

ABOLISH INSANITY DEFENCE

STATE BAR ASSOCIATION HEARS NOVEL RECOMMENDATION.

Thaw Case the Text of the Committee Which Makes the Report—No Suggestion That an Insane Man Should Be Put to Death for Any Crime.

ROCHESTER, Jan. 21.—A committee of lawyers, members of the State Bar Association, who have been considering the question of insanity as a defence in murder cases reported to the association that in their opinion insanity as a defence should be abolished. The Thaw case was taken as a text for the report, and the committee in its report refers to the Thaw trial as "a disgraceful farce."

The committee recommends the abolishment of the insanity defence in these words: "It is not the time to come in our system of penology to relegate to the realm of the obsolete the assumption that an insane man cannot commit crime? In other words, ought we not to abolish the defence of insanity and leave as the one issue to the jury the question of guilt, and with the forbidden rule—if he did not do it he is innocent; if he did it he is guilty; and with the state of his mind at that time the jury has nothing to do."

The report does not suggest that an insane man forfeit his life, but that he forfeit his liberty, holding that he is a dangerous man to society and that society should be protected against him, and that under no plea of insanity should he be allowed to walk from the court room free. The report also recommends a State commission to inquire into the defendant's state of mind when he seeks his freedom from a State institution to which he has been sent. These commissioners must first decide that the man is sane before he can go before any judge and ask for his freedom.

At this point the report calls attention to the case of Harry Thaw and his attempt to get out of the State insane asylum in the following language:

To emphasize the need of this remedy reference should be made to a well known case which has been in the public eye for some time, where a murderer escaped the consequences of his crime on a plea of insanity by trying to escape the consequences of his plea by means of a continuous performance in habeas corpus.

The report, stating that it cannot in this case show sympathy for "a misguided family," recommends that the Thaw case be followed by the following language: "A youthful debauchee of great wealth, trained to believe that his money gave him a right of freedom from all restraints, whether imposed by law or the rules of decency, inheriting an abnormality of mind likely to develop into homicidal acts, leading to a debauched and ignominious life, thought of the responsibilities which wealth imposes upon its owner, commits a foul and cowardly murder in a public resort."

If he were sane there could be no escape from the penalty of death. His only defence is insanity. After a trial, which seemingly needless delay and delays in halting murderers to the bar for trial bring the administration of the criminal law into disrepute—he is brought to a trial which by reason of the manner in which it is conducted is insanity. After a trial, which seemingly needless delay and delays in halting murderers to the bar for trial bring the administration of the criminal law into disrepute—he is brought to a trial which by reason of the manner in which it is conducted is insanity.

Among the numerous judges of the Supreme Court of this State the chances are that there is at least one whose head is not able to control his heart, and the only problem in this murderer's quest for freedom is to discover who that particular judge is. There may be a number of precedents, but he will at last be heard, and then upon a petition to him, presented by counsel persona grata and backed up by the testimony of medical experts whose favorable opinion can be bought for cash, to grant freedom to the murderer. It is a mere question of time and money when this particular murderer will be set free to direct his homicidal inclinations against some other citizen who has already had his life or limb shattered by the victim's hereditary and environment? The normal man does not commit crime. The commission of crime is evidence of abnormality. Such is the modern view. But the logic of the law makes a sad sight when it permits the conclusion that the man who has done a foul deed must be acquitted as innocent if his mind was not working on what we call sane lines.

Such things ought not to be. How can they be prevented without doing injustice to an unhappy individual whose criminal tendencies are a victim of heredity and environment? The normal man does not commit crime. The commission of crime is evidence of abnormality. Such is the modern view. But the logic of the law makes a sad sight when it permits the conclusion that the man who has done a foul deed must be acquitted as innocent if his mind was not working on what we call sane lines.

The committee made this specific recommendation in regard to the Penal Code: "If these views be sound they could be put into effect with but little change of the statute law. Replace section 20 of the Penal Code by the following words: 'Insanity or other mental deficiency shall no longer be a defence against a charge of crime; nor shall it prevent a conviction of the accused unless his mental condition is shown to satisfy the court upon its own inquiry that he is unable by reason thereof to make proper preparations for his defence.'

The following are the men who composed the committee, with the judicial districts they represent: Frank Brooks Leavitt, First district; Frank Harvey Field, Second district; Page Smith, Third district; Edwin A. Merritt, Jr., Fourth district; S. Mortimer Coon, Fifth district; Lynn J. Arnold, Sixth district; Henry G. Danforth, Seventh district; Clark H. Timmerman, Eighth district; and William C. Osborn, Ninth district.

