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EDITORIAL

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Common Sense Triumphs

BRIDGE players all over the country will share this publication's satisfaction at the complete exoneration of Contract Bridge from a charge of being a game of chance. For it is quite clear that the two teachers, whose arrest and trial were reported in the May and in this issue, were really only innocent bystanders rather than principals. The true defendant was Contract Bridge.

The raid was an incident in a campaign against organized gambling. Yet Bridge has done more than any other single agency to curb the spread of gambling. Thousands who once played games of chance for thrills and relaxation, to the great satisfaction of professional gamblers, turned to Contract Bridge because it offered both attractions with none of the vicious features of the games which once they enjoyed.

As one of the Whist family of games, Contract Bridge inherited prestige and social recognition. From the first, it was played by ladies, by men in public life, and by professional men. And churches, which frowned on other card games, endorsed Bridge as a wholesome pastime and organized Bridge parties for charitable purposes.

It is no wonder that the prosecuting attorney could not find a single witness to take the stand against the game; that he had to call upon the witnesses for the defense, Ely Culbertson and Albert H. Morehead. And his frank admission that he personally did not consider Bridge a game of chance is as much a tribute to his own good sense as to the unique position enjoyed by the game.

The transcript of the proceedings, in the news article beginning on page 5, furnishes entertaining reading. But, more than that, it supplies a decision which can be cited as a precedent in the unlikely event that in some other part of the country a similar incident occurs.



BRIDGE VINDICATED

Judges Pronounce It Game of Skill

DUPLICATE Contract Bridge was pronounced a game of skill on May 25 in the Court of Special Sessions, New York, and the defendants, Miss Mildred Lovejoy and Mrs. Adelaide Neuwirth, were acquitted. A feature of the trial was the testimony of Ely Culbertson and Albert H. Morehead, called to establish the status of the game.

The defendants had been arrested on April 28 while conducting a Duplicate game, on a charge of "operating a gambling-house." Spurred on by the indignation of millions of Bridge players, THE BRIDGE WORLD directed Messrs. Berko, Korshin, and Berko to assist Lawrence Axman, attorney for the defendants.

A condensed transcript of the proceedings follows, in which has been italicized the admission of the prosecuting attorney, Mr. Spalter, that he could find no proof that Duplicate is a gambling game:

Mr. Axman: May it please the Court, Mr. Korshin of Berko, Korshin and Berko, appears here for the United States Bridge Association, Culbertson National Studios, Bridge World, Inc., Kem Playing Cards, Inc., Bridge World Accessories, International Contract Bridge Union and the World Bridge Olympic—and would like to submit a brief as *amicus curiae* in this case.

Justice Hackenburg: If we need a brief, we would be very glad to have it. He can submit a brief as a friend of the Court, but he is not going to conduct any examination.

Mr. Axman: No.

Justice Hackenburg: To that extent, as *amicus curiae*, he may appear herein, and for no other reason.

Dennis Clare, Police Officer, Shield Number 12021, attached to the Police Commissioner's Office, Complainant, called as a witness on behalf of the People, being duly sworn, testifies as follows:

Direct Examination by Mr. Spalter:

Q. What is your name, precinct and shield number, officer? A. Dennis Clare, Shield No. 12021, attached to the Police Commissioner's Office.

Q. On April 28, 1936, at about the hour of 3:45 p.m., did you go to premises 853 Seventh Avenue? A. I did.

Q. And when you entered the premises, did you see a number of people congregated in the premises? A. I did.

Q. More specifically, were there twenty people seated around five tables? A. That is correct.

Q. And these people were holding cards in their hands at the time you entered? A. That is correct.

Q. Then you had a conversation with some of the people who were seated at these tables? A. I did.

Q. And as a result of your conversation with these people, did you then have a conversation with one of the defendants, Mildred Lovejoy? A. With both defendants.

