now on appeal in the Court of Errors and Appeals, May Term, 1928.

20

The judgment of the First District Court of New Jersey is affirmed.

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Notice of Appeal to Court of Errors and Appeals.

NEW JERSEY SUPREME COURT.

STATE BOARD OF MEDICAL EX-
AMINERS OF NEW JERSEY,
Prosecutor-Appellee,

vs.

RICHARD BLECHSCHMIDT,
Respondent-Appellant.

} Notice of Appeal. 10

To the State Board of Medical Examiners of New
Jersey:

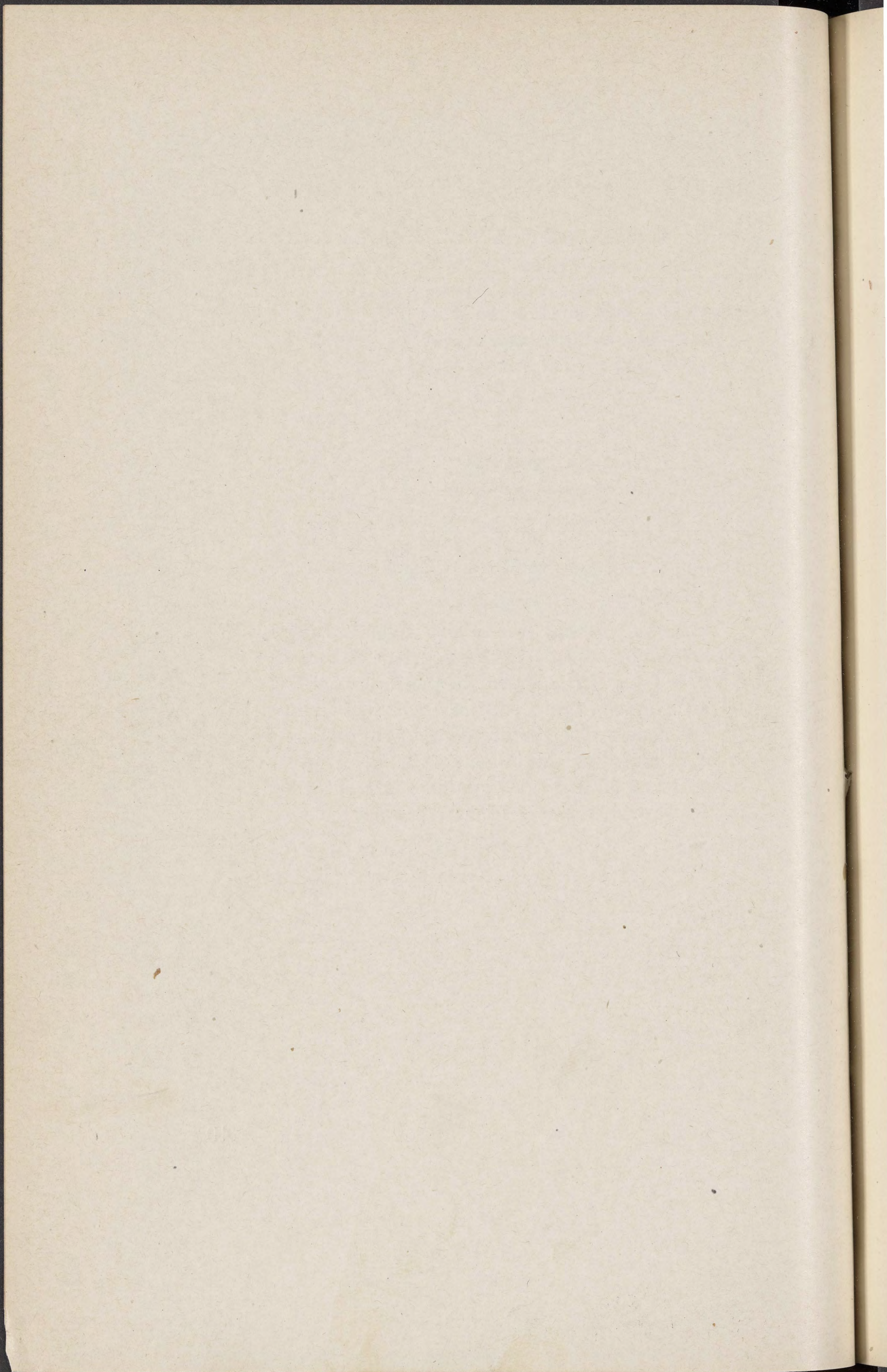
Take Notice that the above named Richard
Blechschtmidt appeals to the Court of Errors and
Appeals from the judgment in the Supreme Court
in favor of the State Board of Medical Examiners
for the reason that the Supreme Court committed
error in affirming the judgment in favor of the
State Board of Medical Examiners instead of find-
ing in favor of the said Richard Blechschtmidt.

