

COMMISSION IN LUNACY.

Justice Fitzgerald Has Named Three Men to Determine Thaw's Sanity.

TWO LAWYERS, ONE DOCTOR.

Must Proceed with the Inquiry Forthwith—Jury Will Be Excused Indefinitely To-day—Whether They Meet Again Depends on Decision of Commission.

New York, March 26.—Harry K. Thaw may never again face the jury empaneled more than nine weeks ago to try him on the charge of murder in the first degree. Justice Fitzgerald to-day unexpectedly handed down a decision ordering a commission in lunacy to inquire into the present state of mind of Stanford White's slayer. The decision of the three distinguished men named to conduct the inquiry will guide the future action of the court as to ordering Thaw to an asylum for the insane or directing that the indefinitely interrupted trial for his life shall proceed.

Justice Fitzgerald announced the appointment of the commission privately, in his chambers. Evelyn Nesbit Thaw was there with the lawyers and it became her task to break the news to her husband in the Tombs. "Forthright" when she left the judge's rooms in the ornate colonial building, the young woman, who has been such a conspicuous figure in the trial from first to last, was smiling and cheerful when Thaw was brought from his cell to the hospital ward of the prison to meet her. Thaw accepted the court's decision philosophically and once more declared he had no doubt the commission would declare him a sane man.

MAKE-UP OF COMMISSION.

The personnel of the commission named by Justice Fitzgerald lends a new distinction to this already notable case. The men who will determine Thaw's mental capacity are: Morgan J. O'Brien, former justice of the appellate division of the state supreme court; Peter B. O'Neil, formerly district attorney of New York county and a lawyer of high legal attainments; Dr. Leopold Engel, a renowned physician and authority on mental disorders.

Former Justice O'Brien is one of the trustees, with Grover Cleveland, of the Hyde stock in the Equitable Life Assurance society purchased by Thomas F. Ryan just prior to the insurance investigation. When he was a candidate for reelection to the bench in 1904 as a Democrat Justice O'Brien was unsuccessful. President Roosevelt made a trip from Washington to Oyster Bay to cast his ballot for him.

Before being elected district attorney of New York county in 1903, Mr. O'Neil had been a member with William C. Whitney of the commission appointed in 1897 to revise the laws of the state affecting public interests in New York city. He is a graduate of Harvard.

Dr. Putzel, the third member of the commission, is a graduate of Bellevue hospital medical school and has had a long experience in that institution. He is qualified before the state medical board as an examiner for lunacy.

The Thaw jury was ordered on Friday to report before Justice Fitzgerald tomorrow morning at 10:30 o'clock. At that hour there will be a brief court procedure, the jury being excused indefinitely. Whether or not Thaw will be brought into court for this ceremony remains to be seen. His presence will not be necessary.

NO DATE FIXED FOR MEETING.

No date has been fixed tonight for the first meeting of the commission. There will probably be some definite announcement on this point tomorrow, however, for the law under which the commissioners were appointed directs that they proceed with their inquiry forthwith. Justice Fitzgerald said it would rest with the commission as to whether its hearings shall be public. In the last case of this sort in this jurisdiction—the inquiry into the mental condition of Josephine Brannova, who killed her aunt and uncle—the commissioners' inquiry was conducted behind closed doors. The girl was declared sane and subsequently was acquitted by the jury.

The Thaw lunacy commission will be attended by District Attorney Jerome T. The lawyers for the defendant will also be present and the commission may direct and compel the attendance of any witnesses it may desire. It is probable that Thaw will be asked first of all to submit to a physical examination. Having undergone several of these since his

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incarceration, he is somewhat nervous on this subject but it was said to-night by his counsel that he would do everything in his power to aid the commission with his work and that he hoped for an early opinion as to his sanity.

THAW WAS DOWNCAST.

Thaw's lawyers and the defendant himself were downcast when they were first made acquainted with Justice Fitzgerald's decision, but all were manifestly pleased when the later announcement as to the personnel of the commission of inquiry was made. Mr. Delmas, in particular, declared that Justice Fitzgerald could hardly have selected a more generally satisfactory commission—one whose decision would command more confidence and respect. District Attorney Jerome seemed pleased with the result of the dramatic appeal he made last week to the conscience of the court, asking an interruption of the trial on the ground that the defendant was not mentally sane and that he could not intelligently confer with and advise his counsel and did not understand the nature of the proceedings against him.

NOTIFICATION OF THAW.

