THAW'S EFFORT VAIN

TO STAY IN MATTEAWAN.

Appellate Division Sustains Dismissal of Habeas Corpus Writ.

Harry K. Thaw failed in his latest attempt to be released from the Matteawan State Hospital for the Criminal Insane yesterday when an adverse decision was handed down by the Appellate Division of the Supreme Court in Brooklyn in the motion made in his behalf for a writ of habeas corpus. The writ was dismissed in October in the Supreme Court of Westchester County, where it was secured, and it is on the appeal from that dismissal that the lower court is sustained and the order made for the continuance of Mr. Thaw's stay at Matteawan. The way is left clear in the decision for his release by proceedings in which he may establish his sanity.

Justice Gaynor dissents from the decision of his four associates and holds that, inasmuch as the commitment of the prisoner to Matteawan by Justice Dowling was illegal, "the relator should be discharged unless he be commited in five days under the insanity law." While Justice Jenks, who wrote the prevailing opinion, upholds the commitment of Mr. Thaw by Justice Dowling under Section 454 of the Penal Code, Justice Gaynor says that it is unconstitutional because, in failing to provide for a hearing on the sanity of the defendant, it tends to deprive persons of "life, liberty or property without due process of law."

"The commitment prescribed," he asserts, "is final and permanent instead of only temporary for the purpose of a hearing or trial. The prisoner was not in the evil care of being tried at the same time on the issue of his present sanity before the judge and of his past sanity before the jury. The proceedings and safeguards prescribed by the insanity law were the only course open against the relator from the beginning."

The prevailing opinion was supported by a concurring opinion written by Justice Rich and the approval of Justices Hirschberg and Miller. In the decision Justice Jenks writes:

The point raised is that the statute whereby Thaw was committed is unconstitutional in that it does not provide for notice and a hearing. Thaw was committed pursuant to a provision contained in that part of the Code of Criminal Procedure (Section 454) which reads:

"When the defence is insanity of the defendant the jury must be instructed, if they acquit him on that ground to state the fact with the verdict. The Court must, thereupon, if the defendant be in custody and they deem his discharge dangerous to the public peace and safety, order him to be committed to the state lunatic asylum until he becomes sane."

The practical effect is that the Legislature has prescribed that a successful defence of insanity shall not as a matter of course be followed by an absolute discharge of the defendant, but it may be followed by his commitment until he becomes sane. We must infer that the Legislature intended that the Court would commit only after its conclusion that at the time of acquittal he defendant was insane and that the Court could rest its conclusions upon the evidence given at the trial and the appearance of the defendant thereat.

It cannot be said that a defendant who makes the plea of insanity and seeks to establish it did not have notice under this provision of a hearing that might reveal his condition of insanity at the time of his trial, and a hearing of which the result might be such commitment upon acquittal for insanity under provision No. 454.

It cannot be said that the trial of a defendant intends that he is sane, for the reason that an insane man may be tried if he is competent to understand the proceedings and to make his defence. There can be no punishment for him who has been acquitted, but it is precaution for the public, which permits the restraint of an insane person who at large would be a danger to the peace and safety of the people. The commitment can last only so long as the defendant is insane, and he has the right at any time under the law to have his sanity determined upon habeas corpus.

[By Telegraph to The Tribune.]

Poughkeepsie, N. Y., June 4.—Charles Morschauser, attorney for Harry K. Thaw, when asked for any comment on the decision of the Appellate Division of the Supreme Court affirming the decision of Justice Joseph Morschauser, of the Supreme Court, committing Thaw to the Matteawan Hospital for the Criminal Insane, said he would apply for a new writ to test Thaw's sanity. He has not yet decided before what justice the application will be made. Asked if an appeal would be taken to the Court of Appeals, Mr. Morschauser stated that he did not know at the present time. He will, however, continue his legal battle in an effort to obtain the freedom of his client.

Pittsburg, June 4.—Through his attorney, ex-Governor William A. Stone, Harry K. Thaw filed a petition in the United States District Court here to-day for his discharge from bankruptcy.

GOING AWAY?

If you are undecided as to where you will spend your vacation this summer, don't fail to consult the Summer Resort number of The Tribune to-morrow.

BETTER PUT LEASH ON THAT DOG

Dr. Bensel, of the Health Department, Orders "No Quarter" for Stray Pups.

The stray pup, of high or low degree, will lead a precarious existence again this summer, for the Health Department will wage a merciless war on roaming dogs. At the department's offices yesterday Dr. Walter Bensel, who has kept up the work of gathering in tramp dogs all winter, said there would be no let-up in the endeavor to clear the streets of ownerless dogs during the summer months.

When asked about the unconcern many owners showed for the ordinance which prohibits dogs running about unleashed in the parks, Dr. Bensel said that was a matter for the police to take care of, and added:

"The menace is really the wandering dog. We want to corral all of that kind we can. There is not much danger from dogs with their owners, even when they are unleashed, but it is against the park ordinance for any of them to run loose, and the police ought to stop it. We have been after the homeless dogs all winter, and will continue our summer crusade."