20

ELMER W. ROMINE,
Attorney for Appellant.

30

40



New Jersey Court of Errors and Appeals

STATE BOARD OF MEDICAL EXAMINERS OF NEW JERSEY, <i>Complainant-Appellee,</i>	}	<i>On Appeal.</i> 10 <i>Brief of Complainant- Appellee.</i>
vs.		
RICHARD BLECHSCHMIDT, <i>Defendant-Appellant.</i>		

STATEMENT

The defendant-appellant in this case was 20
charged with the violation of section 10, Chapter
221, P. L. 1921—the practice of medicine and
surgery without a license. The case was tried on
Tuesday, March 6, 1928, before the First Dis-
trict Court of the City of Jersey City. The
Court, at the conclusion of the testimony, found
the defendant-appellant guilty as charged (Case
p. 8) and imposed the penalty of \$200.00 and
costs upon him. The defendant-appellant,
through a writ of certiorari issued out of the 30
Supreme Court, sought to set aside his conviction
before the First District Court of Jersey City,
but the Supreme Court (Case, p. 51) affirmed
the judgment of the District Court.

The defendant-appellant is a licensed chiro-
practor. The facts proven on behalf of the com-
plainant-appellee were admitted by him to be true
and the only question before the Court is whether
a licensed chiropractor has the legal right, by 40

virtue of his license, to commit the acts complained of. Counsel for the defendant-appellant raises four points for discussion, but for the purposes of this reply brief these four points will be argued under one heading, namely:

ARGUMENT

10 **The Defendant-Appellant As A Licensed Chiropractor Had No Legal Authority To Commit The Acts Complained Of And Therefore Was Properly Convicted Of A Violation Of The Act As Charged.**

Chapter 4, P. L. 1920 defines the practice of chiropractic as follows:

20 "The term chiropractic when used in this act shall be construed to mean and be the name given to the study and application of a universal philosophy of biology, theology, theosophy, health, disease, death, the science of the cause of disease and art of permitting the restoration of the triune relationships between all attributes necessary to normal composite forms, to harmonious quantities and qualities by placing in juxtaposition the abnormal concrete positions of definite mechanical portions with each other by hand, thus correcting all subluxations of the articulations of the spinal column, for the purpose of permitting the recreation of all normal cyclic currents through nerves that were formerly not permitted to be transmitted, through impingement, but have now assumed their normal size and capacity for conduction as they emanate through intervertebral
30 formanina—the expressions of which were
40

formerly excessive or partially lacking—
named disease.”

By the terms of the statute the practice of chiropractic is limited to the manipulation of the spinal column by hand. The testimony shows that the defendant-appellant in exercising his right to practice under his license far exceeded this limitation.

10

The defendant-appellant's place of business was located at 2 East Street, Jersey City. It was a large house and outside there was a sign over the door, a black sign with gold letters, "Dr. R. Blechschmidt, Naturopath and Licensed Chiropractor, Spinal Adjustments." In the window was a white sign with black letters, "Dr. R. Blechschmidt, Naturopath, Licensed Chiropractor" and office hours. The treating rooms were in the basement. Four witnesses were sworn and testified on behalf of the State Board. All of the witnesses, except one, visited the defendant-appellant and made known to him their respective ailments. The defendant-appellant gave all of these three witnesses practically the same treatment.