Q. Well, I am referring to Mildred Lovejoy. A. I did.

Q. Now, will you please relate to the Court the conversation you had with Miss Lovejoy. A. Miss Lovejoy approached me, she said, "What is the trouble?"; I said, "I am a police officer; we came here on a complaint." I said, "What are you conducting here?"; She said, "This here is a bridge club."; I said, "What is your name?"; She said, "My name is Mildred Lovejoy."; I said, "Are you conducting this?"; She said, "Yes, not alone; Miss Neuwirth is my partner."

Q. At that time was Miss Neuwirth alongside of Miss Lovejoy? A. She was.

Q. Now, continue, please. A. I asked Miss Lovejoy, I said, "Each one of these persons participating in the game, does it cost them anything to participate?"; She said, "We strictly have only bridge games here."; I said, "What is this game called?"; She said, "This is called Duplicate Contract Bridge."; I said, "Anybody that can play Bridge is allowed to participate?"; She said, "Yes."; I said, "In other words, it is open to the public?"; She said, "Yes." I said, "Tell me, what does it cost these people here to participate?"; "Well (she said) this afternoon here (she said) we have about five tables going; we expected to have more; and (she said) there are twenty persons participating; each one of the persons paid one dollar to participate."; I said, "Well, then what happens?"; She said, "Well, half of that, which would be a total of twenty, half of that is put up for a prize."; I said, "What is done with the

other half?"; She said, "The other half goes to I and Miss Neuwirth." I said to Miss Neuwirth, "Is that right, Miss Neuwirth, what Miss Lovejoy said?"; She said, "Yes, when the prize money is taken out, we split the rest between us, what is left over." I then said to Miss Lovejoy and Miss Neuwirth, both of them present, I said, "Everybody that is participating in this game has a chance of winning that ten dollars?"; They both stated "Yes." Then I questioned several of the players at the tables and they told me that they paid one dollar to participate.

Q. And you then placed both of the defendants under arrest? A. That is correct.

Q. Do you, officer, know how to play the game of Contract Duplicate Bridge or Duplicate Contract Bridge? A. I do not.

Mr. Spalter: That is all.

Mr. Axman: Will you produce that board which I—

Mr. Spalter: (Interrupting) Excuse me for a moment.

May I at this time offer in evidence as People's Exhibit 1, one of the cards furnished by the defendant Lovejoy.

The Court: It will be received. (The card referred to was admitted in evidence and marked People's Exhibit 1, of this date.)

Q. At that time, officer, did you take from one of the tables this board as it now appears? A. I did. I took twenty-seven of them altogether. There are twenty-six in the property clerk's bureau at Police Headquarters and one which I have here.

Q. You found these boards on the various tables is that correct? A. Some of them; that is correct.

Q. And do you know whether or not the cards that are placed in this board are used in the game of Duplicate Contract Bridge? A. I see Miss Neuwirth taking several of them from tables and going to other tables (she had a stack in her hand) and placing them on the other tables they were using in the game conducted by both defendants.

Mr. Spalter: I offer it in evidence as People's Exhibit 2.

The Court: It will be received. (The board referred to was admitted in evidence and marked People's Exhibit 2, of this date.)

Mr. Spalter: And I offer in evidence as People's Exhibit 3 a sheet of paper which purports to be a tally sheet. Is that correct, Officer Clare?

The Witness: That is supposed to be the score of the various games.

The Court: It is received. (The paper referred to was admitted in evidence and marked People's Exhibit 3, of this date.)

Mr. Spalter: That is all.

Cross-Examination by Mr. Axman:

Q. There were twenty-seven such boards as you have marked in evidence which you took away at that time, is that correct? A. A total of twenty-seven.

Q. And they were distributed around at the various tables? A. They were at various tables. They were.

Mr. Axman: That is all.

Mr. Spalter: At this time the People are ready to close the case against the defendants, with this one exception, or proviso, I should say. If the Court at this time desires some testimony in the record to show what the game of Contract Duplicate Bridge consisted of, I shall find it necessary to do it.

Justice Hackenburg: That is for the expert to do it. You are trying the case. We don't desire anything, and as I understand the law, you will have to show—

Mr. Spalter: (Interposing) The charge in this case is 973, maintaining a room for gambling.