WALGERING'S MANY CHARITIES.

Former Deputy Sheriff Left $81,000 to Various Institutions.

The will of Frank J. Walgering, for many years a deputy sheriff of this county, which was filed yesterday for probate leaves about $81,000 to various charitable institutions. Each of the following institutions gets $5,000: Society of St. Vincent de Paul, Little Sisters of the Poor, Church of the Assumption, St. Francis's Hospital, St. Francis's Home, St. Joseph's Hospital for Consumptives, St. Catherine's Hospital, of Brooklyn; St. Vincent's Hospital, Presbyterian Hospital, German Hospital and Dispensary, Isabella Home for the Aged, Fritz Reuter Home for the Aged, Redemptionists' College, of Esopus, N. Y.; Leo House for German Emigrants, St. Gabriel's Sanitarium for Convalescents at Paul Smith's, in the Adirondacks, and St. Joseph's Orphan Asylum.

Other bequests made by the testator are to St. Andrew's Church, of Ellenville, N. Y., and St. Mark's Church, of Rahway, N. J., $500 each, and Henry Walgering, a brother, and Julius Funke, a cousin, $5,000 each. Amounts of from $500 to $1,000 are left to other cousins and friends. As much of the residuary estate as is necessary goes toward the erection of a new clubhouse for the Young Men's Club of the Church of the Assumption, in West 49th street, and the rest will be applied to discharge the indebtedness of the church. The exact value of the estate is not known. G. F. Ewald and Jacob Mattern are the executors.

Walgering's wife and two daughters were asphyxiated by gas four years ago.

"MORNING TELEGRAPH" WINS SUIT.

The action brought by "The Morning Telegraph" against the city for pay for publishing election notices in 1906 was decided yesterday in favor of that newspaper by the Appellate Division of the Supreme Court, 1st Division. In the election for Governor in 1906 the Board of Elections designated four papers, from which list the plaintiff was omitted, as representing the Democratic party to publish notices of election.

"The Morning Telegraph" sued out a writ of mandamus, and the Board of Elections reconvened and renamed the publications, including the plaintiff, in the revised list. The court rescinded the writ of mandamus on appeal by the city, but in the mean time the newspaper had published the notices of election for two of the four days required by law.

PATRICK'S PLEA DENIED

His Charges Baseless, Says Court, Remanding Him to Prison.

Albert T. Patrick's twenty-third attempt to get out of Sing Sing Prison, where he is serving a life term for the murder of William Marsh Rice, ended in failure yesterday, when the Appellate Division of the Supreme Court, Brooklyn, handed down a decision refusing to sustain a writ of habeas corpus which had been granted him by Justice Gaynor, and remanding him to prison. It was early in March that Patrick appeared in person before the Appellate Division and made his argument for freedom. The big courtroom was packed with prominent lawyers and judges who were eager to hear his plea. For several hours he stood before the bench and expounded his theories as to why he should be set at liberty.

He accused District Attorney Jerome and Recorder Goff with entering into a conspiracy with others to kill him, said that he had had no real trial and that the courts had been unfair to him throughout. He even attacked a judge of the Court of Appeals, whose son had been in Mr. Jerome's office at the time of his trial. He maintained that he had never accepted the order of the late Governor Higgins, which changed his sentence from death to life imprisonment, and insisted that the commutation was worse than the original penalty.

By changing his sentence, he declared, the Governor had destroyed it, and had no power to impose another. He argued that the Appellate Division could not send him to the death chair, because a man could not be twice put in jeopardy of his life. Since his original sentence had been destroyed and since he could not be resentenced, he maintained that he ought to be set free, and that while he was imprisoned he was being held in involuntary servitude without due process of law.

In the decision Justice Jenks, who wrote the opinion, declares there is no doubt that the Governor has the power to commute sentences and that it seems that there is no reason why the death penalty should not be commuted to imprisonment. As to Patrick's contention that the commutation is worse than the original sentence, the decision holds that the prisoner has no right of individual preference, and that death has always been held the greatest penalty. Justice Jenks continues:

It is but just to say that there is nothing whatever disclosed before us that in the slightest degree reflects upon the learned judge who presided at the trial, or upon the counsel for the people in this case. So far as the challenge is addressed to the composition of the Court of Appeals, it may be said that such court of last resort has passed directly upon the question. The challenge arraigns, for far-fetched and fanciful reasons, the presence in that court of a most upright judge.

The action of a dissatisfied convict thus presenting the courts of his conviction as incompetent at the bar of another court upon general accusations of fraud, conspiracy and wrongdoing but mocks at the orderly and dignified administration of justice.

