

POSSIBLY NO BRANDT APPEAL

Governor Stops His Inquiry, Expecting One to Be Made.

CARMODY MAY DROP IT

District Attorney, However, Is Under the Governor's Hand.

POWER YET TO PARDON

Dix Thought Not, but Is Told Gerard Decision Is Not Filed.

WHO APPLIED FOR CLEMENCY?

Brandt Says "He Made No Personal Appeal—Judge Lewis" Initiated It.

Whether there will be any appeal from Justice Gerard's decision that Folke E. Brandt obtain a new trial by habeas corpus will probably be decided to-day at a conference between Attorney-General Carmody and District Attorney Whitman.

Mr. Carmody is independent of the Governor. Mr. Whitman, however, is subject to removal if he doesn't take proceedings that the Governor insists on, and the Governor is insistent on an appeal.

Supreme Court Justice Gerard and Gov. Dix are at odds over the Governor's power to pardon Brandt immediately. Yesterday Gov. Dix, rejecting the Attorney-General's suggestion that Brandt be pardoned, gave out a statement saying that he has no power to exercise clemency, now that Justice Gerard has set aside Brandt's conviction and that he had suspended the pardon hearing entirely until an appeal from Justice Gerard's decision can be decided.

Justice Gerard when told of this said that it was a mistaken idea, because his order setting aside the conviction had not been entered or even signed, and that the order not being a matter of record yet does not affect the Governor's authority. He said pretty plainly that he was willing to give the Governor another chance to act but that he would not delay an unreasonable time in entering the order.

"The Governor," said Justice Gerard, "is evidently misinformed. Feeling assured of that I will do something of the propriety of which is doubtful—discussing probable action as to entering the order setting aside Brandt's conviction and granting the man a new trial. I think it should be made perfectly clear to Gov. Dix that the situation at present is as if no order had been issued. Therefore the Governor is in exactly the same position to-day that he was in before, fully empowered to exercise clemency if he sees fit. So far only my opinion in sustaining the writ of habeas corpus has been filed, but the opinion, of course, is not an order and does not in itself change Brandt's status."

"If the Governor indicates that he desires to act in the Brandt case I shall gladly withhold entry of the order for a reasonable time."

"Does that imply," Justice Gerard was asked, "that you will wait a week?" "Oh, no, not a week," said the Justice. "I would not feel justified in doing that, but I will wait a day or two in order that my misapprehension the Governor may be removed. I feel that he should really have another opportunity."

District Attorney Whitman said the situation Justice Gerard had stated the situation exactly.

"There is no record yet that the conviction has been set aside," he said. "Therefore there is nothing to prevent the Governor from taking definite action. Certainly Brandt will not be admitted to bail until Justice Gerard's order is entered."

Attorney-General Carmody said in Albany that Brandt must get justice some way and that perhaps he would not appeal from Justice Gerard's decision sustaining the writ of habeas corpus. Lawyers appear to be fairly well agreed that there is a likelihood of the decision being knocked out by the Appellate Division. In that event Brandt would have to go back to Dannemora to serve his sentence, provided no pardon came from the Governor.

Judge Hand, the Governor's Commissioner in the inquiry as to whether Brandt should be pardoned, returned from Albany last night after a conference with the Governor.

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15 cents

preme Court, I no longer have power to continue the hearing before Mr. Hand.

Under these circumstances, I am reluctantly compelled to consent that further proceedings before the commissioner shall, at least for the time being, be suspended, and have so ordered Mr. Hand. I, of course, expect and desire that the State shall appeal from the decision of the Supreme Court, and if that decision is reversed I shall continue the investigation and ascertainment of the facts before Mr. Hand. Under these circumstances, I shall not expect you to appear before me to-morrow.

JOHN A. DIX.

District Attorney Whitman received a telegram from the Governor that was worded exactly like the message to Judge Parker. In acknowledging its receipt Mr. Whitman, after consulting Justice Gerard, telegraphed to Gov. Dix:

Conviction of Brandt not yet set aside, and order has not been entered. If you desire to exercise clemency you can still do so. Judge Parker agreed with Justice Gerard that the Governor was probably misinformed as to the actual situation in regard to the entry of Justice Gerard's order.