Justice Kernochan: Therefore, you have got to show that gambling was going on. Thus far you have not shown it.

Mr. Spalter: *For the sake of the record, may I say that the prosecutor in this case is put in a very embarrassing situation, because personally he feels that the game of Duplicate Contract Bridge is not a gambling game. I have, ever since this case came into the Court, made inquiry as to whether or not I could obtain a witness (and I have spoken to a number of people) who would come in and testify on behalf of the People, and I have been unable to do so.*

However, if the Court feels that it must have some testimony as to what the game is and how the game is played, I will call Mr. Culbertson.

(To Mr. Axman.) I will take the liberty of calling your witness.

Mr. Culbertson, please.

Ely Culbertson, called as a witness on behalf of the People, being duly sworn, testifies as follows:

Direct Examination by Mr. Spalter:

Q. What is your name? A. Ely Culbertson.

Q. Where do you live? A. New York City. 14 East 62d Street.

Mr. Spalter: Now, that the tables are reversed, counsel, I will have to ask you to concede the qualifications of the witness as a Bridge expert.

Mr. Axman: I do so concede.

Justice Hackenburg: Establish him as an expert, if he is an expert, for the Court. I don't know. I have got to pass as a juror on that. I never heard anything about it. They can't concede an expert on me. I am entitled to have the expert qualified, if I am to sit as a Court. I want to have him qualified.

Justice Kernochan: Well, if you want a lesson for nothing, you are entitled to it.

Q. Mr. Culbertson, not to be personal, how old are you? A. I am 43 years old.

Q. And have you played the game of Bridge? A. I have, some.

Q. Have you played the game of Contract Bridge? A. I have.

Q. And have you played the game of Duplicate Contract Bridge? A. I have.

Q. How long have you been playing cards, particularly the game of Bridge in its various forms? A. At least in the last thirty years.

Q. And during that period of time have you written any books on the subject? A. Alas, too many.

Q. How many, would you say? A. Well, I have—there are more than 1,600,000 copies of the books which were sold.

Q. But how many different books have you written on the subject of Bridge? A. If you mean bona fide books; I have written six bona fide books.

Q. And have you played in Bridge tournaments? A. I have.

Q. And have you also played with some of the so-called masters of the Bridge world? A. I have.

Q. Do you maintain your own studio where Bridge is played? A. I maintain what is called The Culbertson National Studios. It is an association of more than 4000 teachers who teach to an average of

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BRIDGE VINDICATED

(Continued from page 6)

from half a million to one million pupils a year.

Justice Hackenburg: At this time, if you make the concession, I will be satisfied that you are conceding something that I can accept.

Mr. Axman: I concede.

Justice Hackenburg: All right, the gentleman is qualified as an expert. Ask him questions.

Q. Mr. Culbertson, you heard Officer Clare testify that when he entered the premises occupied by the Lovejoy Studios at 853 Seventh Avenue, he was informed by Miss Lovejoy that a Duplicate-Contract-Bridge tournament was in session. Do you know how that game is played? A. Yes.

Q. Will you please describe to the Court how the game of Duplicate Contract Bridge is played. A. The game of Duplicate Contract Bridge is a form or a variety of the ordinary game called Contract Bridge. The principal difference between Duplicate Contract Bridge and Contract Bridge or Rubber Bridge consists in the fact that when the hands are dealt, instead of leaving the dealing of the hands to a question of chance, after the first deal of a hand, each of the four players receiving 13 cards, the hand is played, bid and played, and then the same cards are put and replaced into a special board, called the Duplicate board.

Justice Hackenburg: Is that the board that you have in your hand, People's Exhibit 2?

Mr. Culbertson: Yes, sir.

Justice Hackenburg: That is one of the standard boards that are used.

