

herents of the doctrines and the practices of what is known as Christian Science. They had had a medical attendant for years and they speak of him with the highest respect as being a man of great skill and intelligence in his profession. They appear to be very respectable people, and people having ample means to procure medical attendance for their sick child, if they had considered it necessary. On this occasion, the child being ill with sore throat, they seek the service of the defendant, Mrs. Beer, whom they had known for some years as a Christian Scientist. Called in by the mother of the child, she came there.

It is important to notice what Mrs. Beer was called in to do. She was not expected, was not retained, to come in as a medical attendant. She did not examine the child; she did not take the temperature of the child; she did not make any examination of either the body or throat of the child; she did not look at or examine the phlegm or sputa which came from or was ejected from the throat of the sick child in the process of coughing. These are elements of negligence which would be relied upon by the Crown, if the case went to you, to show that the prisoner was guilty of negligence which caused the death of the child. But she was not called in to do any of these things. She was called in to treat as a Christian Scientist; whether it was to be by the exercise of the will or by prayer, we are not told, but her practice consisted simply of sitting silent in the presence of the patient. She gave no directions as to treatment, no directions as to medicine or food, no directions about diet in the sense a doctor would, but in the sense a friend might do, to keep the child comfortable and give him anything he fancied.

The passage in the code which refers to medical treatment reads as follows: "Everyone who undertakes (except in case of necessity) to administer surgical or medical treatment, or to do any other lawful act, the doing of which is or may be dangerous to life, is under a legal duty to have and to use reasonable knowledge, skill and care in doing any such act, and is criminally responsible for omitting, without lawful excuse to discharge that duty, if death is caused by such omission."

If I had left the case to you it would have been probably to determine one question only, namely, whether in your opinion the death of the child was caused, or at any rate accelerated, by the prisoner's treatment, or want of treatment, as it may be viewed, a medical man not having been called in. The medical men went in their evidence as far as they could honestly go. They said with great positiveness that the child's life would undoubtedly have been prolonged had proper medical treatment been applied, particularly in the method of cleansing the mouth, cleansing the throat and sterilizing those bacilli which are said to be not merely the cause of the disease, or developed by the presence of the disease, but are the disease itself.

The medical witnesses called stopped short of saying that death was caused by such neglect or treatment, or want of treatment of the prisoner, and that is all any honest scientific man could say. They cannot give a positive opinion that the child's life would have been saved by medical treatment. So it would probably have been a dangerous thing for you to say the death was caused by want of treatment. You might have found that death was accelerated by the neglect alleged by the Crown, or that the life of the child might have