Messrs. Harridge and O'Reilly went with Mrs. Evelyn Thaw to the Tombs and there in the hospital ward they met the prisoner. This ward had been placed at the disposal of the court. The lawyers of the defendant did not go to the Tombs, but hurried up town with the news of the commission to their mother and sisters who were waiting in their apartments. Thaw had divined the result of the conference with Justice Fitzgerald and was not in the least surprised. "It is all right, dearie," he said to his wife. "I am not afraid of a commission. I am a sane man now, just as sane as the judge himself, and I am sure that any fair-minded commission will so declare me."

The attorneys quickly withdrew from the conference and Thaw and his wife sat for a long time together in discussing what the commission probably would do. When Mr. Harridge came out he declared: "The fortitude of the boy (meaning Thaw) astounds me sometimes and it certainly did to-day."

THAW MAKES STATEMENT.

Later in the afternoon Thaw sent out a statement in which he said: "Everything is perfectly satisfactory to me. I am sure I will be able to satisfy the commission that I am sane at the present time. Anything Justice Fitzgerald does is all right. He has always acted in a fair and impartial manner."

The law under which the commission was appointed to-day provides that the commissioners must take oaths as referees; they must be sworn by a district attorney and counsel for the defendant and may compel the attendance of witnesses. The statute then proceeds: "When the commissioners have concluded their examination they must forthwith report the facts to the court with their opinion thereon. If the commission finds the defendant insane, the trial or judgment must be suspended until he becomes sane, and the court, if it deems his discharge dangerous to the public peace or safety must order that he be, in the meantime, committed by the sheriff to a State lunatic asylum, and upon his becoming sane, he be redelivered by the superintendent of the asylum to the sheriff."

When received into an asylum he must be detained until he becomes sane. Then the superintendent must give written notice of the fact to a judge of the supreme court of the district in which the asylum is situated. The judge must require the sheriff without delay to bring the defendant from the asylum and place him in the proper custody until he be brought to trial, judgment or execution as the case may be, or be legally discharged."

While the law simply prescribes any State asylum, it is generally the custom to send all persons charged with crime to the asylum at Mattawana for the criminal insane.

The court directs what compensation shall be paid the members of a lunacy commission. There are no limitations upon him and the cost is paid by the county.

PRACTICE CANNIBALISM.

Starving Chinaman Forced to Eat Each Other—Fever Still Spreads.

Sanchai, March 26.—The famine stricken Chinese have been practicing cannibalism in localities where the distress is most acute. The authorities have thus far been unable to do much to relieve the situation. The famine stricken Chinese have been practicing cannibalism in localities where the distress is most acute. The authorities have thus far been unable to do much to relieve the situation. The famine stricken Chinese have been practicing cannibalism in localities where the distress is most acute. The authorities have thus far been unable to do much to relieve the situation.

NEGRO WITNESSES HEARD.

Union Their Guns Were Not Used in Brownsville Shooting Affray.

Washington, March 26.—Although several white officers of the 25th infantry who have just concluded their attendance at the Penrose court martial at San Antonio reported to the Senate committee on military affairs to-day, the committee continued its examination of former negro soldiers. Thomas Taylor and Joseph L. Wilson, both former members of company B, 25th infantry, were identified by experts at the Springfield armory with shells picked up in the streets of Brownsville, were on the stand. Their examination was intended to show that their guns were in good condition when inspected the morning following the shooting and that they could not have been used in the shooting affray. Spotswood W. Talfer, formerly sergeant major of the 25th infantry, also testified concerning incidents at Fort Brown on the night of the shooting.

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HUGHES PARTY IN SENATE

Raines's Defeat an Incident of Great Importance.

Henceforth the Old Bi-Partisan Machine Run by Hughes, McCarran, Grady and Aldis, Will Be Opposed by a Bi-Partisan Combination.

The defeat of John Raines in the Kelsey trial last week is generally conceded here to be the most important single incident of the present session, says the Albany correspondent of the New York Evening Post, who continues: Henceforth, as a result of this, there are to be two forces in the Senate, the make-up and purpose of which will be obvious to the public, and they are to be the Hughes and anti-Hughes forces. Henceforth there has been a deal of talking, much threatening, some few concessions, but the old order, the old machine, has dominated the session. It has smothered the Hughes programme. It has suppressed the Hughes senators. It has used its old-time forces for the old-time purposes and in the old-time, dilatory and disreputable fashion.

Governor Hughes announced that he did not purpose to interfere in the Legislature last January. This announcement was taken advantage of by Raines and his fellows to organize a hostile Senate. For more than three months the friends of Mr. Hughes have been forced to sit silent while the forces of reaction triumphed, and nothing was done. But last week the course of events changed. Three men, each strong, each able, each with an enviable public record, combined to bring an intolerable situation to a close. These three men are Armstrong, Page and Hinman. Two of them are patently friends of the governor; the third is conspicuous as the best lawyer and the most independent senator in the upper house. With this combination, the old solidarity of the Senate machine comes to an end; with this combination, moreover, the governor has in the Senate a party and he is not likely to refrain from indicating to the public where his friends are.

