

THE STATE TESTS

Prosecution in the Thaw Trial Closes Its Testimony

With the Reading of the Hummel Affidavit.

RECORD OF THE CASE

In Which Hummel Was Convicted of Conspiracy

Is Read to the Jury by Attorney for Defense.

New York, March 18.—After fighting for an hour and a half against the introduction in evidence of the famous affidavit drawn up by Abraham Hummel, at the request of Stanford White, and with the alleged consent of Evelyn Nesbit, charging Harry K. Thaw with having cruelly beaten Miss Nesbit on several occasions during their trip through Europe in 1903, Mr. Delmas, attorney for the defense, suddenly switched tactics during the Thaw trial today and demanded that the whole of the alleged affidavit go into the record and be read to the jury. District Attorney Jerome had contemplated reading only certain portions of it, which he declared directly contradicted the testimony of young Mrs. Thaw.

With the reading of the affidavit, Mr. Jerome announced that the people rested their case in rebuttal. Mr. Delmas immediately offered in evidence the record of the trial of Abraham Hummel on the charge of conspiracy. The district attorney did not object and the defendant's lawyer proceeded to read the entire record of the trial.

The Hummel affidavit had already been discounted by the statement of its contents by Mr. Jerome at various times during his arguments as to its admissibility.

Mr. Jerome had also quoted freely from the affidavit during his cross-examination of young Mrs. Thaw and she then denied emphatically having read any of the statements contained in the paper.

The affidavit specifies numerous occasions in Austria, Switzerland and Paris when Thaw is alleged to have beaten the young woman who was traveling with him as his wife, until she swooned. Her bare skin, she declared, had been bruised and cut by the lashings of Thaw's cowhide whip.

Mr. Delmas had not reached the district attorney's remarks at the Hummel trial when the luncheon recess was ordered. It was to get Mr. Jerome's own words, denouncing Hummel, that Mr. Delmas undertook to read the entire record of the trial.

When Hummel was on the witness stand he denied absolutely that in drawing the affidavit he was acting as counsel for Miss Nesbit. In the affidavit as read today and which Hummel said he dictated he has Miss Nesbit refer to herself several times. At one place she is put in the third person.

"I have received several letters and cablegrams from Thaw which I have turned over to my counsel, Mr. Abraham H. Hummel," continues the affidavit.

The affidavit is also signed "Howe & Hummel, attorneys for plaintiff."

Mr. Hummel also denied that any action was contemplated in behalf of Miss Nesbit by the Hummel firm.

"Evelyn Nesbit, plaintiff, versus Harry K. Thaw, defendant," and appears as part of the papers in an action contemplated in the supreme court of the county of New York.

Three New Experts.

New York, March 18.—The defense in the Thaw trial had three new experts in court today, making seven altogether appearing in the defense.

The alienists new to the case are: Dr. Charles W. Pilgrim, superintendent of the insane hospital at Poughkeepsie, N. Y., and president of the state lunacy commission; Dr. William A. White, medical superintendent of the insane hospital at Bellevue hospital.

The other four experts for the defense are: Doctors B. D. Evans and Charles G. Wagner, who already have been on the stand; and Doctors Smith Ely Jelliffe and Graeme M. Hammond, who have not as yet been called.

There was a 15 minutes delay in the opening of the trial this morning. When the proceedings finally began Mr. Jerome offered in evidence the broken pieces of a photographic negative of the last page of the famous Hummel affidavit bearing the signature of Evelyn Nesbit. Mr. Jerome promptly objected to its introduction and began an argument on the point.

Justice Fitzgerald overruled the objection and the negative was accepted in evidence.

Photograph Is Offered.

Mr. Jerome then offered in evidence a photographic print from the negative.

Mr. Delmas objected to the introduction of the print also and another long argument ensued.

Mr. Delmas said the photographic copy of the affidavit could not be introduced to contradict Evelyn Thaw for she was not shown the copy on the witness stand and had no opportunity either to affirm or deny her signature.

Mr. Delmas argued further that the copy of the affidavit was not in evidence on which to contradict a witness. He cited a case in which a court had held that original papers only could be introduced in evidence and that even certified copies of papers were incompetent.