20

He first caused a light to shine in their eyes. This light was connected with electric current. By the use of this light he determined to his satisfaction their ailments. He then placed them on a treating table, face downward. He pressed with his hands four or five times on their backs. He had a machine, which he called a concusser, which was a large machine hitched to the ceiling and had four prongs on it. It worked up and down real hard and he went over the entire body with it. This machine was connected with a wire in the socket in the wall and operated by electricity. After using this machine, the witness was

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placed in a small room in a chair and in front of the chair was a square box with a bulb inside. In front of the box was a slide and the slide was green and yellow and the witness sat in front of this box for about fifteen minutes and the rays of the lamp shown on the body. The rays were warm. He also used an electric vibrator. This was connected with electric current, and he went
10 over the spinal column and different parts of the body with this electric vibrator.

In addition to these treatments, the defendant-appellant used a very large lamp. The witness was required to strip and lie on a cot and this lamp shown on the witness from overhead on the entire body. It had different colored slides. It was a real large lamp with a large electric light. The defendant-appellant operated it from a switch. The witness was required to remain
20 under this light for about fifteen minutes. He gave the witnesses an herb which he called "Innerclean." He told them to take a half-teaspoonful in a drink of water a couple of times a week. He also gave Mrs. Orr (Case, p. 23) some medicine for her stomach. He told her to take a teaspoonful in water every night. He gave the witnesses a diet, (Exhibit P-3).

The defendant-appellant also treated the child
30 of witness Monohan. The child had scarlet fever. The defendant treated the child from January 4, 1928, to January 15, 1928. His method of treating the child afflicted with scarlet fever was this. He visited the child, which was confined to bed. He took the child from its bed and carried it to the dining room, clad in pajamas. The rooms were cold. He laid the child on the dining room table and used an electric vibrator all over its body and gave it some spinal
40 adjustments. He went to see the child every

other day during this period. He told the mother of the child to give it nothing but water and a little orange juice. This was all the nourishment the child received during the thirteen days of treatment. When the defendant-appellant first visited the child, it had measles and a high fever. It developed scarlet fever and was taken to the hospital and the ailment of the child was diagnosed as diphtheria, scarlet fever and double pneumonia. The child died in the hospital. The defendant-appellant admitted the treatment of the witnesses as testified to and he also admitted the treatment of the child as above related (Case, p. 41). 10

The question whether or not a licensed chiropractor has a right to commit the acts complained of here has been before the Supreme Court in other cases. In *State Board of Medical Examiners v. Baudendistel*, 140 Atl. 886, the defendant was a licensed osteopath and chiropractor and the Court held in affirming the conviction of the defendant upon the practice of medicine and surgery without a license, that *the practice of osteopathy is confined to the manipulation of the human body by applying the hands only to the body of the patient.* 20

In *State Board of Medical Examiners v. De Young*, 140 Atl. 676, the defendant was a licensed osteopath. The testimony showed that the defendant gave electrical treatments, and the Court said: 30

“The contention of the defendant is that one who obtains a license to practice osteopathy has by the terms of the Act (P. L. 1913, p. 388) and its supplements, studied such subjects as would qualify him to give electric treatments. This argument is perhaps persuasive as to why osteopathy should 40

by law be permitted to give electric treatments, but unsound as to their having under the statutes pertaining to the practice of osteopathy the legal right to do so. Under the law the osteopath is limited in his treatment to the manipulation of the human body by hand so as to bring all parts thereof into the proper position. With reference to the giving of electric treatments we feel that we are controlled by the case of *State Board v. Lezenby*.

“There was also evidence that the defendant used the letters ‘Dr.’ in connection with his name and in some places upon his residence without qualification. By section 8 of the Medical Act any person is regarded as practicing medicine and surgery who shall use the letters ‘Dr.’ in connection with his name and hold himself out as being able to diagnose, treat, operate, or prescribe for any human disease, pain, injury, deformity or physical condition, or who shall either offer or undertake by any means or method to diagnose, treat, operate or prescribe for any human disease, pain, injury, deformity or physical condition. Under this branch of the case the testimony seems to us to have warranted a conviction, as the defendant did use the letters ‘Dr.’ in connection with his name and did offer and undertake by a method to treat a physical condition.

“The judgment of the District Court of the City of Passaic is reversed.”