"I shall not go to Albany, however," said Judge Parker. "I do not know what may happen in the next day or two. Mr. Brandt is in the Tombs yesterday and discussed getting bail. Mr. Townsend asked Brandt what his course would be if he was released. Brandt is now put himself at the disposal of the District Attorney and that nobody need have any notion that he would run away."

"If Brandt is in custody of his counsel will that be satisfactory to you?" Mr. Townsend was asked.

"I would not assume the responsibility," said Mr. Townsend. "It is more likely that a sufficient sum will be fixed as bail. I have already made arrangements with a surety company to go on Brandt's bond. I shall refer to Justice Gerard to-morrow morning to fix bail."

Mr. Townsend assumed that Justice Gerard's order will be entered to-day. If it is, Brandt of course will stay in the Tombs.

Brandt told his lawyer yesterday that he never made a personal application for pardon to the Governor. He said that about a year ago when he was in Clinton prison, he heard his story and promised that the case would be put up to the Governor. Mr. Dix, however, did not commit himself, and the Governor's pardon clerk and assistant legal adviser, called on Brandt since Justice Gerard rendered his decision. Mr. Whitman has an understanding with Mr. Dix that he will consult together before any decision is reached as to an appeal by either of us from Justice Gerard's decision.

"The District Attorney can," the Attorney-General replied, and he added: "I have heard nothing from Mr. Whitman since Justice Gerard rendered his decision. I, however, have an understanding with Mr. Whitman that he will consult together before any decision is reached as to an appeal by either of us from Justice Gerard's decision."

Mr. Whitman has not announced in advance of this that he will or will not do in regard to it.

After Gov. Dix had read Attorney-General Carmody's statement, as well as that of Justice Gerard, the Governor said the Gerard decision was filed the Governor had power to pardon Brandt, the Governor said: "I will have nothing more to say to-night."

ALTER GOV. DIX HAD READ ATTORNEY-GENERAL CARMODY'S STATEMENT, AS WELL AS THAT OF JUSTICE GERARD, THE GOVERNOR SAID THE GERARD DECISION WAS FILED THE GOVERNOR HAD POWER TO PARDON BRANDT, THE GOVERNOR SAID: "I WILL HAVE NOTHING MORE TO SAY TO-NIGHT."

POLICEMAN KILLS POLICEMAN. Coroner Sniffs at Anti-morism Statement Exonerating Morrissey.

Policeman Thomas J. Fitzpatrick of the East 10th street station house, who was accidentally shot by another policeman in the back room of the station house on Wednesday night, died in the Harlem Hospital yesterday morning.

Policeman John J. Morrissey, who shot his comrade, was held in \$1,000 bail to await the result of the inquest by Coroner Holt. Sergeant John J. Wagner gave the Coroner a statement which he had had been written by the signator of the dying policeman, whose signature was attached.

The statement told how Fitzpatrick's revolver protruded from his right hip pocket while he was bending over the sink to wash his hands. Morrissey, the statement continued, took the revolver from the policeman's pocket and pulled the trigger, "pointing it at my side."

The shot entered the man's abdomen. Morrissey said that he thought the revolver to be a broken one that Fitzpatrick had shot in a clear minutes before when they were in the dormitory.

Sergeant John J. Wagner and the prisoner were very anxious to take the statement back to the station house, but the Coroner wouldn't permit it. The Coroner sniffed and shook his head many times as he read it.

"No, siree," he told the sergeant, "you don't take this statement away. I'm going to keep this right here."

AUSTRALIAN BOYS HERE. Members of a League for Education by Travel Going Around the World.

Forty raincoats flapped in the evening breeze and forty pairs of hands were numb with cold, but the legs trudged sturdily up from the West Twenty-third street ferry to the music of a brass band.

State shall appeal from this decision of the Supreme Court. The Attorney-General has said that if the writ of habeas corpus should be sustained he would appeal from the decision, and I have also understood that the District Attorney of New York county believes that in case of such an adverse decision an appeal should be taken. If the decision of the Supreme Court is reversed I shall press to a conclusion the full investigation and ascertainment of facts by my commissioner, contemplated in my appointment of Mr. Hand. JOHN A. DIX.

The Governor said that he had been informed by District Attorney Whitman that he intended to appeal and that Attorney-General Carmody had also said that he would appeal.