Much may be excused in the relator or in any other in like situation. We did not look for the calm and dispassionate utterance that marks mere advocacy. But the people have rights as well as a prisoner. And there is no day in court for him who would accuse without facts and assail by imputation baseless save that the judgment went against him.

William L. McDonald, Patrick's counsel, said last night that he would ask the Appellate Division for leave to appeal from its finding, and if that were denied he would seek a writ of error and carry the case to the United States Supreme Court.

MOUNTAINS OR SEASHORE?

The Summer Resort number of The Tribune, out to-morrow, will be a veritable mine of information regarding where to go for vacations. Profusely illustrated. Consult it.

HANS BEATTIE BACK IN ASYLUM.

Son Found Him with New Jersey Friends After Two Days' Search.

Hans S. Beattie, of Brooklyn, former Surveyor of the Port of New York, and formerly Street Cleaning Commmissioner of New York City, who is an inmate of the State Hospital for the Insane at Kings Park, Long Island, from which he escaped a few days ago, was returned to the asylum yesterday. He had found his way to New Jersey, where he was with friends. He made no resistance when told he must go back to the asylum.

It was learned that Beattie went to a friend's home in Brooklyn and secured some money. He then sent word to the Beattie family. Beattie went to New Jersey, where he has friends, and his son, George M. Beattie, followed him there. Then he sent for one of the asylum keepers, who had been searching the city for him for two days, and the patient was taken back to the hospital.

PELHAM REALTY CASE DECIDED.

Title to Land Valued at Two Million Dollars Confirmed by Court.

Justice Tompkins, of the Supreme Court, filed a decision at White Plains yesterday in which he dismisses the action brought by Mrs. Josephine W. Jessup, Maude A. Apley and others against the Witherbee Real Estate and Improvement Company, involving the title to a $2,000,000 estate in the town of Pelham, which has been contested in the courts for several years. Henry W. Taft, a brother of President Taft, who appeared as counsel for the defendants, at one time owned the property.

The action was brought for a partition of 19.74 acres of land. The plaintiffs are the widow and children of Edwin C. Jessup, who died August 30, 1908, intestate.

SUIT ON $6,000,000 NOTE.

Counsel Contends That Creditors Have Claim on Metropolitan Assets.

Benjamin S. Catchings, counsel for a number of tort or damage creditors of the New Yoork City Railway Company, appeared before Judge Lacombe in the United States Circuit Court yesterday in the suit over the assets of the Forty-second Street, Manhattanville & St. Nicholas Avenue Railroad Company. The argument concerned a note for $6,000,000 made by the company to the Morton Trust Company as trustee, and transferred to the Central Trust Company.

Mr. Catchings said that the New York City Railway Company had assets of upward of $3,000,000 in 1902 when it leased the Metropolitan Street Railway Company, and guaranteed 7 per cent dividends on the stock of the latter company. This money, he said, was spent in improving the Metropolitan system before it went into the hands of receivers.

As judgments for damages were incurred as a part of operating expenses, Mr. Catchings said that the tort creditors had a claim against the assets of the Metropolitan when it should be sold at foreclosure next fall in the interest of the bondholders. The claims of these tort creditors amount to approximately $1,500,000. He also said that the Metropolitan lease should be set aside on the ground that the makers knew that the New York City Railway Company was not in position to pay the 7 per cent guaranteed dividend.

Judge Lacombe asked for briefs and reserved decision.

MORE STATEN ISLAND TRANSFERS.

The Public Service Commission issued an order yesterday directing the Staten Island Midland Railway Company and the Richmond Light and Railroad Company to exchange transfers at Broadway and Richmond Terrace, at Broadway and Castleton avenue and at Castleton avenue and Columbia street. The action was taken on the complaint of Charles H. Blair, chairman of a committee of the Staten Island Chamber of Commerce, and as a result of an opinion rendered by Commissioner McCarroll, who held the hearings. The order takes effect at once.

METERS NEARER LEGAL REQUIREMENTS.

The report of gas meter tests made by the inspectors of the Public Service Commission last month shows that the percentage of fast meters is falling. A total of 27,651 gas meters was tested during May. Of this number 304 were tested on complaint, and more than half were found to be within the requirements of the law. The 109 meters found to be 2 per cent or more fast or slow was considerably less than in the corresponding month last year. Of the eighty-seven electric meters tested on complaint, three were 4 per cent or more fast, ten were 4 per cent or more slow and seventy-four were within the requirements of the law.

DARRAGH'S SENTENCE

AT LEAST SEVEN YEARS.

No Mercy for Next Auto Slayers, Says Judge Mulqueen.

William Darragh, the chauffeur for Charles E. Force, the broker, of No. 471 Park avenue, was sentenced yesterday by Judge Mulqueen, in the Court of General Sessions, to not less than seven years nor more than twenty years in Sing Sing for the killing of thirteen-year-old Ingvaard Trimble on March 27.