In *State Board of Medical Examiners v. Livesey*, 140 Atl. 444, the defendant was a licensed chiropractor and the testimony clearly showed that he gave the witnesses electrical treatments

by using an electric vibrator attached to an electric machine, and that he sometimes used an electric lamp which he held close to the various parts of the body until they became very warm, and the court in reversing the First District Court of Jersey City, which found the defendant not guilty, said:

“Whether or not the defendant prescribed or gave medicine was manifestly in dispute 10
in the evidence, and the judgment, therefore, cannot be disturbed on that ground. But beyond dispute he did give electrical treatments for various ailments. So far as this court is concerned we are bound to hold that in so doing he exceeded his authority under the statute. See *State Board of Medical Examiners v. Lezenby*, 1 N. J. Misc. Rep. 20, in which it was held that the giving of 20
electrical treatments was a violation of the State Medical Act, and a judgment in favor of the accused was reversed.”

The facts in the case here are stronger, if anything, than in those cases already determined by this Court. This defendant-appellant clearly exceeded the limitation of the statute defining the practice of chiropractic. He did much more than use his hands and, therefore, committed acts 30
which he was not licensed to do. He, therefore, did practice medicine and surgery as charged within the meaning of Chapter 271, P. L. 1915.

It is respectfully submitted that the judgment of the Supreme Court should be sustained.

EDWARD L. KATZENBACH,

Attorney General of New Jersey,
Attorney of Complainant-Appellee. 40

New Jersey Court of Errors and Appeals

STATE BOARD OF MEDICAL EXAM-
INERS OF NEW JERSEY,
Complainant-Appellee,

vs.

RICHARD BLECHSCHMIDT,
Defendant-Appellant.

In Certiorari.

BRIEF OF APPELLANT.

Facts.

Doctor Richard Blechschmidt, appellant herein, is a duly licensed chiropractor of this State and received his license on October 1st, 1920 (Page 35, Exhibit D-1).

The complaint was indefinite. *It did not even quote the language of the statute.* It did not set forth any facts or acts actually done as constituting the practice of medicine and surgery. Objection was made at the trial to this form of complaint (Pages 11-12) and exception allowed.

The appellant herein, in addition to the usual chiropractic adjustments, used an electrically propelled vibrator and an electrically propelled concusser machine in addition to ordinary electric lights. The vibrator and concusser were used in conjunction with hand manipulation and is a practice peculiar to chiropractic in that it has the same effect as the adjustments (Page 36).

This was not a treatment by electricity.

The object of the lights were to rid the body of toxic poisons so that the chiropractic treatments would take effect more quickly (Page 37). The use of these appliances as explained by Doctor Blechschmidt was not denied or disputed by the Medical Board.

Doctor Blechschmidt also advised the use of laxatives.

There was nothing in the form of complaint which characterized such treatments as the practice of medicine and surgery.

POINTS FOR DISCUSSION.

1. The Medical Law can only apply to those who actually practice medicine and surgery.
2. Complaint is defective and should have been dismissed.
3. Doctor Blechschmidt in his treatments was within his rights as a licensed chiropractor.
4. Defendant had legal right to use electrically propelled devices in connection with his treatments.

ARGUMENT.

I.

The Medical Law can only apply to those who actually practice medicine and surgery.

The title of the Medical Act (P. L. 1894, Page 456) limits the Act to regulating the practice of medicine and surgery. The Medical Act has no jurisdiction over any other form of healing where the practitioner is licensed.

The Constitution of this State, found in Paragraph 4, Section 7, of the New Jersey Constitution as amended in 1897, provides that "every law shall embrace but one object and that shall be expressed in the title."

See Paterson vs. Close, 82 Law, Page 160
at Page 162.

Dobbins vs. Northampton, 50 Law, Page
496.

The manifest purpose and object of the Medical Act as originally enacted in 1894, and especially Section 8 thereof (Volume 3, Compiled Statutes, Page 3332), was to protect the medical profession against quack medical practitioners; that is, persons who professed or attempted to administer drugs and medicines as a cure and who were not licensed as medical practitioners.

The amendment to this Section (P. L. 1915, Page 482) did not change the situation so far as the licensed drugless practitioner was concerned, for it only prohibited those who had no license from holding themselves out as "being able to diagnose, treat, operate and prescribe for human diseases."