CAN'T IDENTIFY SUICIDE.

Miss Felice Think Man Found in Boarding House Vestibule Came From Pittsburgh.

The police are puzzled over the case of the man who was found dead in a bullet hole in his head early yesterday morning in the vestibule of the house at 100 West Forty-seventh street. Detectives from the Central Office worked on the case all day, but they were unsuccessful in their attempts to identify the man. Mrs. Katherine Klein, a middle aged woman, who has a boarding house at that address, was very emphatic in her denials that she had ever seen the man before. The police think that the man came from Pittsburgh, because labels on his clothes showed that he bought them there.

MOVIE FOUND ON FLOOR OF VESTIBULE NEAR BODY, AND POLICE BELIEVE THAT CASE IS ONE OF SUICIDE.

A revolver was found on the floor of the vestibule near the body, and the police believe that the case is one of suicide. The Pittsburgh police had identified and the Central Office men expect to hear from them soon. Meanwhile the body is lying in the Morgue awaiting a further investigation.

ORDER FOR EDISON CARS.

Six of Them to Be Sent to Alaska and a Trial to Be Made on the Belt Line.

WEST ORANGE, N. J., Jan. 21.—Thomas A. Edison received an order to-day for six cars similar to the one with which he made experiments in the morning. The cars were to be used in testing the practicability of applying his new storage battery to street car traffic. These cars will be operated on the Taneva Valley line in Alaska, to which place they will be shipped as soon as they can be manufactured.

Tests of the car are to be made on the Belt Line in Manhattan. That line, being located mainly along the waterfront, engineers say could not be equipped with the underground trolley system because the tides would flood the conduits.

Joseph B. Mayer, receiver for the Twenty-eighth street line, Manhattan, and H. P. Taylor, the chief engineer, were in West Orange this morning and rode on the car which was used in the tests yesterday.

The car was very useful in determining that weather behaves well under adverse weather conditions and the railroad men said they were convinced that it is just the car they want there to replace the horse cars.

"There are 165 miles of horse car lines in New York city," said Mr. Mayer, "and of that mileage barely half is in use. A small car of this type, weighing as little as this car does and possessing its other advantages, ought to be just the thing to make the operation of the lines a success."

Mr. Mayer pointed out that on narrow streets where the turns are sharp a car that is as short as the Edison car could be run to a decided advantage over the ordinary trolley. He and Mr. Taylor were both impressed with the reduction of weight secured by Ralph H. Beach, under whose direction the experimental car was built. Part of the reason for its lightness as a factor in the success of the battery principle as applied to street cars, Mr. Beach studiously reduced it at every point, not even neglecting the weight of the car's body, which he has made one-sixteenth instead of one-eighth of an inch.

The new car resembles the subway cars. There is no door separating the interior of the car from the vestibules and an iron rail within reach of the shortest person, yet out of the way of tall men's hats, takes the place of hanging straps. The car is controlled by a brake of special design lately patented by Edison.

Those who examined the car to-day were anxious to know whether or not there was any danger to the passengers from the current, the batteries all being stored under the seats. Mr. Beach satisfied them that any fears they might entertain on that score were groundless, by picking up one of the ten pound cells and handling it freely, showing that there was no leakage of current. Prevention of leakage was the first problem Edison solved when he hit upon the nickel, in place of the lead oxide, feature of the batteries. The retaining caps have been constructed with the special care and attention that are characteristic of his work. Edison said the battery is foolproof.

NEW PLEA FROM PATRICK.

Submits an Answer to the Motion to Strike Him From the Rolls.

The case of Albert T. Patrick came before the Appellate Division of the Supreme Court in this department again yesterday, on a motion made by Einar Christy, counsel for the Bar Association, to strike him from the rolls of attorneys because of his conviction for murder. The motion papers were served by Patrick in his cell at Sing Sing yesterday, and he at once filed an answer and a cross-petition asking the Appellate Division to grant him habeas corpus and to set aside his conviction.

In the case of a lawyer convicted of felony the disbarment follows as a matter of course, and accordingly the Bar Association yesterday merely filed with the court a certificate of Patrick's conviction. William L. McDonald of 49 Wall street appeared for Patrick and argued in his petition for a writ of habeas corpus.

