

GLOSE SENDS SLOANE BACK TO SING SING

(Continued From Page One)

him with grand larceny in the theft of an automobile in Mount Vernon in 1926. As his presence in Sing Sing was due to his former conviction, now reversed, Sloane immediately appealed from the conviction on the metal knuckles conviction and asked a new trial.

Yesterday Judge Close denied this motion, on the technical ground the law requires such motions to be made within a year following the conviction, as was not done by Sloane.

The new motion of the young ex-convict of Columbia University, who attracted wide attention through his personal handling of the metal knuckles trial and his second trial on the larceny indictment, makes his new motion on the ground that he cannot be the person named in the metal knuckles indictment since that person was a felon, convicted of a former charge, whereas he, the real Roy H. Sloane, is acquitted of such crime.

A portion of his motion, now before Judge Close for consideration, is highly technical and "remarkably unique in its legal phrasing, follows:

Not Same Person

"That your petitioner contends he is not the same Roy H. Sloane mentioned in said indictment, or who is alleged to have been convicted on said indictment in the County Court on the 13th day of December, 1927, for the

crime of feloniously, wilfully, unlawfully and wrongfully possessing metal knuckles, having been previously convicted of a crime."

"Your petitioner also contends that he could not possibly be the same Roy H. Sloane mentioned in said indictment, because the Roy H. Sloane mentioned in said indictment, was convicted in the County Court of Westchester County on the 14th day of March, 1927 for the crime of grand larceny in the first degree, and it was by virtue of said grand larceny conviction that the said Roy H. Sloane was incarcerated in Sing Sing Prison where the crime of feloniously possessing metal knuckles is alleged to have been committed on October 18, 1927.

"But your petitioner was never convicted in the County Court of Westchester County for the crime of grand larceny in the first degree, at any time in his life that he can recall. Therefore, your petitioner could not possibly be the same Roy H. Sloane mentioned in the aforesaid indictment.

"In fact your petitioner verily believes that the said Roy H. Sloane mentioned in said indictment is some mythical and fictitious person who does not exist in the flesh, but merely in the imagination, and who just happens to be burdened with the same name as your petitioner.

Because of this novel point, Sloane now asks again for a trial by jury on the metal knuckles indictment on the "question of identity."

Judge Close will decide on the point in the next few days.

May Appeal to Governor

It is understood on reliable authority that influential persons who have become interested in Sloane's case are planning an appeal to acting Governor H. H. Lehman, Purchase, in the near future to consider the plight of the former Columbia student.

Cite Authorities

Judge Close based his refusal to

grant the new trial almost entirely on the technicality. He said:

"The defendant has presented an ex parte petition to this court, asking the court to grant a new trial on an indictment returned on the twenty-seventh day of October, 1927, charging him with feloniously possessing metal knuckles after having been previously convicted of a crime, to wit, grand larceny."

"It appears that on the fourteenth day of March, 1927, the defendant was convicted of the crime of grand larceny, first degree, and sentenced to Sing Sing Prison. While an inmate in the prison, he was indicted for possessing metal knuckles as above set forth and upon trial of said indictment held on the thirteenth day of December, 1927, he was found guilty and sentenced to an additional term in Sing Sing Prison.

"Thereafter, and within one year from the time of his conviction upon the grand larceny indictment, he made a motion for a new trial on the ground of newly discovered evidence. This motion was granted and upon such new trial he was found not guilty.

"It now moves this court for a new trial on the indictment charging him with possessing metal knuckles after having been previously convicted of grand larceny upon the grounds that such conviction had been reversed.

"Section 463 of the Code of Criminal Procedure provides that new trials can only be granted in cases provided for in section 465. The defendant is moving under subdivision 7 of section 465, but this court is without jurisdiction to entertain the motion because it was not made within one year after his conviction.

"The application for a new trial must be made before judgment, except an application made under

sub-division 7 of section 465, which may be made at any time within one year."

"The divisions of this section are mandatory (People v. O'Connor, 37 Misc. (14). It, therefore, follows that the application for a new trial not having been made within one year, this court is powerless to act in the matter and the defendant must have recourse in the chief executive of the state for his remedy, if he is entitled to any."

"In People v. Dwyer, 30 Misc. 283, the court said: "As to the contention that the court in its general powers and in the interests of equity should order a new trial, it is enough to say that if the papers presented in support of the motion are sufficient to prove that the conviction was erroneous, the relief sought for can be as well obtained by application to the executive, for a full pardon, removal of disabilities and restoration of civil rights."

"The same facts that would move the court to order a new trial would certainly influence the decision of the governor."

"See also People vs. Colgrove 45

DISORDERLY

Edward Janero And Thompson Casullo Pay \$10 Each For Fighting In Street

Edward Janero of 7 Richards street and Thompson Casullo of 65 Ferris avenue, pleaded guilty to charges of disorderly conduct in City Court this morning and were fined \$10 each by Judge William Gray.