The boy was playing in Morningside avenue, near 116th street, when Darragh, who was taking a "joy ride," approached at a rapid rate of speed, knocked him down and dragged him for half a block. The chauffeur fled after the acident, but was arrested in Port Arthur, Tex., and brought back to stand trial on a charge of murder in the first degree. He was convicted of manslaughter in the first degree. He is only twenty-one years old, and lived at No. 264 West 115th street. The Trimble boy came to New York from Covington, Ky., to attend school and lived at No. 417 West 118th street.

In sentencing Darragh Judge Mulqueen said:

This case has excited such interest that it seems proper to state briefly the principles that guide the determination of the sentence to be imposed. Not that I wish to add to your sufferings, but because I think that the public should have a clear notion of the matter.

No new or obscure law has been invoked in this instance. The statute defining murder in the first degree is very old. It provides as follows: "The killing of a human being, unless it is excusable or justifiable, is murder in the first degree, when committed, by an act imminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect the death of any individual."

That law was enacted at a time when the automobile was unknown, and when the present intolerable conditions could not possibly have been foreseen. And yet it so clearly applies to the reckless use of these machines that I doubt if its terms could be improved upon by the most expert legislative draftsman. It was urged by your learned counsel that you did not intend to kill your victim. But it is an elementary legal rule that a man's intent may be inferred from his acts.

When you took your seat in that car you were free to drive carefully or recklessly. You chose to go at a most reckless speed. And you knew that you bore a message of death for the unfortunates in your path. You knew that all the people had at least an equal right to our streets and roads. You cared more for your own pleasure than for the life of any other person. You had the power to choose, and you elected to do that which destroyed an innocent life and brought the deepest sorrow to a happy home.

It has been said that you have been convicted for the crimes of others, and that popular clamor produced this verdict. Nothing is further from the truth. The conduct of this case by Assistant District Attorney Smyth was admirable in every way. Not once by act or word did he seek to prejudice the minds of the jurors against you. With patience and skill he drew from the witnesses the story of that ride, and no testimony was more damaging than your own.

Experienced counsel evoked all their skill and persuasive eloquence, and there are few pleaders more convincing in their eloquence than Mr. McClelland. Every talesman who admitted the slightest prejudice was excluded from the jury, and those finally chosen were repeatedly warned in my charge to confine their attention solely to the evidence produced in this case. They were told that it was not their duty to regulate public affairs, but to decide on the truth or falsity of the specific charge against you.

If any motive swayed the jury other than a sense of duty, it was not a desire for revenge, but rather a spirit of mercy. Indeed, I am convinced that if you had been a rich man or a dissolute man the verdict would have been murder. The legal proof of murder was overwhelming. But not even the most sympathetic could acquit you of manslaughter. The statutes defining that crime were clearly applicable, and no question of intent is involved in them. The law does not seek revenge, and punishment of one criminal is intended to serve as a warning to others.

A difficult situation confronts us to-day. The automobile has come to stay. Properly used, it is a source of healthful recreation. It is an important factor in business. But it is clear that its use is fraught with the gravest danger to the public. Therefore all drivers and owners of these machines must be extremely careful. Recklessness and negligence will subject them to severe penalties. They must not seek their own pleasure or convenience at the risk of the public. It is the paramount duty of the state to protect the lives of our people.

One of my colleagues, Judge Swann, but recently gave warning to the reckless drivers of automobiles. The District Attorney has been diligent and the jurors have done their part. So that it is now incumbent on the Court to repeat the warnings and to impose a sentence that will drive the lesson home to all. The next man who comes to the bar of this court charged with this offence may pay the penalty with his life.

To the ordinary appeal for mercy I cannot properly listen in so grave a case. But some of the jurors who convicted you have asked me not to inflict the maximum penalty, since it is really the first case of its kind, and I therefore sentence you to Sing Sing prison for a term of not less than seven years nor more than twenty years.

ORDERS NEW YORK CENTRAL TO QUIT.

Borough President Ahearn Begins Test of Right to West Side Tracks.

Pursuant to the direction of the Board of Estimate and Apportionment, Borough President Ahearn ordered the New York Central & Hudson River Railroad yesterday to remove its tracks on the West Side, from Spuyten Duyvil Creek south through Eleventh avenue and other streets to Canal street. The notice was served on Ira A. Place, vice-president of the company, at 3 p. m. It gives the company thirty days in which to comply with the order, failing to do which the Borough President, the notice says, will employ men to remove the tracks and charge the expense to the railroad.

The action of the city is taken in order to have the validity of the franchise for the tracks tested by the highest courts. The railroad will probably take no action on the order, but when an attempt to tear up the tracks is made by the Borough President an injunction will be served upon him.

BAKERS OPPOSE "POUND LOAVES."

Cite Court Decision That Arbitrary Standard of Weight Is Unfair.