THE HUGHES PARTY IN THE SENATE.

The Hughes party in the Senate, then, has come at last. No one has doubted, all along, that it must come. The anti-Hughes party was an automatic creation. Every one knew that McCarran and Grady, Raines and Aldis, the leaders of the old Senate machine, were hostile to Hughes. Every one credited them with a determination to use their control of the Senate machinery to block Hughes. The organization of the Senate by Raines was a proof of this. But up to last week, the bi-partisan combination of democrats and republicans, who shuffled party votes back and forth, traded and delivered to each other "sides," were in control. A theory of party government, based on the fiction of two parties watching each other and each profiting in turn by the mistakes of the other, has been sacrificed. Every time the republicans have committed some political crime, Grady has given them enough votes to make it impossible for the democrats to make any party issue out of the misdeeds. A corporation made up of equally interested stockholders, rather than a State Senate, this is what had come to pass in the upper house. Faithful to this old and long sustained tradition, McCarran and Raines stood together last week against Hughes. With them stood all the sharers in the old order. But the significant fact to be noted is that the new organization was not bi-partisan. With such republicans as Page, Hinman and Armstrong were Taylor and Cochran, two of the best democrats in the Senate. Where Page and Hinman threw off the yoke of Raines, Taylor and Cochran laid aside the tyranny of Grady. The decent men of the Senate for the first time in years successfully served notice on their reputed leaders should they deliver them for an improper purpose or to an improper cause.

SIGNIFICANCE OF THE NEW ALLIANCE.

The significance of this incident is that if Armstrong and Page can remain in control, the Grady, Raines, McCarran regime is ended. Henceforth a majority of the Senate will be committed to follow the leadership of honest men, who are identified with the Hughes programme. Henceforth the programme of the governor will be safe from all the sneaking, the secret, and insidious attacks of the "Old Guard." But if Armstrong and his friends are not able to remain in control, advantage still accrues from their union, for henceforth the governor will have in the Senate a fighting minority, whose character can now be judged by the whole force of the Tammany incompetents, and of the Cassidys, Wilcozes and their kind. It is aligned, the defeat of the Hughes forces is practically certain. But the defeat will not terminate the contest; rather, it will begin it. Henceforth the opponents of the governor will be working always under the shadow of the Hughes forces, and exposed by the searching criticism of Page, Armstrong and Hinman. The democratic allies of McCarran will be offset by such men as Fuller of Brooklyn, one of the ablest and best democrats who has sat in the Senate in a generation. The color of party expediency, the pretext of partisan tactics will be stripped from Raines and Grady, by the refusal of these men to follow them, and the public will know from day to day what is going on in the State Senate.

Nor need one imagine that Gov. Hughes will remain indifferent to such a contest. To be sure, he may not interfere in the Senate—he probably will not—but his appeal to the public will serve to indicate where he stands and what his relation is

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CONDITONAL GIFTS OF \$625,000

General Board of Education Begins Distribution of Rockefeller's Great Gift.

FIVE INSTITUTIONS GET IT

Yale to Have \$300,000 and Princeton \$200,000—A Total of \$425,000 Awarded to Colored Schools—Names Not Made Public—Might Discourage Other Gifts.

New York March 26.—The first distribution by the General Education Board since it received John D. Rockefeller's most recent contribution of \$32,000,000 was made at a meeting of the board to-day when conditional gifts totaling \$625,000 were made to five educational institutions.

The money was divided as follows: Yale University \$300,000, Princeton University \$200,000, Bowdoin College, Brunswick, Me., \$50,000, Colorado College, Colorado Springs \$50,000, Millsaps College, Jackson, Miss., \$25,000.

After making these appropriations the board voted to give a total of \$425,000 to colored schools the names of which were not made public lest the help of the board should tend to discourage gifts to these schools from other sources.

With the five principal gifts is the condition that the institution shall raise a specified sum of which the board appropriation shall be a part. Yale and Princeton are each to raise \$200,000, Colorado College \$50,000, Bowdoin \$50,000 and Millsaps \$25,000.

The board tonight announced gifts thus far from the John D. Rockefeller foundation for higher education to eastern, western and southern colleges amounting in all to \$1,575,000 which is to go toward a total of \$2,500,000 the colleges themselves are to raise. The western States get \$500,000, the eastern \$500,000 and the southern \$500,000.

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