Speaking of the postponement of the hearing by the Governor in the case to-day had announced he would give at noon to-morrow to Judge Alton B. Parker and De Lancey Nicolai on their proposition to secure for Mr. Schiff inquiry into the whole case, the Governor said that it had been postponed because proceedings of every kind in connection with Brandt's application for pardon had been blocked by the decision of Justice Gerard.

Under these circumstances, I am reluctantly compelled to consent that further proceedings before the commissioner shall, at least for the time being, be suspended, and have so ordered Mr. Hand. I, of course, expect and desire that the State shall appeal from the decision of the Supreme Court, and if that decision is reversed I shall continue the investigation and ascertainment of the facts before Mr. Hand. Under these circumstances, I shall not expect you to appear before me to-morrow.

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Phone 3026 Plaza for demonstration. The Graber Calculating Machine Co., 142 E. 59th Street.

WALDO WON'T OUIT HE TELLS HIS MEN

Police Lieutenants at Dinner Give Him the Biggest Sort of a Hand.

CALLED BEST POLICE HEAD

Suggestion for a Meet of Ex-Police Commissioners in Madison Square Garden Cheered.

Rumors that Police Commissioner Waldo is to resign were disposed of last night in a speech by the Commissioner at the annual dinner of the Lieutenants Benevolent Association in the grand ballroom of the Waldorf-Astoria, in which he told the diners that last night marked the close of his ninth month as Commissioner, and that he expected to be with them for many months more.

The statement was received with enthusiasm, but it was not equal to the ovation accorded the Commissioner by the lieutenants and their friends when Lieut. Enright, president of the association, introduced him to the assembly.

"For the first time in many years the police are now being led and not driven. The leader is of the good old house of Knickerbocker and of the royal line of 'Make Good.' I introduce the best Police Commissioner New York has ever had."

It was several minutes before Commissioner Waldo could proceed. The diners got up and waved flags at the end of the banquet, cheered as loudly as they could and then blew their police whistles.

The dinner was the largest in the history of the association, nearly 1,100 lieutenants and their guests sat down at the tables, while the boxes were crowded to their capacity with the women relatives and friends of the men.

Among those who accepted invitations and were guests of honor were Police Commissioner Waldo, Deputy Commissioners W. J. C. O'Connell, W. J. C. O'Connell, Controller Frederick G. Borough, President Steers, Cromwell, Miller and Conolly, former Chief John McLaughlin, Thomas D. Porter, John J. Reilly, David I. Kaufman, Robert Adamson, Patrick F. McQuinn, John W. Wamaker, Mayor Fitzgerald of Boston, John Temple Graves, William D. O'Connell, Magistrate Reynolds, Joseph Haas, and Inspector Donald Grant, president of the Police Captain's Association.

For the first time the Lieutenants had women guests at their dinner. They were Mrs. O. H. P. Belmont, Miss Grace Strachan, the Rev. Anna Shaw and Miss Inez Johnson.

The speakers in addition to Commissioner Waldo were the Rev. Father Bernard Vaughan of London, John D. Rockefeller, Jr., Miss Strachan, Dr. Ann Shaw, Herma A. Metz, Supreme Court Justice Hendrick and John G. Fitzgerald.

In his opening talk Lieut. Enright said that the police organization, once frowned upon by the Government, has now reached a better and higher estate.

"Their work is being recognized and approved of and the force is the better for it," he said. "The Government has now reached a better and higher estate."

"The Rev. Father Vaughan said he had come to have a speaking affection for the members when he met them. He told of his visit to the city and how he had despised the critics and revered the people. "Any blooming idiot can be a critic," he said. "You must remember that the friends of the people do not seek to find their faults, but their good points."

John D. Rockefeller, Jr., told the diners that he had seen the members of the police force. "If crime, vice and graft exist," said he, "it is our fault and not yours; it is ours for not making ourselves acquainted with the men who you encounter. The people of this city are awakening more than ever at the present time to the difficulties you encounter and to the necessity of a fair chance for you. That fair chance is coming."

Four George Washingtons. Four boys born yesterday in the maternity ward of Bellevue Hospital will be christened George Washington. The mothers who suggested the idea to Dr. Reich are Mrs. Annie Tobin, Mrs. Annie Reich, Mrs. Nora Reed and Mrs. Angie Williams.