In his answer Patrick reviewed his case at some length. He denied that he had ever been convicted of murder or any other felony and denied that the so-called certified copy of his conviction was a true copy. He declared that his conviction was void because the judgment does not show the names of the People of the State of New York as plaintiffs but that he was the sole party to the action.

Patrick alleges as a second basis of relief that his "pretended conviction" was against the facts, and then charges conspiracy by the prosecutors and Court. He declares that a "sensational campaign of libel, calumny, slander and denunciation" was conducted against him by the assistant District Attorneys Osborne and Garvan and that they "urged murder in proof of forgery and forgery in proof of murder." He declares that Valet Jones was bribed with his freedom to give false testimony, that the medical witnesses were bribed by the payment of large sums under the name of "fees."

Patrick declares that he was deceived in his trial in January, 1902, in that while he supposed he was to be tried solely for the murder of William M. Rice he was called on to meet the accusation that Jones murdered Rice with his procurement, but in his absence.

After saying that Recorder Goff was unfair the lawyer makes this charge: "Under cover of the 'prosecution' and 'conviction' of respondent Patrick, said conspirators looted and stole from the Rice estate more than \$3,000,000, a large part of which was paid to said Jerome, Osborne and Garvan, and used by them in part in the erection of an enormous building as bribes to said witnesses, etc., notwithstanding that they disbursed out of the money of the city of New York more than \$100,000 as expenses for such prosecution."

Patrick finally repeats his argument that he should be freed or put to death. The Court reserved decision.

LAW AS TO PRISON MADE GOODS.

Appellate Division Says Dealers Needn't Take Out a License.

The Appellate Division of the Supreme Court declared unconstitutional yesterday the provision of the labor law of 1897 requiring that dealers in convict made goods must take out a license for such a purpose at an annual fee of \$500 a year, give a bond of \$5,000 and post the license in a conspicuous place, as well as furnish the Secretary of State with an annual statement of all such transactions. The statute provided a fine of not more than \$1,000 or less than \$100, or by 10 days imprisonment or both.

The case came before the court on a writ of habeas corpus obtained by Louis Phillips, a clothing merchant, who was arrested on the complaint of the State Labor Commissioner for selling boys' shirts which were made in the Joliet penitentiary. The court discharges Phillips.

An act similar to the one now reviewed by the court was passed in 1894, which was further amended in 1897. The goods made in the Joliet penitentiary were declared unconstitutional by the Court of Appeals in 1896 on the ground that it was in violation of the commerce clause of the constitution. A general committee of fifty has been organized with L. F. Loree, 77 president of the Delaware and Hudson Company, as president; L. W. Stotesbury, '90, secretary; and Charles B. Ludlow, '90, treasurer, all of New York city.

Greenhut and Company Dry Goods. Special Men's Real French Chamois Gloves, \$1.00 value \$1.50.



Men's New 1910 \$1.50, \$2 and \$2.50 Shirts, 95c

A shirt sale that will establish a new value-giving epoch and surpass all selling records. There are three hundred dozen Shirts behind this announcement—the hand-somest, dressiest and smartest patterns ever shown outside of the exclusive shops. The values are bonafide, and we guarantee them to be even better than we state in this advertisement. We cannot publish the maker's name, but every shirt bears the trademark.

Combined there are more \$2 and \$2.50 Shirts than there are \$1.50 Shirts, so you see it's an extraordinary value-giving occasion. The materials include woven madras, printed madras, French percales, Russian Cords, Chevots in an unusually broad range of seasonal patterns. Plaited or plain bosoms; attached or detached cuffs.

Main floor, Greenhut and Company, Saturday. 6th Avenue, 18th to 19th Street. Store formerly occupied by B. Altman & Co.

WALLENSTEIN, SEA LAWYER.

HE APPEARS FOR HIMSELF AGAINST FETTERICS.

The Count was His Employer and the Sailor "Didn't Like the Ship"—Falls in Municipal Court to Get Much and Vents Threats of Bone Breaking.

Count Rudolph Fetterics de Tolna was in the Seventh Municipal Court yesterday as defendant in a suit brought by Fritz Wallenstein, able seaman, to recover his discharge papers and \$50 which Wallenstein believes to be due him for eleven days work on board the Count's schooner yacht Tolna, now undergoing repairs in this harbor preparatory to a voyage to Trieste.

The Count was represented in court by Eugene N. Robinson of 111 Broadway. Thursday, and he at once filed an answer and a cross-petition asking the court to set aside his conviction and to grant him habeas corpus and to set aside his conviction.