GOING IN EVIDENCE

Mr. Jerome then proposed to read to the jury the contents of the paper be read to the jury.

For the purposes of the argument Mr. Jerome joined the offer of the affidavit drawn up by Abraham Hummel, at the request of Stanford White, and with the alleged consent of Evelyn Nesbit, charging Harry K. Thaw with having cruelly beaten Miss Nesbit on several occasions during their trip through Europe in 1903, Mr. Delmas, attorney for the defense, suddenly switched tactics during the Thaw trial today and demanded that the whole of the alleged affidavit go into the record and be read to the jury.

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District Attorney Jerome went to some length to insist that the original of the Hummel affidavit had been traced to Mrs. Thaw's hands and she had said no such paper existed. Under these circumstances it was contended that the Hummel affidavit should be allowed to introduce secondary evidence in the shape of copies of the original paper.

The evidentiary value of photographic copies was contended, had frequently been sustained by courts.

Mr. Delmas concluded his argument by saying that District Attorney Jerome would put Evelyn Nesbit on the stand and let her say whether she made the statements contained in the paper and whether she knowingly signed the paper, he would not offer the slightest objection to the affidavit

going in evidence and would insist that the entire contents of the paper be read to the jury.

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THROUGH THE NET

Gamblers May Escape Penalty of the Law.

Stupidity or Cupidity of Deputy Responsible.

DIDN'T SERVE PAPERS.

Witnesses Got Out of Reach Before Trial.

Fails to Give Any Reason for His Failure.

The efforts of County Attorney Schenck to bring to justice the five gamblers arrested recently by Sheriff Wilkerson and his deputies have temporarily been defeated through the gross negligence or worse of a negro deputy marshal of the court of Topeka.

When the case against Mike Thompson, Cyrus Hurst, Tobe Tobias, Joseph Matthews and Edwin Ogee was called in city court this morning, County Attorney Schenck was forced to ask for a postponement of the hearing because of the fact that he had just learned that the witnesses that he had asked to be summoned had not been served with the summons and that most of them had been allowed to leave the county.

Isaac Lamberton, the negro deputy who was given the papers to summon the witnesses, made returns to the clerk's office that the summons had been personally served on all the persons enumerated in the list that were desired as witnesses. It now develops that out of a list of nineteen persons desired as witnesses, only one was actually served with the summons, notwithstanding the fact that the returns were made to the office of clerk of the court that the summons were all personally served, and charges were made that the same as though the summons had actually been served.

It has been found that the witnesses have been allowed to leave the county without having been served with the summons, unless they can be persuaded and brought into court the case against the gamblers will fall to the ground, and the case will be dismissed.

County Attorney Schenck said in court this morning:

"I will have to ask that this case be continued till the witnesses for the state can be located and served with summons. I learned from the marshal's returns in the clerk's office that the summons had all been personally served, and had not been returned in the list that were desired as witnesses. I had intended to devote yesterday to preparing the case for trial. But now I learn that the returns made were false, and that through the neglect of the marshal, either wilful or otherwise, the witnesses for the state have been allowed to escape. Without these witnesses I can get no on with the prosecution of the case. If the marshal of the city court will not serve the summons, I desire that they be turned over to the sheriff of the county, and the costs assessed to the court of Topeka."

Judge McCabe postponed the hearing till the meantime an endeavor will be made to round up the witnesses.

County Attorney Schenck did not say directly that the deputy marshal received a bribe from the gamblers or their friends to fail to serve the witnesses with summons or not. It may be that he was too lazy to serve them. The fact remains, however, that the returns were made to the clerk's office that the summonses had been served.

A reporter for the State Journal today asked Lamberton why he had failed to serve the summons.

"Cause," was the only reason he had to answer.

"I told Capt. Witrode, the marshal, that I could not find the persons," he said.

But it seems that the returns made to the clerk were in Lamberton's handwriting, and that he was actually serving the papers the same as though the service had actually been performed.

The deputy marshal may be prosecuted for making the false returns and failing in his duty of serving the papers and thereby thwarting all the efforts of the prosecuting officers.

TWO WRECKS AT ONCE.