Some forty or fifty representatives of bakers appeared before the Committee on Laws and Legislation of the Board of Aldermen yesterday afternoon at the City Hall in opposition to the proposed ordinance prescribing that the standard of loaves of bread sold here should be one pound. No one appeared in favor of the ordinance, and Alderman Walsh, who introduced the resolution by request, said he had been much impressed by the arguments made in opposition.

Assistant District Attorney A. J. Powers, as counsel for many of the bakers, cited a recent decision of the Court of Appeals in the District of Columbia, stating that, as it was impossible to bake loaves of uniform weight, it was manifestly unfair to expect bakers to stamp the weight of each loaf on their bread.

Others who spoke in opposition were W. Grevel, second vice-president of Fleischmann's Vienna Bakery; William Romer, vice-president of the Schultz Baking Company, and Charles E. Abbott, of the State Association of Bakers.

APPRENTICE SCHOOL COMMENCEMENT.

The graduating exercises of the appreptice school of R. Hoe & Co., the oldest institution of its kind in this country, were held Thursday night at the DeWitt Memorial Church, No. 280 Rivington street. This school was the first technical school established in the United States by any manufacturing concern. The graduating classes were congratulated on the completion of their school course and upon the standing they had attained. Prizes were awarded to those who stood at the head of their respective classes.

R. Hoe & Co.'s apprentice school is maintained by that firm solely at their own expense in connection with the system of apprenticeship maintained by them in their works for teaching young men the trade of machinist and other trades pursued in their printing press factory, in Grand street.

WIFE MURDERER'S PLEA IGNORED.

After pleading guilty to manslaughter in the first degree, Gaspar Zsittnick, forty-three years old, an Hungarian baker, who lived at No. 550 East 16th street, was sentenced to not less than ten years or more than twenty years in state prison yesterday by Judge Mulqueen, in the Court of General Sessions. The man killed his wife on February 17 by throwing sulphuric acid over her face. Zsittnick said in an affidavit that he did not intend to murder his wife when he poured acid on her face, but to mar her beauty so that no one would be attracted to her.

RENARDS GO TO EUROPE TO-DAY.

Mr. and Mrs. Henry Renard, of Renard's, West 23d street, will sail on the Hamburg-American steamship Deutschland to-day for Europe, staying at Paris, London, Vienna, Berlin and the principal cities. While on the Continent they will purchase European model hats and gowns for the coming fall season.

SENDS FOR THE DUFFYS

Mayor Wants to Hear Them in Bingham Inquiry.

Having provided for the appearance before him on Monday of George B. Duffy, the Brooklyn young man who, according to Justice Gaynor, has been the victim of police persecution, Mayor McClellan took to Princeton yesterday afternoon a transcript of the testimony given by members of the Police Department on Thursday. No hearings were held yesterday, and the examination of other members of the Police Department will depend largely on what Mayor McClellan learns in his talk with Duffy, his mother and father and such character witnesses as the young man may be able to induce to appear with him.

The Mayor's letter to young Duffy was brief and to the point:

Sir: I desire to see you in this office on Monday, June 7, 1909, at 10 a. m.

Bring also such character witnesses as former school teachers, employers and the pastor of your church as you may be able to find.

At the same time the Mayor wrote to the young man's father, asking that he and his wife come to the Mayor's office at 10 a. m. on Monday. He suggested that they assist their son in obtaining character witnesses.

The Mayor wrote to Justice Gaynor, asking him to use his influence to secure the attendance of the Duffys. "If they desire to be accompanied by counsel," wrote the Mayor, "I will be glad to accept such aid in order that a proper determination of the questions involved may be reached. Justice Gaynor replied that he would advise the Duffys to attend the hearing.

No further cases of alleged brutality by the police were brought to the attention of Mayor McClellan yesterday, but Magistrate Finn had some remarks to make in discharging a prisoner in the Essex Market court on the attitude of the police. Justice Gaynor said that he had received many letters describing alleged abuses of police power.

One man came from Philadelphia to tell his story to the justice. He said that detectives dragged him out of his bed in East New York three years ago and used force in taking his picture for the Rogues' Gallery, binding him with chains when he protested. They charged him with failure to pay for goods ordered for his store, he said, but he was discharged. An effort to get his picture out of the gallery was fruitless, he asserts, because he refused to give one of the detectives $25.

Magistrate Finn exploded when Detective Moriarty, of the Eldridge street station, arraigned before him a young man on the charge of "jostling pedestrians." "He has a record," said the detective. "He was fined $10 once for jostling people." The magistrate retorted:

The idea of arresting this boy because at one time he was fined for jostling. And I suppose you "mugged" him for that heinous crime. It's an outrage. The Western wilds have better laws and better officers to protect the citizens. It seems that "300 Mulberry street" is trying to make innocent men commit crimes and it is enough to drive men to crime. Some of you officers are the biggest humbugs I ever saw.