Wallenstein, who says that he took out his first papers as a citizen in 1901, told the Court that he shipped on the Tolna on December 18 last under the impression that she was to cruise to the West Indies. He worked ten days and then wanted to quit because he "didn't like the ship."

Count Fetterics, dressed in the most proper of frock coats and with not a trace of tar about him, testified that he is a licensed navigator and holds Austrian and American master's certificates. He denied that he had refused to give back Wallenstein's discharge and declared that as the sailor had left the Tolna without his permission he had forfeited his wages.

To the papers the Count's counsel had them and would be pleased to give them to Wallenstein. This was done and then Judge Spiegelberg declared that in his opinion the court has no jurisdiction since both the Count and Wallenstein are foreigners.

The sea lawyer, far from pleased with the decision, shouted after the Count: "I get it in court I take it out of his bones." MRS. DELMAR'S \$1,000,000.

Contest of Her Will Threatened by Relatives Not Named in It.

A contest is threatened over the will of the late Eliza J. Delmar of Brooklyn, widow of John Delmar, who was for many years a noted figure in Democratic politics in Kings county.

In her will, which is before Surrogate Ketcham for probate, Mrs. Delmar provided that any of the beneficiaries in her \$1,000,000 estate who should participate in a contest over it would forfeit their legacies. Thelma A. Fulham, a nephew of the testatrix, is the chief beneficiary, getting about three-fourths of the estate. There are a number of half blood relatives who are named in the bequest and most of them are expected to join in the attempt to break the will.

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ALLEN WALLACE INCOMPETENT.

Commission Named at the Request of His Wife's Uncle, Dr. Keyes.

Supreme Court Justice Gerard yesterday appointed a commission composed of Phoenix Ingraham, Philip F. Donohue and Dr. David Edson to inquire into the alleged incompetency of Allen Wallace, who inherited a trust fund of \$750,000 by the will of his father, John Wallace, a member of the New York Stock Exchange, who died in September.

The application for the commission was made by Dr. Edward L. Keyes, an uncle of Wallace's wife, Frances L. Wallace. Mrs. Wallace joined in the application. They have one child and have lived most of the time in Rome, although they spent part of each year in New York and Paris. Wallace is a great-grandson of Commodore Vanderbilt and his wife was Frances Loughborough of San Francisco, where they were married in 1903. Their New York home is at 52 West Thirty-sixth street.

Mrs. Wallace declares that during all the time she has known her husband he has been a heavy drinker. He takes a drink the first thing in the morning, she said, and continues it throughout the day. "He has been spending his money rashly and imprudently," she says, "and is wasting his estate." She says she owes over \$100,000 in Rome.

Attached to the petition are affidavits by Dr. J. Ramsey Bacon, the neurologist of the Cornell Medical School, and Dr. Samuel Lambert, who say that Wallace is suffering from alcoholism. By the provision of John Wallace's will the trustees of the \$750,000 trust fund were to pay to Allen Wallace \$100,000 quarterly in installments and not more than \$100,000 in any one year. The testator directed that the income be paid in quarterly installments and not more than \$100,000 in any one year. The paragraph of the will relating to Mrs. Allen Wallace said:

"Upon his death if my son's wife, Frances L. Wallace, shall be living, \$500,000 of this fund shall go to my brother and sister in equal shares, and if none of them survives him by the American Line, Dr. Samuel Lambert, who say that Wallace is suffering from alcoholism. By the provision of John Wallace's will the trustees of the \$750,000 trust fund were to pay to Allen Wallace \$100,000 quarterly in installments and not more than \$100,000 in any one year. The testator directed that the income be paid in quarterly installments and not more than \$100,000 in any one year. The paragraph of the will relating to Mrs. Allen Wallace said:

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PRICE. Part of the price has been brushed off 5700 men's Winter mixture suits. 600 suits lost from \$10 to \$15. 3700 suits lost \$5, \$6, \$7 or \$8. Not to speak of 1400 other suits which are \$2, \$3, or \$4 down.

The results are found all along the line of prices. For example, among the suits now \$15 are 176 that were \$25 or more. Among the suits now \$20 are 212 that were \$30 or more. Mixture fabrics of every character included. All youths' sizes of Winter mixture suits, 32 to 35 chest, are now marked down to four prices, \$15, \$18, \$20 and \$22. Boys' suits too were revised. Long trousers and knickerbocker suits both included.