Steamers Go on the Rocks—All on Board Saved.

London, March 18.—Details received this morning of a disaster to the White Star line steamer Suevic, homeward bound from Sydney, N. S. W., by way of Capetown with nearly 600 passengers and crew on board, show that she struck the Brandies Rocks, close under the Lizard lighthouse at about 10-30 last night and probably will be a total wreck. The boats and tugs from the Lizard and Falmouth soon reached the scene and together with the Suevic's own boats, commenced landing the passengers. The women and children were first ashore. There were no fewer than 160 children on board, many of them being babes in arms whom the local fishermen and their wives lifted from the boats and carried through the surf to nearby cottages.

A high wind, a rough sea and fog hampered the landing operations. The fog lifted about 7 o'clock this morning and from thence forward boats loaded with passengers were sent ashore in quick succession. The first of the appointed wrecked White Star line steamer Suevic, the Elder-Dempster line steamer Jebba, from Calabar, Lagos, and other West African ports for Plymouth and Liverpool, ran on the rocks under the cliffs near Prawle point in the early hours of a stormy morning. Her seventy passengers, many of whom were soldiers, were safely taken ashore by the breeches buoy.

Heavy seas are breaking over the steamer, rendering the life boats which are standing by the vessel, useless.

The Jebba will prove a total loss.

WEATHER STILL LIKE SUMMER.

Mercury Gets Up to Sixty-three This Afternoon.

The weather in Topeka today has been cloudy and rather of the sultry order. It is a little cooler, however, than yesterday when the maximum of the year was reached, seventy degrees. There is no apparent change in sight for the weather. The east wind high and fills every nick and crevice in the city but there will be no rain to remedy this condition for several days. The weather man says the lid is on too tight for rain. The forecast for tomorrow is for warmer weather and cloudy sky.

Standing today is ten miles an hour from the southeast. The following are the temperatures:

7 o'clock.....40 11 o'clock.....52  
9 o'clock.....42 12 o'clock.....56  
10 o'clock.....47 2 o'clock.....63

JAIL SENTENCES.

Handed Out to Four Men Convicted in Land Fraud Cases.

Omaha, Neb., March 18.—Four men convicted here last December in the sensational Omaha land fraud cases, were sentenced today by Judge W. H. Munger, in the United States court here, to terms of imprisonment.

Bartlett Richards and William G. Comstock, to pay a fine of \$1,500 each and to serve a year in the Douglas county jail.

Charles C. Jameson and Aquilla Triplett, to pay a fine of \$500 each and to serve eight months in the county jail.

All the defendants filed motions of appeal, which will be argued later.

These men were indicted by the federal grand jury in May, 1906, for conspiracy to defraud the government out of the use, possession and title to upwards of 200,000 acres of public lands in northeastern Nebraska. The trial was begun in November last and the witnesses were examined. It proved of especial interest because of the financial standing of the two principals, Richards and Comstock, who for many years have been conspicuous in politics and business in Nebraska. It was charged that Goodrich, superintendent of the city electric light plant, holds his present position under this act.

In 1903 Mayor Bergundahl who assumed the chair appointed Porter Mitchell superintendent of the city electric light plant. Goodrich resigned to step down or resign. He claimed that he was at least as competent as the new appointee and took refuge under the act of the legislature.

Quo warranto proceedings were brought and the case was tried in the supreme court. The attorney M. T. Campbell, for Mitchell, acknowledged that Goodrich was as competent as his client and the court held as a consequence that Goodrich had the clearest right to the position. With the further amendment to the act by the legislature the claim that Ramsey can lay to the position of street commissioner is stronger than ever. Ramsey is elected by the city and is a member of Lincoln Post G. A. E. Frank Snyder who it is said can have the appointment of street commissioner if elected by the city. It is on the other hand a younger man than Ramsey and did not serve in the civil war. Wm. Green stated that if elected to the office of mayor Ramsey could have any appointive position that Snyder desired. Snyder was Mr. Green's campaign manager, and was responsible for the success of the nomination of the latter.

"Understand though," said Mr. Green, "that Mr. Snyder has not even mentioned anything about wishing any position in subject has never been brought up in the course of our conversation so far, and I don't know that Snyder would care to accept anything in the matter."