JAPAN SHUTS COREAN MISSION SCHOOL

Its Head, George E. McCune, Supposed to Be the Arrested "Eckmann."

SOME 30 ARRESTS IN ALL

Alleged Atrocities Bring Protest From the Presbyterian Board.

The Rev. George S. McCune is the man meant by the despatch from Tokio published yesterday which reported the arrest by the Japanese in Corea of George Eckmann, head of the Presbyterian mission school at Syenychun, Corea, on allegations of being implicated in a plot against Gen. Count Terauchi, Governor-General of Corea, was the belief of the Lafayette Avenue Presbyterian Church of Brooklyn, after he had seen the despatch yesterday. Dr. McAfee is Dr. McCune's brother-in-law. He said that Mr. McCune is the head of the Presbyterian school at Syenychun and that there is no George Eckmann in the Presbyterian mission in Corea. Dr. McAfee has received no word of the reported arrest; neither has the Presbyterian Board of Foreign Missions. Dr. Brown, secretary of the board, said that he would cable to-day if no word had been received.

"McCune would be the very last man to raise any disloyalty against the Japanese Government," said Dr. McAfee last night. "He is a fine kind of a straight forward fellow. The missionaries have taken no sides in the troubles between the Japanese and the Koreans. They keep out of it. They are loyal to the established Government and they teach this loyalty to the Korean Christians. If any man had to be arrested McCune is the best that could have come upon, to prove that Japanese suspicions of disloyalty and fomenting trouble by American missionaries are groundless, for the whole spirit of the man is absolutely clean and antagonistic to such a thing."

"My opinion is that there is an anti-Christian movement being brought over Corea by Japan because of a revival of Shintoism, but because the Japanese seem to fear that Christianity will stir up anti-Japanese feeling among the Koreans. This is not true, for the teaching of Christianity is loyalty to government."

"The missionaries at Syenychun are mistified by the acts of the Japanese authorities. For a number of months teachers and students from the school have been carried away and imprisoned at the capital without reason and without explanation. The school has been forced to close because of several teachers enough left after these arrests. There have probably been thirty teachers and students taken off by the Government and imprisoned. They have been kept in prison for weeks and months, with no explanation and with no charge against them. Only a few have been released. Some of these have returned and have told of torture. Their physical appearance has shown this and some of them have returned mentally injured. The missionaries declare that these men are guiltless."

"So far as I know my brother-in-law has not protested personally to the Japanese authorities and his relations with them have been most friendly. He is not the senior member of the mission and so would not be the one to go to the Government officials. But I presume that the head of the mission has protested to the heads of the Government of the country to bring these things to their attention, things which may simply have been the acts of underlings without authority or knowledge of the superiors. The only explanation of his seizure, if the report is true, is that he was selected because he was head of the school."

"It is absolutely incredible that Mr. McCune could be involved in an affair of the kind," said Dr. Brown. "He is a man of the very highest type. It is just as incredible as to think of Bishop Grosvenor in a plot against the Government of the country to bring these things to their attention, things which may simply have been the acts of underlings without authority or knowledge of the superiors. The only explanation of his seizure, if the report is true, is that he was selected because he was head of the school."

"The Rev. George S. McCune has been in Corea for about six years. He was born in Pennsylvania, was educated at Park College at Parkville, Mo., and taught for some time in Corea. He has had a wife and three children. His wife is the sister of Dr. McAfee. They have three children."

Aleck Williams on Crime. Ex-inspector Says Mayor Should Take His Hands Off Police.

"To stop crime in the city," says ex-inspector Aleck S. Williams, "the crooks and thieves must be driven out of town, and it can be done in ten days if orders and backing are given the police."

"Take down the ban on the nightstick, wield it, strike the right spots, arrest again and again the known crooks and thieves and they will soon leave the city."

"There are too many suspended sentences. The Mayor should take his hands off the force of the department is what prevents crime. Evidences are always ready to take a chance. They wait for a full police watchfulness and alertness. The men only want to be told what to do and if they are backed up they will obey."

"You can't always get legal evidence, but you can get real evidence of the criminal intention of the crooked and the thief. It is enough to lock them up over night."

"Waldo is a competent man. I like him, and he would make good if left alone. The public should not be excited over a few crimes. We have had worse before and history will repeat again. Considering our mixed population, it is not unusual."