Because Nathan Steckel, the restaurant keeper of East 14th street who charges the police with brutally beating him in his place about a week ago, was unable to appear at headquarters yesterday, Inspector Schmittberger postponed the investigation of his complaint until Monday.

ROUSS BEATS BINGHAM.

Commissioner Loses in Case Against Lawyer and Patrolman.

Commissioner Bingham lost in a decision handed down yesterday by the Appellate Division of the Supreme Court in Brooklyn.

Herman L. Ringelman, a Brooklyn patrolman, was dismissed from the force, after a trial on April 2, 1907, on the charge of intimidating witnesses against Captain Louis Wendel of the 1st Battery, who was accused of misappropriating the funds of his regiment. He carried the case into the courts, and was ordered reinstated by a decision of Justice Gaynor, of the Appellate Division.

Shortly after that General Bingham charged Ringelman's attorney, Jacob Rouss, of the firm of Grant & Rouss, with presenting false records of the trial of the policeman to the Appellate Division, and caused his arrest. At the same time the Police Commissioner asked that the decision reinstating Ringelman be set aside, on the ground that the records upon which it was based were false. The decision denies the Commissioner's motion, holding that there was no falsification of records.

DISMISSAL BY BINGHAM SUSTAINED.

The Appellate Division sustained Commissioner Bingham yesterday in his dismissal of Patrolman Thomas J. O'Neill, of the 20th Precinct. Justices Laughlin, Patterson, Ingraham and Clarke decided against the policeman's reinstatement, while Justice Scott wrote a dissenting opinion. The latter referred to "the instances of extremely unjudicial deportment upon the part of the Deputy Commissioner [Hanson] who conducted the trial."

The charge on which O'Neill was dismissed was clubbing Joseph Gaynor, whom he arrested with John Collins on January 17, 1907, although he made no charge against the men at the station house. O'Neill appealed because his lawyer was not present at his trial.

PICTURE WITH ROGUES, DISCHARGED.

Another Brooklyn Man Wants Evidence of His Arrest Effaced.

Brooklyn detective officials were not sure last night whether the photograph of Joseph Taylor had been taken from the Rogues' Gallery or his measurements destroyed. The complaint, charging the theft of $60 from the baking company by which Taylor was employed, was withdrawn before Magistrate Dooley in the Adams street police court yesterday.

Mr. Taylor was in tears when he left the courtroom. "My wife has been ill ever since I was arrested," he said, "and I have not dared to look my two children in the face, for the police 'mugged' me and took my measurements, and all the time I was innocent of wrongdoing. I cannot tell you the mental anguish I have suffered."

It was stated in court that Taylor had lost the $60, and that he had more than that amount on deposit with the company.

GRAND JURY EXONERATES POLICEMEN.

The Kings County Grand Jury yesterday exonerated Police Captain William J. Lahey and Lieutenant Robert P. Thurston, of the Hamilton avenue precinct, who were charged with assault and oppression by Edward Jensen, proprietor of a café at No. 120 Hamilton avenue, Brooklyn. Magistrate Geismar held the officials for the action of the grand jury when Mr. Jensen said that they had clubbed his mother, who is eighty years old, in a raid on his saloon, and had stationed policemen at his door since then to warn customers away, sometimes using force. The grand jury, instead of bringing indictments against the officers, commended them for their work in the precinct. Judge Fawcett expressed his approval of the action.

MARINE INTELLIGENCE.

MINIATURE ALMANAC.

Sunrise 4:20 | Sunset 7:26 | Moon rises 9:26 | Moon's age 17

HIGH WATER.

A.M.—Sandy Hook 8:26 | Gov. Island 8:35 | Hell Gate 10:25
P.M.—Sandy Hook 8:46 | Gov. Island 8:55 | Hell Gate 10:45

WIRELESS REPORTS.

The Cincinnati, reported as 745 miles east of Sandy Hook at 10:05 a m yesterday, is expected to dock about 11 a m Sunday.

The St. Paul, reported as 696 miles east of Sandy Hook at 10:50 a m yesterday, is expected to dock about 7:30 a m Sunday.

La Provence, reported as 273 miles east of Sandy Hook at 12:30 p m yesterday, is expected to dock about 7:30 a m to-day.

INCOMING STEAMERS.

TO-DAY.

Vessel.	From.	Line.
*P. Eitel Friedrich	Kingston, May 29	Hamb-Am
*Monterey	Havana, June 1	Ward
*La Provence	Havre, May 29	French
*Cedric	Queenstown, May 29	White Star
*Korona	St Thomas, May 30	Quebec
Florida	Genoa, May 19	Lloyd-Ital
Campania	Naples, May 20	Italian
Lackawanna	Barrow, May 18	—
Patris	Palermo, May 19	Greek
Delaware	Barrow, May 18	—
Cubana	Matanzas, May 29	Munson
Athens	Patras, May 16	—
Antilla	Clenfuegos, May 28	Ward
Idaho	Hull, May 23	Wilson
Colorado	Galveston, May 29	Mallory
Arapahoe	Jacksonville, June 2	Clyde

SUNDAY, JUNE 6.