The amendment of 1915 contained a similar clause as that of the Act of 1894, in that it concluded "by any means or methods." The clause in the original Act was construed in the Supreme Court in the case of *State vs. Herring*, reported in 70 Law, Page 34, wherein Justice Dixon held "The phrase 'other agency or application' is a very broad one." Held, that the phrase 'other agency or application' (which is equivalent to "any means or methods") is a very broad one and its interpretation should be such as will confine it to the class in which its special associates stand. Therefore, it is co-related to and cannot have any greater force and effect than the words preceding it, which prohibits a person from holding himself out as being able "to diagnose, treat, operate and prescribe for human diseases."

It was also held that in the case of the *State against Moore*, 43 Law, Page 203, that where language is used after it has received a judicial construction it must be understood strictly in the sense in which the Courts had previously given it, and this would apply to words of similar import.

The Medical Board has no legal jurisdiction under the limitations of the Medical Act to make complaint against defendant because he diagnosed diseases preliminary to his form of treatment when no drugs or medicines were used and no surgical operations performed.

II.

Complaint is defective and should have been dismissed.

The complaint, as found on Page 5 of the State of Case, merely charges that the defendant, Richard Blechschmidt,

“Did commence and continue the practice of medicine and surgery.”

The complaint did not even recite the language of the statute but merely charged that the defendant practiced medicine and surgery.

There was nothing to indicate what the Medical Board claimed the defendant had done.

The proceedings in such a case *were of summary nature* so declared by the Legislature in Chapter 221, P. L. 1921, at Page 79.

It has been repeatedly held by our Courts that in cases of summary proceedings *the complaint must set forth facts so the defendant may know what he is called upon to meet.*

See

Linden Park Horse Association vs. State,
55 Law, Page 557.

State vs. Hatfield, 87 Law, Page 124.

Peer vs. Dixon, 82 Law, Page 366.

MacEvoy vs. Bennell and Betts, 1 Misc.
Rep., Page 76.

The complaint in this case, not having set forth any facts and *not having contained a legal charge*, was defective and should have been dismissed, and for such error the judgment of conviction should be reversed.

III.

Doctor Blechschmidt in his treatments was within his rights as a licensed chiropractor.

The term "chiropractic" as used in the statute is very broad, being the name "given to the study and application of a universal philosophy of biology, theology, theosophy, health and disease."

Biology is a comprehensive term for those departments of science that treat living beings. It comprehends physiology.

Physiology is defined to be the doctrine or science of nature. It embodies natural methods, such as bath, heat, sunlight, and such methods as give the required stimulus by artificial means; it embraces philosophy, chemistry, astronomy, zoology and geology. As finally understood it is the science of the different functions of which life is the manifestation, in other words, circulation, respiration, sensation, nutrition, excretion and the like.

The Chiropractic Act of 1920, at Page 17, Section 5, therefore prescribes an extensive examination of persons desiring to be admitted to practice and become licensed as chiropractors, including the following subjects: anatomy, physiology, symptomatology, *diagnosis of disease*, hygiene, chiropractic, orthopedic, astrology, neurology, and principles of chiropractic, and the applicant shall further be required to give a clinical demonstration of vertebral palpation and adjusting.

Therefore, by the intendment of the Legislature applicants were required to evidence knowledge, skill and ability in the history of diseases, symptoms and diagnosis.

It would be drawing the line too close to say

that a chiropractic physician could only use his hands in the manipulation of the spine, while the theory of chiropractic is to remove subluxations which cause impingement in the nerve area and thereby give relief to the various disorganizations of the body so nature may take its course; nevertheless, certain systems of the body, while such treatments are being given, must be kept pure and unadulterated, otherwise the blood stream becomes affected and toxic poisons gather which retard the result of such treatments.

The only difference between chiropractic and the practice of medicine is that chiropractors seek to bring about a normal and healthy condition in the body by certain drugless methods, manipulations and adjustments, *without the use of drugs*, while on the other hand the medical practitioner gives drugs or medicines as a narcotic to relieve and create insensibility to pain until nature shall have been able in its due processes to bring about a healthy condition.

To maintain that a chiropractor could not diagnose and determine the location of the disease or disorganization of the body would be just as absurd as to say that because the Medical Act does not go into details as to that right, that the medical man could not diagnose or determine the cause of disease before giving his form or treatment in the nature of medicines, drugs or surgical operations.