"Back the men up and the criminals will leave town at once."

Dog Bites Three Girls. A small mongrel cur that ran wild in the Fort Hamilton section of Brooklyn yesterday afternoon bit the three girls, aged 6, 8 and 9, of 724 Fourteenth street. Florence Steele, 10 years old, of 1847 Seventy-second street, and Jennie Devens, aged 10 years, of 1071 Sixty-sixth street. A policeman wounded the dog with a shot from his revolver and captured it. It was examined by the health authorities.

BAIL FOR JOY RIDER; FUNERAL FOR VICTIM

Mrs. Lena Bornkamp, Run Down and Killed in Rain Near Home, Left Six Children.

HUSBAND ILL THREE WEEKS

Chauffeur, Told to Take Auto to Garage, Called for a Woman Friend Instead.

Michael Morrissey, the chauffeur who ran down and killed Mrs. Lena Bornkamp on Wednesday evening while he was driving the car of his employer without permission, was admitted to bail in \$3,000 yesterday morning by Coroner Heilenstein. Sebort Davenport, brother of Dr. Melvin R. Davenport of 129 West Forty-seventh street, who employed Morrissey, went on his bond. Some surprise was expressed at the smallness of the bail.

Dr. Davenport, according to stories told to reporters, instructed the chauffeur to take the car to the garage. Morrissey instead of doing so drove to the house of Miss Katherine Kennedy of 821 East Thirty-seventh street and then drove home. According to the statute any chauffeur who takes a car out without the owner's permission is guilty of grand larceny.

While driving the car without Dr. Davenport's permission Morrissey ran down and killed Mrs. Bornkamp. The statute says that a person who kills another person while committing a felony is guilty of first degree murder. This phase of the case will be brought to the attention of the homicide bureau of the District Attorney's office to-day. Coroner Heilenstein, who is not a lawyer, said yesterday that this brought up a ticklish situation. He himself, although he has not been advised by the county prosecutors, doesn't think the statute will apply.

Mrs. Bornkamp's husband was a clerk in a lodging house, but has been sick for three weeks and unable to earn any money. Her husband was janitor of tenement house at 1065 Second avenue and was the family's chief support. Of the six children, two are old enough to work, but the other four are young. Mrs. Bornkamp is 38 years old. She has three children, Freda, 7 years; Florence, 5 years, and the baby, Willie, 2 years old, were seated in one of the rooms eating supper from a table which was covered with oilcloth while the father was ill in bed in one of the other rooms. The bed in which the male children sleep was in the kitchen.

"And by the time the show was over I thought he was about right."

Native wit received its just reward yesterday at the Pennsylvania Station. Sam, one of the colored porters, espied a tired looking collegier bearing a heavy English bag and sliding alongside proffered his services. The weary traveler accepted the assistance, but not without all the reluctance natural to an abjected man. As they walked along he looked down at the small darky straining under his burden, and his misgivings seemed to get the better of him.

"Here," he said, reaching out a hand, "you'd better let me have that; I am stronger than you are." But Sam sidled off, protesting.

"Yes, boss," he admitted hastily, "you is stronger than me, a heap stronger, but you see, boss, you ain't dressed for the part."

"Needless to say, he kept the bag, and when he returned to his employer's carriage was lightened by a twenty-five cent coin."

Saks & Company

Broadway at 34th Street will CONTINUE today and CLOSE tomorrow the Sale of Men's Suits

formerly \$25, \$23, \$20 & \$17.50 at \$14.

This sale includes every popular-priced suit in our present stocks. All have been reduced from the former prices stated to 14.00, in order to adhere to our policy of disposing of every garment at this time and carrying no obligations to the season ahead.

The assortments include heavy and light weight suits, all the products of the Saks tailoring organization, and distinctive with that style and finish which serve to distinguish them from other ready-for-service clothes.

An ample assortment of sizes, and more youths' sizes than we are usually able to assemble in this particular sale.

Beginning this morning semi-annual clean-up sale NECKWEAR FOR MEN at 25c

6,000 ties, in a very large variety of colors and patterns—the few of a kind left over from hundreds of sets that we displayed during the past few months.

As the cheapest tie we sell regularly is 50c—and as this sale embraces many of the finer grades—we need hardly tell you that if you do not respond promptly you will not be in time.

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