Mr. Culbertson: That is the standard board. For instance, the positions are South, North, East, and West. Assume for the purpose of illustration that I am North. I have received the following hand, 13 cards. My partner, his hand. We then bid and play. Then my hand is replaced into a special pocket called "North." The same board is carried over from table to table and a sequence of play is arranged in such a manner that all the participating players have the same opportunities to play the identical hand, thus eliminating the chance of the deal. That is the principal object of the Duplicate game.

Justice Hackenburg: So, from your experience with the game, and from the vast knowledge of the literature that you wrote about it, and your contacts with it, and the explanation you gave us here, is the Duplicate Bridge game a game of skill or is it a game of chance?

Mr. Culbertson: It is a game, predominantly, and very predominantly, a game of skill, your Honor.

Q. Let me go a bit further, Mr. Culbertson. Does it appear as a result of such tournament play that certain players will invariably obtain a higher score, a total score, from the same cards, as distinguished from other players using those very same cards? A. Decidedly so. This has been the experience of the last sixty years of the history of Duplicate, that it is practically impossible for an inferior player to win in a certain Duplicate match, provided that the number of boards is of sufficient quantity.

Q. That would be over a long run of cards? Not just one specific hand? A. Not one specific hand. Over a fairly long run of cards.

Q. Would you say that there is an element of chance in the game of Bridge? A. There is a limited amount of chance in Bridge, as in life.

Justice Kernochan: There is an element of chance in the ordinary Rubber Bridge, of course?

Mr. Culbertson: Of course, your Honor, there is an element of chance in the ordinary Rubber Bridge.

Justice Kernochan: And the Duplicate eliminates practically all of the chance, does it not?

Mr. Culbertson: Practically all of the chance but a little bit less than an infinitesimal part, relatively speaking.

Justice Hackenburg: Anything else, Mr. District Attorney?

Mr. Spalter: Mr. Morehead—also a bridge authority. So that there will be no misunderstanding, I call these witnesses voluntarily as part of the prosecution, so that it should not be said that the prosecution at any time was lax in the presentation of the facts in the game of Bridge.

Justice Kernochan: What is the use of wasting time? We have got Mr. Culbertson here who decided one point, as to whether the game of Bridge was a game of skill or chance, and the defense acknowledges his qualifications. What is the good of wasting time upon four or five others?

Mr. Spalter: *It is not to waste the time of the Court, but merely to show that where I have attempted to obtain witnesses to the contrary, I can only obtain those experts in the game of Bridge who will testify in the same fashion. That is the only thing I have in mind.*

Justice Kernochan: Don't let's sit here all afternoon and accomplish nothing.

Justice Hackenburg: Do you want to call another witness or do you want to rest?

Mr. Spalter: I wish to say the witness I am now calling, Mr. Morehead, is also recognized as an expert.

Justice Hackenburg: You called him and you told us of his being here. Ask the questions.

Albert H. Morehead, called as a witness on behalf of the People, being duly sworn, testifies as follows:

Direct Examination by Mr. Spalter:

Q. What is your name? A. Albert H. Morehead.

Q. Where do you live? A. 12 East 86th Street.

Q. Mr. Morehead, have you played the game of Duplicate Contract Bridge? A. I have.

Q. For how long? A. For eight years. I beg your pardon. I would like to correct that, if I may. For ten years.

Q. Have you taught the game of Bridge? A. I have.

Q. And have you played in tournaments involving the game of Contract Bridge? A. I have.

Q. From your experience in the time you have spent at the game of Bridge, can you say to this Court with any degree of certainty whether or not Duplicate Contract Bridge is a game of skill or a game of chance? A. I can.

Q. What is it? A. It is a game of skill.

Q. There is no question about that in your mind, is there? A. None. There may be an element of chance. There may be the fact that one's opponents are not feeling well.

Justice Hackenburg: But it is predominantly a game of skill?

Mr. Morehead: Very predominantly.

Cross-Examination by Mr. Axman:

Q. Have you ever conducted tournaments for Miss Lovejoy? A. I have.

Mr. Axman: That is all.

Mr. Spalter: People rest.

The Court: The defendants are acquitted.