*St. Paul	Southampton, May 29	American
Cincinnati	Southampton, May 28	Hamb-Am
Minnewaska	London, May 29	At-Trans
Columbia	Moville, May 29	Italian
Massilia	Marseilles, May 22	Italian
Rio Grande	Tampa, June 1	Mallory
City of Savannah	Savannah, June 3	Savannah
Corfe Castle	London, May 24	Castle
Iroquois	Jacksonville, June 3	Clyde

MONDAY, *JUNE 7.

*Alliance	Cristobal, June 1	Panama
*Carolina	San Juan, June 2	N Y & P R
*Voltaire	Rio de Janeiro, May 22	Lamp & Holt
*Saramosca	Barbados, May 31	D W I
*Maracaibo	La Guayra, May 31	Red D
*Bermudian	Bermuda, June 5	Quebec
Potsdam	Rotterdam, May 29	Holland-Am
San Giorgio	Naples, May 25	Italian
Kroonland	Antwp, May 29	Red Star
Bayamo	Havana, June 2	Ward
Jose	Belize, May 30	—
Brazos	Galveston, June 2	Mallory

*Brings mail.

OUTGOING STEAMERS.

TO-DAY.

Vessel.	For.	Line.	Mail closes.	Vessel sails.
Caronia	Liverpool	Cunard	6:30 a m	10:00 a m
Deutschland	Hamburg	Hamb-Am	6:30 a m	10:00 a m
Philadelphia	Southampton	American	6:30 a m	10:00 a m
Finland	Azores	White Star	9:30 a m	12:00 m
Philadelphia	La Guayra	Red D	8:30 a m	12:00 m
G. de Larrinaga	Argentina	Barber	6:30 a m	8:30 a m
Havana	Havana	Ward	10:00 a m	1:00 p m
Cherokee	Turks Island	Clyde	10:00 am	12:00 m
Prinz Joachim	Jamaica	Hamb-Am	11:00 a m	1:00 p m
Horatio	Para	Booth	12:00 m	3:00 p m
Manchester Exchange	Argentina	Norton	12:00 m	3:00 p m
Zeeland	Antwerp	Red Star	—	11:00 a m
Minnetonka	London	Atl-Trans	—	11:00 a m
Prinzess Irene	Naples	N G Lloyd	—	11:00 a m
Celtic	Liverpool	White Star	—	11:00 a m
Russia	Rotterdam	Russian	—	2:00 p m
California	Glasgow	Anchor	—	10:00 a m
Chicago	Havre	French	—	3:00 p m
Comanche	Jacksonville	Clyde	—	1:00 p m
Denver	Galveston	Mallory	—	12:00 m
City of Columbus	Savannah	Savannah	—	3:00 p m

MONDAY, JUNE 7.

Copenhagen	Barbados	D W I	11:00 a m	1:00 p m
Advance	Cristobal	Panama	11:30 a m	3:00 p m

TUESDAY, JUNE 8.

Kronprinz Wm.	Bremen	N G Lloyd	6:30 a m	10:00 a m
Bermudian	Bermuda	Quebec	8:00 a m	10:00 a m
Nieuw Amsdam	Rotterdam	Hol'd-Am	—	10:00 a m
City of Savannah	Savannah	Savannah	—	3:00 p m
American	Naples	La Veloce	—	—
Arapahoe	Jacksonville	Clyde	—	1:00 p m

TRANSPACIFIC MAILS.

Destination and steamer.	Close in New York.
Hawaii, Japan, Corea, China and Philippine Islands (via San Francisco)—Siberia	To-day, 6:30 p m
Hawaii (via San Francisco)—Lurline	June 7, 6:30 p m
Japan, Corea and China (via Tacoma)—Ningchow	June 10, 6:30 p m
Hawaii, Japan, Corea, China and Philippine Islands (via San Francisco)—China	June 12, 6:30 p m
Australia (except West), New Zealand, Fiji Islands and New Caledonia (via Vancouver and Victoria, B. C)—Makura	June 13, 6:30 p m
Japan, Corea, China and Philippine Islands (via Seattle)—Minnesota	June 14, 6:30 p m
Japan, Corea, China and Philippine Islands (via Vancouver and Victoria, B. C.)—Empress of India	June 18, 6:30 p m
New Zealand, Australia (except West), Samoan Islands and New Caledonia (via San Francisco)—Clan Macinnis	June 20, 6:30 p m
Tahiti, Marquesas Islands, New Zealand and Australia (except West) (via San Francisco)—Mariposa	June 26, 6:30 p m

SHIPPING NEWS.

Port of New York, Friday, June 4, 1909.

ARRIVED.