Then again it must be admitted that since the advent of the Medical Acts and the Chiropractic Acts each of the sciences of healing have developed in their particular art and manner of application for the treatment of diseases.

The chiropractor has also found that in the practice of his profession the use of electricity, which

every householder uses to propel motors and machinery, may be used to propel a vibrator or some other device in conjunction with the use of his hands, *which is an aid or an adjunct to his hand manipulation.* The vibrator for instance, a mechanical device that can be purchased by anyone at any electric store or drug store, or through the advertisements of any magazine, without prescription, is used by many chiropractors and was used by Doctor Blechschmidt in conjunction with this hand pressure and manipulation to increase the circulation and give life and vigor to muscles and nerves. The chiropractor could, and formerly did, in conjunction with his adjustments and manipulations, massage with his hands various parts of the body.

The use of a vibrator is merely a mechanical device which in a way takes the place of hand manipulation, and is a drugless method of accomplishing results.

The concusser used by Doctor Blechschmidt, the motor power of which was propelled by electricity, was a mechanical device somewhat similar to that of a vibrator as described (Page 32) it had four prongs on it with a rubber disc on the end, and was controlled by the hands and fingers of the operator (Page 36), its object being to stimulate nerve centers, a practice peculiar to chiropractic treatments, the use of which was not by electricity applied to the body (Page 36).

The lights Doctor Blechschmidt used were ordinary electric light bulbs (Page 37) placed in a canopy covered device and different colored glasses were used through which the electric light penetrated. There was very little heat generated to the body through these lights, the object of using the lights was as testified (Page 37, Line 30) "to elim-

inate toxic poisons from the body" and to secure quicker results, it being necessary in connection with the chiropractic adjustments and treatments so that the treatments would take effect quickly. As one of the witnesses described it, it was just like taking a Palm Beach sun bath (Page 33, Line 38; Page 38, Line 23).

No electricity was applied direct to the body. The concusser (large vibrator) and small vibrator were used in conjunction with hand manipulation to increase circulation and stimulate nerve centers. The lights were just ordinary electric light bulbs such as will be found in any store, place of business or residence.

It is, therefore, insisted that the trial court was in error in finding that the defendant practiced medicine.

All he endeavored to do was treat and cure physical ailments and diseases by drugless methods and in conjunction therewith used such adjuncts as any individual might use in his own home.

IV.

Defendant had legal right to use electrically propelled devices in connection with his treatments.

A licensed chiropractor, being a physician, was exempted under the Medical Act.

The Medical Act in the latter part of the exemption provision at Page 708, Laws of 1921, exempted any

“Professional nurse, masseur or electrician while operating in each particular case under the specific direction of a *regularly licensed physician or surgeon.*”

A chiropractor is as much a physician as a medical practitioner. This clause was intended to cover *all classes of "physicians"* because prior in the statute when reference is made especially to the medical practitioners, the term used is physicians and surgeons, a compound word so to speak, meaning one and the same person, whereas in the clause above referred to it is intended to distinguish between the two by the phrase "*physician or surgeon.*"

Further, in the opinion of Attorney General McCran to the Medical Board, November 5th, 1921, he said:

"The words 'practice of medicine' as defined in Chapter 271, P. L. 1915, and used in their ordinary sense mean 'physicians'. Therefore, any person holding a valid license under Chapter 4, P. L. 1920 (Chiropractic Act) is authorized to practice medicine by the means of methods therein provided for and within the meaning thereof. *Such a person then is a physician.*" * * *
 "The law requires that the death certificate shall be signed by the *physician*, if any, last in attendance. If, then, the person last in attendance *be a chiropractor authorized to practice medicine within the limitations of Chapter 4, P. L. 1920* * * * then such person would be *the physician last in attendance.*"

Therefore, a chiropractor being a physician and anyone using electricity in the treatment of diseases under the direction of a "*licensed physician*" it would naturally imply and be a reasonable interpretation that the physician himself was not to be subject to criticism or chargeable with any violation of the Medical Act for his use of any device or appliance controlled by electricity.

