

HIGH COURT DENIES LAST PLEA TO SAVE BECKER FROM CHAIR

Refuses Reargument of Own
Decision, Leaving Only
Hope in Whitman.

HIS VICE GREATLY AFFECTED BY RULING

The Court of Appeals yesterday denied to Charles Becker a reargument of its recent decision which refused Becker a third trial for the murder of Herman Rosenthal. The action of yesterday means that so far as the State courts are concerned Becker's last hope is gone.

"Do you intend to bring the Becker case before the Federal courts?" Becker's chief counsel, Martin T. Manton, was asked last night.

"I do not think so," answered the lawyer. "Just now I don't see any constitutional grounds upon which to go before the Federal courts with likelihood of success."

"Do you mean you are through with the case?"

"Oh, no," Mr. Manton answered. "We have in mind an appeal for Executive commutation of sentence. I am not in a position to-night to make definite statements, but we shall probably make an announcement around noon Saturday."

The move for Executive clemency will take the form of an application to the Governor for an examination of the testimony in the Becker trial, with a request that Gov. Whitman appoint Lieutenant Schoenbeck to examine the testimony.

His Only Hope.

The only hope then, and everybody concerned seemed to think the hope a very slim one, is that after going over the case once more the Lieutenant-Governor will recommend a commutation of sentence from death to life imprisonment.

Mr. Manton and Mrs. Becker, so the lawyer said last night, will go to Sing Sing early to-day and have a conference with Becker. Becker's counsel expects to get back to his office before noon and probably will make a definite announcement as to future steps to be taken before he leaves at noon for his summer home at Sayville.

Becker was told yesterday afternoon by Father Cashin, his spiritual adviser at Sing Sing, that he should not expect to get back to his office before noon and probably will make a definite announcement as to future steps to be taken before he leaves at noon for his summer home at Sayville.

Mrs. Becker had nothing to say last night for publication further than to repeat her former statements that she intends to make every possible effort to save her husband's life. The realization last night that the last hope of State judicial interference with Becker's execution had been swept away seemed to affect Mrs. Becker greatly.

Last Cent Gone.

She has not begun to get a list of signatures to a petition to the Governor as yet, although she is considering this step, together with a number of other suggestions that have come to her. Becker is known to have written to old friends recently to ask for financial assistance to carry on his fight, but it was said for him yesterday that he had not been any more active along these lines during recent days than he has been for some time past. His last cent has been spent, possibly in the purchase of a criminal case, to review his own work. The court handed down no opinion with its decision, but merely denied the motion for reargument with a sentence of refusal.

Unless Mr. Manton's plea for executive commutation of sentence is successful Becker will probably be executed on the third anniversary of the murder of Rosenthal. He has been sentenced to die during the week of July 12. Friday, the day usually selected at Sing Sing for the execution of a condemned man, fell on July 16, or four weeks from yesterday, and Rosenthal was killed a few minutes before 2 o'clock A. M. on July 16, 1912.

JURY GETS CARNIVALE MURDER CASE MONDAY

Counsel for Defence in Sum-
ming Up Lays Stress on
Rofrano's Testimony.

All the evidence against Rocco Carni-
vale, also known as Rocco Cornell, who
has been on trial for two weeks before
Justice Davis in the Supreme Court for
the murder of Michael Gaimari, was in
yesterday. The case will be submitted
to the jury on Monday.

Carnivale's counsel, Lloyd P. Stryker, summed up yesterday for more than three hours and Assistant District Attorney Brothers will review the evidence on Monday morning. Justice Davis will then charge the jury.

Mr. Stryker laid considerable stress on the testimony of Michael Rofrano, a Deputy in the Street Cleaning Department, who has been mentioned in the "man behind" the killing of Gaimari. Rofrano was a witness for the defence to deny the testimony of Joseph La Salle concerning telephone calls between Carnivale and Rofrano at the latter's office in the Municipal Building. Mr. Stryker said about Rofrano:

"His testimony shows that my client is innocent and the victim of a conspiracy engineered against this defendant and Rofrano by the latter's political enemies."

Counsel for Gaetano Montomagnino said yesterday he would ask Justice Davis to grant his client another trial on the ground of newly discovered evidence growing out of the testimony given by Rofrano that he was never in conversation on the telephone with Carnivale at the time sworn to by Joseph La Salle. This evidence was not known to the lawyer, he says, at the time he defended Montomagnino.