Janero and Casullo were arrested for fighting in the street. Brought into police headquarters yesterday both showed a strong desire to take off their coats and finish the "friendly argument"—as they called it—which had been interrupted by police summoned by a neighbor.

N Y 101, People ex rel Jerome V. General Sessions 135 N Y 504. People vs Bonifacio 119 A. D. 719. People vs Lobe 135 N Y 579.

"Motion for a new trial denied and defendant demanded to prison."

DALY DROPS

OBJECTION TO WILL CONTEST

(Continued From Page One)

The legal notice of Mr. Daly, filed with the Surrogate's Court this morning, reads as follows:

"I, the undersigned, Carroll J. Daly, hereby withdraw the objections heretofore filed by me in the above entitled matter on the 15th day of April, 1929, and consent that letters testamentary be issued to Martin J. Fay, the executor named in the will."

In the contemplated contest of

the will, Wallace A. Wallace, You here attorneys, represented Mr. Daly. It does not appear whether they drew the official withdrawal papers on file here today.

"Surrogate George A. Sinter had on last Monday set today as the date for trial of the issue before a jury, as asked for in Mr. Daly's original objections, in which he alleged 'fraud,' that the will was 'not the free and voluntary act' of Miss Brennan; and that at the time the will was drawn Miss Brennan was 'not of sound mind or memory.' These charges are now in effect retracted by Mr. Daly's withdrawal of objections.

The larger share of the estate of Miss Brennan, sister of the late John F. Brennan, for many years chief counsel for the New York Central Railroad Company, will now pass to her young protégé, Ambrose Brady. The will gave him a sum of \$10,000 with which to complete his education, an automobile, and made him one of four residuary legatees."

The other three residuary legates assigned to investigate.

see are Harry Riley, 721 Palisades avenue, Yonkers; Edly Brennan, New York City; and Bertha Smith, 280 Valentine Lane, Yonkers. Miss Brennan's home was at 237 Valentine Lane, Yonkers.

Two \$5,000 scholarships in memory of her brother, from funds left by him to his sister, are provided in the will, to be established in New York City colleges. St. Joseph's Hospital of Yonkers also received \$1,000 under the will.

Miss Brennan was for a number of years principal of the open air school in Yonkers.

It is now expected that the administration of the estate will proceed as Miss Brennan's will provides.

BOB LOCAL APARTMENT

A Mrs. Mullin of Shapham Court apartments reported to the police today that a number of dresses are missing from her apartment. Detective Hughes and Murray were assigned to investigate.

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The price is surprising for butter so high in Quality!

Both our tub and SUNNY-FIELD print butter are churned from rich, pasteurized cream. Made by master butter makers in the heart of the Nation's finest dairyland... and brought fresh to A&P stores always.

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Unusual quality At a low price. 49¢

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- Shoulder of Veal MILK FED lb. 27¢

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- NEW CABBAGE 3 lb. 13¢
- PINEAPPLES 2 1/2 lb. 25¢
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A health-food. Delightful served with sliced bananas or with fresh strawberries and cream. 2 pkg. 19¢

MUELLER'S MACARONI

SPAGHETTI or NOODLES... here is a value worth taking advantage of to the extent of buying for your future needs. 2 pkg. 19¢

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ASSORTED VARIETIES... rich, sun-ripened fruits in their own natural syrup. Buffet size tins. 3 ea. 25¢

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- N. B. C. Pantry Assortment pkg. 19¢
- Ketchup QUAKER MADE BRAND small 13¢ large 19¢
- Comet Brown Rice 1/2 qt. 12¢
- Piel's LIGHT OR DARK 6 bot. 25¢
- C&C Ginger Ale CANTRELL & COCHRANE 2 bot. 25¢
- LUX FOR WASHING 3 small 25¢
- Del Monte Prunes 2 1/2 lb. 25¢
- Del Monte Prunes 1/2 lb. 19¢
- Cigarettes 100 51.15
- Kirkman's Soap 5 lb. 26¢
- Ammonia A&P BRAND 1 qt. 19¢

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Throughout our county home owners and business men are now thinking about next winter's fuel supply.

Perhaps a large number are considering another method of heating their dwellings or places of business.

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This would be a typical reply:

"My home is kept at a uniform temperature by gas, and it has complete freedom from dirt, odors and ashes. Moreover, furnace tending worries are no longer mine. The winter's supply of fuel comes by pipe line from the Lighting Company's holders direct to my heating plant, ready made, ready to burn. And I do not have to pay for it in advance! I find the cost of a bush comparable to any other fuel, when its comfort, convenience, control and reliability are considered. Gas IS the ideal fuel. I'm mighty glad I changed to it! Oh, yes, I now have a billiard room where the coal bin used to be!"

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O. G. BENNETT, Manager