Mr. Snyder occupied the position of street commissioner under the Bergundahl administration and has since been in the house of the city business. He was a good official.

"I really don't care to discuss the matter," said Mr. Ramsey today. "I don't think it is some of my business to make up my mind. It would not be right for me to say anything about it. In the first place I don't know what Mr. Green is so intent on doing in respect to me if he is elected for all I know. In the view of all this it would be discourteous for me to say that I intended to take advantage of that law. I want to do the square thing and that would not be quite the square thing would it? I want to be as much as I can in the matter of office as a political club. I let the men vote as they saw fit. Some of the men in the room voted for Green and some for others for Swenson. I myself voted for Holliday. However, I never tried to force any of the men to vote for any one. I let every man do as he thought best. I presume that there is no question but I could hold the position under that act but I am not anxious to do so. I would like to be as pleasant to give a job of this kind up as I don't care to discuss it any further."

Such a thing should happen that the Democrats should be successful in electing W. H. Kemper as mayor, which it is not expected will take place, no doubt Ramsey would insist on holding to his position under the old soldier preference act.

Mr. Green Still at Home.

William Green, the Republican nominee for mayor, is still confined to his home and there is no prospect that he will be well enough to get out of doors until the latter part of this week. He was up Saturday and moved about several of the rooms at his home, 921 Quincy street, but Sunday evening and this morning he did not feel so well. He is troubled with influenza.

A meeting of the Republican candidates for office was held Saturday evening and as a result a committee of three was appointed to hold a caucus on Monday night at the residence of Frank Snyder, Ernest R. Simon and C. H. Kutz to meet with the Republican city central committee and arrange for the campaign which will open up actively in the middle of the week. The Republicans will open headquarters immediately though the location has not been fixed upon yet.

The city central committee reorganized this evening and it is expected that H. G. Larimer will be re-elected chairman.

The Democrats are preparing for quite a contest on the office of city attorney and the councilmen in the First and Second wards. They have good material, especially in the First ward, and realizing this they will concentrate their strength there.

The registration books for the election close March 22, being reopened immediately after the Republican primary. The registration continues light however and no special effort is seemingly being made by the Democrats to get their party adherents registered.

It is claimed that some of the Democrats objecting to the presence of two colored men on the city ticket. The Democrats have J. B. Berry, colored, candidate for marshal of the court of Topeka, and Wesley Hale, colored, candidate for councilman from the Fifth ward. These two men are the ones that the Democrats take umbrage at. The claim is that they would not assume proportions of any consequence.

MADE FOUR SPEECHES.

MAJ. BLOCKSON WIRES

On Authority of Galveston Chief of Police.

Washington, March 18.—Chairman Warren of the senate committee on military affairs, which is investigating the Brownsville affair, today received from Secretary Taft a copy of a dispatch from San Antonio, Tex., as follows:

"The Adjutant General, U. S. Army, Washington: 'Chief of police, Galveston, has just wired me confession of Gray, supposed discharged soldier, appearing in papers today is a fake.'"

The dispatch relates to an alleged confession printed in a Galveston newspaper and sent broadcast throughout the country.

Senator Foraker was taking the leading role for the defense of the negro soldiers, said today that he will sever the subpoena of the editor of the Galveston News in order to secure a statement from him concerning the story.

The statement of Senator Foraker, that he would subpoena the editor of the Galveston News was made before he had seen the dispatch from Major Blockson. After the dispatch had been received, he said it probably would not be necessary to call the editor of the Galveston News in view of the admission that the story of Gray's confession is a fake.

The Galveston newspaper story is as follows:

Story of the Confession.

Galveston, March 18.—The mystery surrounding the alleged raid of the negro soldiers from the Twenty-fifth infantry out of the barracks at Brownsville, Texas, on August 3 last year has been cleared up, according to a story printed by the Galveston News. After seven months of investigation by federal authorities, what appears to be the true version of the crime has been secured from D. C. Gray, one of the discharged soldiers, who admits that he participated.