Indicted Lawyer Disbarred.

Addison S. Sanborn, a lawyer of 133 Montague street, who is under indictment on a charge of appropriating \$328 out of the funds of a client to his own use, was disbarred yesterday by the Appellate Division of the Supreme Court in Brooklyn, thus confirming the report of Official Referee William B. Dickey in his case.

READY FOR LAUNCHING OF THE ARIZONA TO-DAY



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Miss Esther Ross.
Sponsor of the battleship Arizona.
Left to right: Miss Sadee King and Miss Eva Behn of Phoenix, maids
of honor to Miss Ross.

The New York Navy Yard was being prinked and primed yesterday in expectation of holding its biggest crowd to-day to see the battleship Arizona slide down the ways. Officers of the yard expect 60,000 visitors and guests.

As for the Arizona, she was being relieved of all but the necessary shoring, and stood bulky and impressive in bright red and gray paint, apparently as immovable as Gibraltar. But men were at work all day driving in the wedges that lift her to the sliding ways, and when 1 o'clock comes to-day it will need but the turn of a wheel by Naval Constructor Stocker to send her sliding toward her first dip in the water.

It has been decided by Gov. Hunt of Arizona that both wine and water will be used to christen the big ship. After precedent and tradition workers, Gov. Hunt announced that he had always intended the ship to be christened with wine, but that if it were possible a little water from the Roosevelt dam would also be spilled on her bow. Miss Esther Ross of Arizona will break the champagne bottle and also the water flask, if it is possible for her to do both quickly enough.

The big observation stand for the officials and members of the christening party was in place yesterday, decorated with flags and bunting. On it will be the guests of Secretary of the Navy Daniels. It is expected that Mayor and Mrs. Mitchell will be present, and many other Federal, naval and local officials.

The first floor of the ordnance building in the yard has been cleared of its guns to make way for the luncheon to be given by Secretary Daniels and the Arizona. The launching bearing the name Arizona and the date of the event have been made from metal of the gun carriages of the old battleship Maine, and will be distributed among the distinguished guests.

There are three tickets to the yard—white, which are good at the Sandusky street gate and admit to the left hand enclosure on the starboard side of the ship, and blue and yellow, which are good at the Graham and Clinton street entrances and admit to the opposite side of the ship.

Gov. Hunt arrived at the Waldorf-Astoria at 6:30 last evening with seventeen commissioners whom he appointed to be present at the christening of the Arizona.

They came on a special train and stopped in Washington long enough to call on Secretary Daniels and show him the bottle of water that will be used in christening the ship. This bottle contains the first water that went over the spill-ways of the new Roosevelt dam, near Phoenix, and has been mounted with the Arizona.

Miss Esther Ross came in Gov. Hunt's party with her parents, Mr. and Mrs. Ross of Prescott, others in the party are Mr. and Mrs. E. K. Clark, Capt. L. W. Mix, chairman of the commission, and Mayor of Nogales; Lindley C. Morton, Miss Eva Behn and Miss Sadee King, who will assist Miss Ross in the christening; Patrick Gorham and Walter Hege.

"We shall be ready to go to trial next week," said Frank A. Cook, Deputy Attorney-General yesterday. "There is no other step we can take to prevent a jury hearing."

Mr. Cook with Deputy Attorney-General Alfred L. Becker presented the argument before the Court of Appeals to prevent the jury trial.

That was tried early in March last before Justice Page in the Criminal Branch of the Supreme Court, charged with conspiring with four other persons to escape from the hospital for the criminally insane at Matteawan. He escaped on August 17, 1913. A jury cleared him of the conspiracy charge.

Thaw's attorneys then applied to Justice Page for an order to return their client to New Hampshire, from which State he had been extradited. Thaw was taken back to the Tombs. Later, on the recommendation of his physician, he was transferred to the Ludlow street jail, where he is now held.

After the adverse decision by Justice Page and an affirmative decision by the Appellate Division of the Supreme Court Thaw obtained a writ of habeas corpus. Attorneys agreed to compare affidavits from sanitary experts testifying to his soundness and a legal brief setting forth that he should be released from custody.

When the habeas corpus writ had been granted Thaw's attorneys applied to Justice Hendrick for a trial by jury. Justice Hendrick agreed to grant the writ to act in an advisory capacity to help him determine the condition of the prisoner's mind. The Supreme Court sustained Justice Hendrick's decision after which the Attorney-General carried the case to the Court of Appeals.