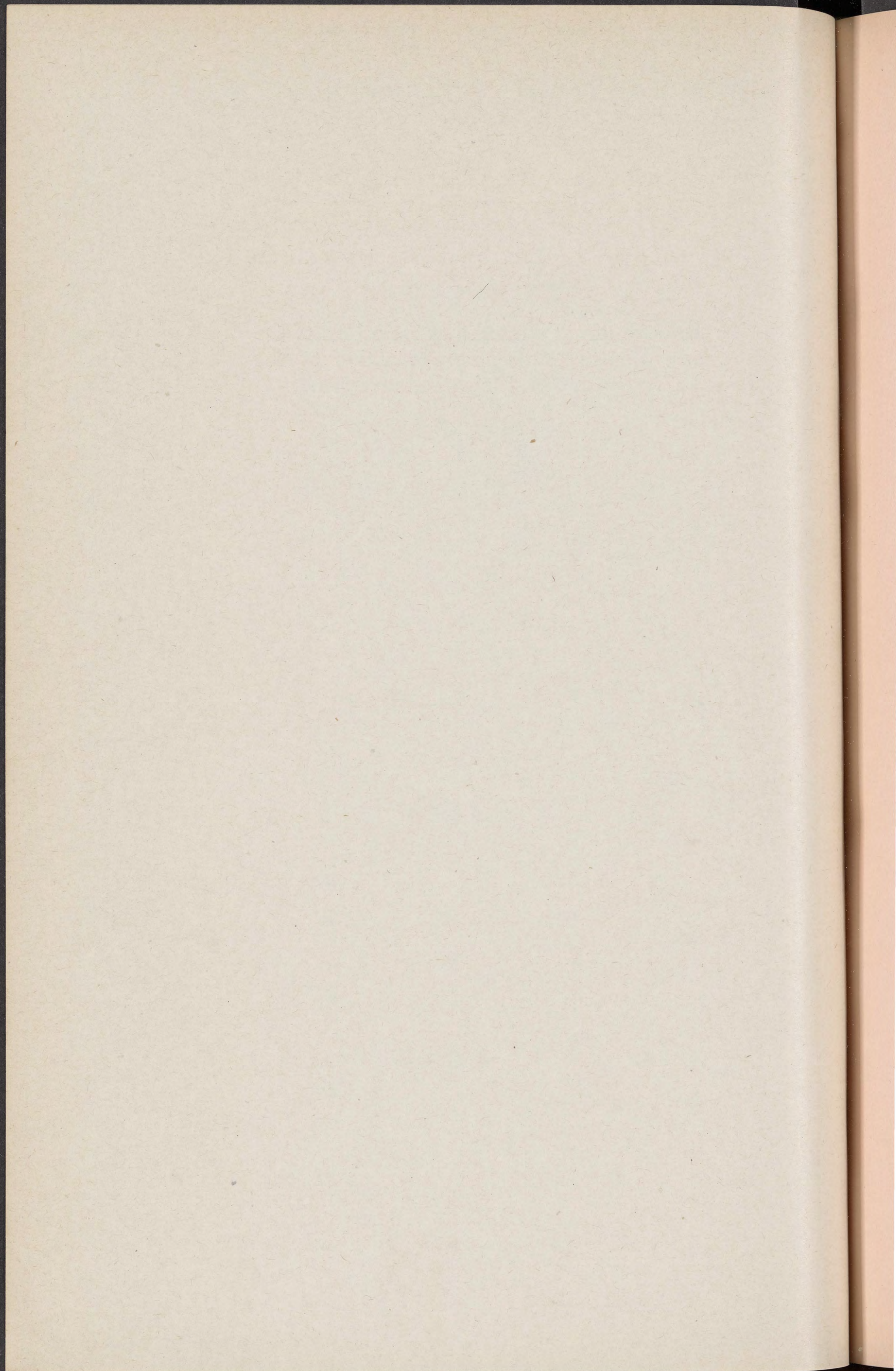
As already pointed out in the case of Jensen vs.

Woolworth, 92 Law, Page 529, the court said in construing a statute, where literal interpretation may lead to absurd results, resort may be had to the principle that the spirit of the law controls the letter.

It is therefore submitted that the action of the Supreme Court in sustaining the action of the trial court should be set aside and reversed.

Respectfully submitted,

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