The man has been living in Galveston a large portion of the time since he was discharged from the army, and is now in the city. According to his statement the attack was not premeditated but was the result of an alleged injury done to the negro soldiers by a white man in Brownsville half an hour before the raid. The negro, returning to the barracks, saw his rifle and ammunition belonging to him being taken to the white man. Several other negro soldiers volunteered to go along with him to wipe out the scores which they had against the citizens, on account of the injuries which they claimed to have suffered.

The negro returned to the barracks after committing the assault on the town and many soldiers assisted in the hurried cleaning up of the town. Inspection which followed soon after the shooting in the town ceased. Apparently the soldiers from the Twenty-fifth infantry had done the shooting. Many of the negro soldiers who had enlisted in Galveston during the summer of 1905 and returned to the city after being discharged from the army.

Gray says he was formerly a private in company B of the Twenty-fifth infantry.

Senate Committee Knew.

Washington, March 18.—Senator Overman of North Carolina, who is a member of the senate committee on military affairs which is investigating the "shootings" of Brownsville, Tex., when shown the dispatch from Galveston, telling of the alleged confession of a discharged negro soldier, said the committee received information from weeks ago that a former member of the Twenty-fifth infantry had expressed a willingness to make a full confession, if he could receive assurance from the government that he would be protected. Senator Overman says this information was forwarded to Secretary Taft, and the suggestion has since been investigated by the war department. "All the discharged troops who tell the truth about the affair," said the senator, "should be protected by the government."

Neither the senate committee on military affairs, nor the war department, has received any official report regarding the alleged confession of the discharged negro soldier.

PEACEMAKER IN JAIL.

Held for the Murder of His Friend and Neighbor.

New York, March 18.—A crowd of mischievous boys were indirectly responsible for the arrest early today of David Stanhoff, Jr., of Brooklyn, on a charge of having furnished arms to a next door neighbor, John Hoffman.

According to Stanhoff's story, he was returning home last night when he came upon Hoffman beating two boys in front of his house. Hoffman was in a fearful rage, he said, and when Stanhoff remonstrated Hoffman struck the curb, fracturing his skull. He died soon after being taken to a hospital.

Stanhoff was immediately arrested. It is said that a crowd of boys have been annoying Hoffman for some time and it is supposed the two he was beating when Stanhoff interfered were members of the gang whom he had caught.

Weather Indications.

Chicago, March 18.—Forecast for Kansas: Partly cloudy and warmer tonight and Tuesday.

MAY HOLD FORT.

Rumor-That Ramsey Will Retain His Position.

Claims Right to Keep Place Under Old Soldier Law.

HE WON'T DISCUSS IT.

Too Early to Talk About the Question.

Mr. Green Still Confined to His Home.

James Ramsey, street commissioner may resort to the old soldier preference act in order to retain his position with the city. The politicians say Mr. Ramsey stands to lose his office because he got on the losing side in the municipal campaign. It is claimed that he sided in with the back of C. K. Holliday and by that act of course forfeited his reappointment under normal conditions.

But he still has a good foothold on his position. In 1901 the legislature passed an act giving an honorably discharged soldier or sailor of the war of the rebellion the preference to an appointment in every public department in the state where he is equally competent to perform such duties as any other citizen and no one will deny that Mr. Ramsey has made a good street commissioner.

This last legislature amended this further and made it more sweeping. It cuts out the word "equally" and simply states that such person shall be given the preference if he is competent to fill the duties of the office.

It is claimed that the superintendent of the city electric light plant, holds his present position under this act.

In 1903 Mayor Bergundahl who assumed the chair appointed Porter Mitchell superintendent of the city electric light plant. Goodrich resigned to step down or resign. He claimed that he was at least as competent as the new appointee and took refuge under the act of the legislature.

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FUNSTON TOO YOUNG.

President Will Jump Other Brigadiers Over His Head.

Washington, March 18.—Brigadier General Funston will never be promoted major general of the regular army as long as Roosevelt is president. If the seniority in promotions is observed as is usually done, Funston would become a major general April 14. But the president will not observe the custom and will jump a man over Funston on that date and later on jump another man over him. I let every man do as he thought best. I presume that there is no question but I could hold the position under