The latest appeal was argued in Albany on June 4.

THAW'S SANITY WILL BE DECIDED BY JURY

Justice Hendrick's Ruling Is
Upheld by the Court
of Appeals.

TRIAL LIKELY NEXT WEEK

ALBANY, June 18.—The Court of Appeals ruled to-day that Harry K. Thaw, slayer of Stanford White, is entitled to a jury trial. The decision of Supreme Court Justice Hendrick is upheld by the decision.

The opinion of the court was written by Justice Frank H. Hiscock. Chief Justice Willard Bartlett took no part in the case. Judges Seabury, Hogan, Chase, Hiscock, Cuddeback and Miller concurred in the opinion, which says:

"It is plain that Mr. Justice Hendrick does not by calling a jury intend at all to evade the burden and responsibility of ultimately deciding the issue which has been raised, but simply intends to take the verdict of such jury by way of advice and aid in making such ultimate decision, and, therefore, the question is presented whether a Justice before whom such a proceeding is pending has the power in his discretion to call to his aid a jury, it being admitted that the relation in the habeas corpus proceedings is not entitled as a matter of right to a jury trial."

"The command of the statute is for a 'summary way' of procedure. This means that it shall be prompt and without unreasonable and unnecessary delay. Having in mind ordinary legal procedure, it doubtless means that there shall be no adjournments, and that such a proceeding shall not be placed on a calendar where it would not be reached in some time; that it shall have precedence over other matters. But of course some discretion must be left to the court or Judge as to the time and mode of hearing even such a proceeding."

"The question whether the submission of an issue of fact to a jury for the aid of the court would result in a delay would be occasioned by calling one. If one could not thus be obtained it might result in reprehensible and forbidden delay."

It is urged that even though the error of Justice Hendrick's ruling is corrected on appeal that still would not afford relief for the delay and injury already caused, but this argument does not appear to us. As has been sufficiently stated, it is not to be assumed that a Justice will violate the provisions of the statute by ordering a jury where such step will result in delay, and if it should be otherwise the efficacy of the right to appeal is not to be denied because the necessity for correcting error does not appear to us.

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PARENTS GUARD GIRL CALLED SCHOOL THIEF

Fear Bessie Armstrong May
Attempt Suicide—Father
Explains Case.

Miss Bessie Armstrong.

High school girl who says she doesn't know why she stole.

The parents of Bessie Armstrong, who is to appear in court this morning, charged with stealing from her classmates in the Curtis High School, West New Brighton, Staten Island, kept a close watch on her yesterday, fearing that she might attempt suicide. They believe that she may be suffering from a form of dementia due to overstudy, and that a mental breakdown has been the cause of the thefts she has confessed to.

When this slight, nineteen-year-old girl, poet of a graduating class with which she cannot be graduated now, goes before Magistrate Handy in the West New Brighton police court this morning, everybody concerned in her arrest will want the case against her dropped, for the school authorities, from the principal down, feel that the loss of her graduation certificate has been sufficient punishment.

But Frederick W. Clifford, who will be the girl's lawyer, doesn't see how Magistrate Handy is going to have the power to quash the case, for the complainant will be Mrs. Marie Young, the police matron, who posed at the school as a student when the examinations began, who trapped Bessie Armstrong with the marked bills she left in a handbag in the wardrobe locker.

"I want to say last night that he thought Miss Armstrong would waive examination and would then be held for trial in Special Sessions, where she would enter a plea of guilty. The score of girls who have identified the various articles found in a closet in Miss Armstrong's room at her home, 1952 Richmond terrace, Port Richmond, declared yesterday that they would not testify against her unless they were subpoenaed."

William Armstrong, Bessie's father, has urged her to make a complete confession in court today, though all he gets her to say is "I stole yesterday." She seldom slept more than five hours a night. A year and a half ago she had a nervous breakdown and

has been a good girl, said Mr. Armstrong. "She did four years work at a high school in three years. I have a good feeling about her. It was read, read, read. She seldom slept more than five hours a night. A year and a half ago she had a nervous breakdown and

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Miss Bessie Armstrong.
High school girl who says she doesn't know why she stole.

was out of school for six months, but she made it up. Two doors at the time warned me that she was overworking. "We have been told to watch her carefully because we don't know what she will do."

"We feel sure that mental trouble is the cause of it all. I know that she didn't steal because she needed money. I gave her a dollar a week spending money. At Christmas time I gave her all my pay and let her buy the presents."