Steamer Lusitania (Br), Turner, Liverpool May 29 and Queenstown 30, to the Cunard Ss Co, Ltd, with 466 cabin and 519 steerage passengers, mails and mdse. Arrived at the Bar at 5:48 a m.

Steamer Yumuri (Cuban), Seeley, Tampico May 26, to the New York and Cuba Mail Ss Co, with mdse. Arrived at the Bar at 5:58 p m June 2.

Steamer Ocmulgee, Webb, Brunswick June 1, to the Brunswick Ss Co, with mdse. Left Quarantine at 6:30 p m.

Steamer Campania (Ital), Di Bartelo, Genoa May 13 and Naples 20, to Hartfield, Solari & Co, with passengers and mdse. Anchored in Quarantine 8:07 p m.

Steamer Delaware, French, Philadelphia June 3, to the Clyde Ss Co, with mdse. Passed in Quarantine at 12:33 p m.

Steamer African Prince (Br), Anderson, Calcutta April 7, Colombo 13, Port Said 29 and Malta May 3 via Boston June 2, to Paul F Gerhard & Co, with mdse. Arrived at the Bar at 10:30 p m 3d.

Steamer Algonquin, Staples, Azua May 25, Santo Domingo City 26, Macoris 27, Sanchez and Samana 28, Puerto Plata 29 and Monte Christi and Turk's Island 30, to the Clyde Ss Co, with 17 passengers, mails and mdse. Arrived at the Bar at 4:55 a m.

Steamer Celtic Princess (Br), Williams, Rio de Janeiro May 1, Victoria 11 and St Lucia 26, to the Seager Trading Co, with mdse. Arrived at the Bar at 4 a m.

Steamer City of Columbus, Burg, Savannah June 2, to the Ocean Ss Co, with passengers and mdse. Left Quarantine at 5:45 a m.

Steamer Alice (Br), Reime, Sagua de Tanamo May 30, to the Atlantic Fruit Co, with fruit. Arrived at the Bar at midnight. 3d.

Steamer El Valle, Patten, Galveston May 29, to the Southern Pacific Co, with mdse. Left Quarantine at 6:15 a m.

Steamer Germania (Fr), Sagois, Marseilles May 15 and Naples 19, via Halifax, N S, June 2, to J W Elwell & Co, with 83 cabin and 902 steerage passengers and mdse. Arrived at the Bar at 2 a m.

Steamer Arkansas (Dan), Petersen, Copenhagen May 11, Christiania 15 and Shields 18, to Funch, Edye & Co, with mdse. Arrived at the Bar at 2 a m.

Steamer Lazio (Ital), Mascone, Philadelphia June 3, to Hartfield, Solari & Co, in ballast. Left Quarantine at 7:55 a m. (Came to this port for repairs.)

Steamer Katahdin, Queen, Georgetown, S C, June 1, to the Atlantic Coast Lumber Corporation, with lumber. Left Quarantine at 7:30 a m.

Steamer Princess Anne, Tapley, Newport News and Norfolk, to the Old Dominion Ss Co, with passengers and mdse. Left Quarantine at 2:30 p m.

Steamer Sicilia (Ital), Bolognini, Barcelona April 14, Genoa 20, Spezia 30, Leghorn May 5, Catania 10, Palermo 18 and Gibraltar 18, to Simpson, Spence & Young, with mdse. Arrived at the Bar at 12:30 p m.

Steamer Captain A F Lucas, Rubelli, Rotterdam May 18, towing barge 95, to Philip Ruprecht, in ballast. Off Ambrose Channel Lightship at 9:30 p m.

Steamer Colorado, McIntosh, Galveston May 29, to the Mallory Ss Co, with passengers and mdse. Anchored off Scotland Lightship at 9:15 p m.

Sandy Hook, N J, June 4, 9:30 p m—Wind east, fresh breeze; foggy, moderate sea.

SAILED.

Steamers Beatrice (Br), for South Amboy and Halifax; Ghazee (Br), Jacksonville; Italian Prince (Br), Buenos Ayres; Jefferson, Norfolk; Kelvinhead (Br), Norfolk; Lille (Br), Port Antonio; Minnesota (Nor), Port Antonio; Mohawk, Charleston; Tennyson (Br), Rio de Janeiro; Galileo (Br), Hull; Erika (Ger), Fayal, St Michaels, etc; Prins der Nederlanden (Dutch), St Marc, Port au Prince, etc; Harry Luckenbach, San Juan, Ponce, etc; Santiago (Cuban), Cienfuegos and Santiago; Vigilancia, Nassau, Guantanamo, etc; Neckar (Ger), Baltimore; Sabine, Wilmington, N C, and Georgetown, S C.

STEAMERS AT FOREIGN PORTS.

ARRIVED.

Southampton, June 3—Adriatic (Br), New York via Plymouth and Cherbourg.

Bahia Blanca, June 3—Charlton Hall (