Men's Winter overcoats show reductions similar to those on men's suits. From \$4 to \$15 mark down mean extra values, especially among those now priced from \$25 to \$50. The scarf sale goes merrily on—All are \$1.50, \$2.00 and \$2.50 scarfs from our regular stock. ROGERS PEET & COMPANY. Three Broadway Stores. Warren st. 13th st. 34th st.

THE NEW THEATRE.

Central Park West. 62-63 Sts. Tel. 5600 Col. NON-SUBSCRIPTION PERFORMANCES TO-DAY AND TO-NIGHT SEATS IN ALL PARTS OF THE THEATRE.

THE SCHOOL FOR SCANDAL. Sheridan's Classic Comedy. Edw. Sheldon's DON IS UNCOMMONLY BRIGHT. A Drama of the South of To-day.

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AMERICA'S FOREMOST THEATRES AND HITS. HIPPODROME. Dally Mat. 2. Best Seats. 21. Ev. 5. 25c. 50c. 75c. A Trip. Ballet. Includes the 10 New Circus to Japan of Jewels. Earth. 25c. 50c.

HACKETT. 42d St. W. of B'way. Ev. 8:15. ANDREW MACK IN THE PRINCE OF DENMARK. With CHRISTIE MACDONALD.

MARGUERITE CLARK. With Wm. Morris in THE AFFINITY OF THE BLOOD. MON. JAN. 24. Seats 10c. 15c. 20c. 25c. 30c. 35c. 40c. 45c. 50c. 55c. 60c. 65c. 70c. 75c. 80c. 85c. 90c. 95c. 1.00.

MAXINE ELLIOTT. IN THE BROADWAY THEATRE. B'way cor. 41st St. Ev. 8:15. Matinee To-day 2:15. THE JOLLY BACHELORS with MORABAYES.

COMEDY. 1st St. B'way & 6th St. Ev. 8:30. Last Mat. 2:30. Last Night. LAURENCE LITTLE. THE WATCHER by Cora Maynard. JAN. 25. Seats On Sale.

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CASINO. B'way & 30th St. Ev. 8:15. OPERA CO. WHITNEY. THE CHOCOLATE SOLDIER.

BIJOU. B'way & 30th St. Ev. 8:30. CYRIL SCOTT IN THE LOTTERY MAN. LEW HERALD SO. B'way & 30th St. Ev. 8:15. LEW FIELDS. AS MATINEE TO-DAY 2:15.

WEST END. 123th St. W. of 5th St. Ev. 8:15. Matinee To-day 2:15. Frank Daniels in THE BELL OF GRANADA. N. 1'W. E. Marguerite Clark, King of Cadonia.

ST. U. Y. 44th St. W. of B'way. Ev. 8:15. ST. U. Y. 44th St. W. of B'way. Ev. 8:15. BELASCO presents THE LILY.

PLAZA. J. CORBETT & CO. ROBERTS. 30th St. Mat. 2. The Zancigs, others. AMERICAN MA GOSSE. Empire City Quarter. W. 42 St. Daily Mat. 2:30. Svengali Trio, others.

ELEKTRA. LECTURE RECITAL. Chas. L. Stafford, Lecturer and Pianist. MISS GRANT'S STUDIOS. 78 W. 53 St. Lillian Page, Soprano, will sing on Jan. 23.

COLUMBIA. B'way cor. 47th St. Ev. 8:15. Daily Mat. 2:15. Prices 25c. 50c. 75c. 1.00. Smoking. Fred Irwin's Big Show. Concerts.

ICE HOCKEY. PRINCETON. To-night. ST. NICHOLAS RINK. 65th St. W. of Columbus av. GRAND. THE HARVEST MOON. NEXT WEEK—THE CANDY SHOP. EDEN. (WORLD IN WA.) New Groups. MUSE. I. Cant. Jack Crawford. Monologues.

The 3rd Floor. That's where our Boys' Clothing is displayed at our Broadway Store.

Whatever is left there now is marked for a quick disposal. Here are the prices:

Table with columns for suits and overcoats, and their prices. Includes items like 7.50 and 8.00, 8.50 and 10.00, 12.00 and 13.50, etc.

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Still Another Suspect in Park Murder Case. Another suspect in the Lomas murder case, John Bories, a homeless middle aged wanderer, who answered the description of the supposed Highbridge Park murderer, was arraigned yesterday in the Essex Market Court. He denied knowing anything about the tragedy, but Magistrate Steiner held him under \$2,000 bail for forty eight hours