"No, it wasn't the money. It was something wrong in her head. Besides all her school work she was class poet and contributed things to the school paper."

"Yes," put in Mrs. Armstrong, "one of the songs she wrote was to the tune of 'Tipperary.' It began: 'It's a long way to Curraghmore, it's a long way to go.' And after graduation we were going to move to Brooklyn so Bessie could go to the training school there."

News of the girl's arrest came as a shock to most of the 1,800 students of the Curtis High School, for until yesterday only the members of the graduating class had known of it.

Franklin D. Stafford, the Plaintiff hotel clerk, convicted of perjury, Rae Tanzer and her sisters, and "others unknown to the Grand Jury."

It is maintained by the Slades' counsel that the original case connecting Rae Tanzer with James W. Osborne will not have to be considered at the trial next week, since the alleged tampering with witnesses did not take place until after the arrest of Rae Tanzer on a charge of using the mails to defraud Mr. Osborne.

The Appellate Division of the Supreme Court in Brooklyn yesterday cut in half the verdict of \$35,000 awarded to Catherine O'Rourke, a young Irish girl, against the Cunard Line for alleged mistreatment by employees of the company on her trip across the Atlantic on the steamship Campania in April, 1911.

The girl had been falsely accused of being the mother of a dead infant found on the deck and was subjected, according to the evidence at the trial of her hearing, to the company, to many indignities and cruel treatment. On March 20, 1914, she won the \$35,000 verdict.

The Cunard Line appealed on the ground that it was excessive, and Miss O'Rourke must now be satisfied with \$17,500.

The object of the proposed commission hearing, it was said, would be to sift the whole proceedings growing out of Rae Tanzer's \$35,000 breach of promise suit against James W. Osborne—proceedings resulting from the appearance of the elusive Oliver. It has been openly charged by the Slades throughout the case that Oliver was a myth created by James W. Osborne, and it would be principally to determine just how Oliver was brought into the case that the Slades would desire the suggested hearing.

None of the Slades would discuss their coming trial early next week, referring instead to Chandler, who lived in the Martin W. Littleton, United States Attorney H. Snowden Marshall said he had not heard of the reported plan of the indicted to leave the country.

General at Washington to act in the Tanzer-Osborne matter. If any charges are made, however, said Mr. Marshall, they will receive a full hearing.

Meanwhile the elusive Oliver, Rae Tanzer's erstwhile sweetheart, is not working the Federal authorities, who are preparing to prosecute the two Slades and Albert J. McCullough, a private detective who figured in their investigation. Mr. Marshall still retains possession of Oliver's trunk and wardrobe found in the missing one's room. The Federal detectives are admittedly no nearer to finding Oliver.

Val O'Reilly, however, who is head of a detective agency and whose men subpoenaed Special Treasury Agent Carl H. Chandler to appear for the Slades, got a mysterious clue yesterday morning to Chandler, who lived in the form of a telegram, which read: "Have proven theory. Your man lived years Oliver's district." O'Reilly thinks the sender referred to Chandler, who lived in the tenement until last February. Chandler denied on Thursday that he was Oliver or, as the Slades contend, the man who posed as Oliver before Mrs. James W. Osborne at the Sherman Square Hotel.

The case against the Slades and McCullough will probably be reached by Tuesday afternoon or Wednesday morning in Judge Wallace's branch of the Federal District Court. Assistant United States Attorneys Roger R. Wood and Samuel Hersenfeld have subpoenaed a number of other witnesses. Several newspaper reporters have been served with subpoenas. The witnesses the Slades are alleged to have interfered with are

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IN
Week End Necessities.

When Presiding Justice Ingraham called the case, Ketchum and White sides took seats at the counsel table and the court directed Ketchum to begin his argument. He arose but remained silent for a time, and after asking him to proceed Justice Ingraham left the bench and Justice Clark presided. After Justice Clark had said, "Proceed," and Ketchum said nothing, he asked, "Do you desire to be heard?"

"Would I be here if I didn't desire to be heard?" replied Ketchum. "I represent the plaintiff, the wife of this man here."

Justice Clark then asked Ketchum to begin talking, and to relieve the suspense Mr. Whitehead asked, "Does the court desire to hear the plaintiff?" Justice Clark told him to wait until Ketchum had finished and after instructing Ketchum again to proceed with the argument and meeting with no response, Justice Clark said, "Please proceed."

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