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RALEIGH, N. C., MONDAY, MAY 25, 1908.

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HARRY THAW NOT TO GET OUT ON WRIT OF HABEAS CORPUS

Young Man's Application Denied By Justice Morschauser, Who Holds Prisoner Is Insane and May Never Be In Good Mental Shape Again.

JUSTICE DOWLING'S COMMITMENT IS UPHELD Prohibitionists

New York Judge, Before Whom Second Murder Case Was Tried, Within the Law When He Sent Harry to Matteawan Asylum.

Poughkeepsie, N. Y., May 25-Justice Morschauser handed down a formal opinion at 7 o'clock this morning dismissing the writ of habeas corpus filed by counsel for Harry K. Thaw to have him liberated from Matteawan state insane asylum

The justice decides that Thaw is insane and that the commitment of Justice Dowling is constitutional. The court further holds that Thaw is suffering from a mental disorder and may have a recurrence of the malady similar to that from which he was suffering when he shot and killed Stanford White on the roof of Madison Square Garden two years ago. The safety of the public is better insured, says the justice, by Thaw's incarceration.

Text of Decision by Which Application is Denied.

(By Leased Wire to The Times.)

Paughkeepsie, N. Y., May 25-Justice Joseph Morschauser, at 7 o'clock dismissed the writ of habeas corpus brought by Harry Thaw three weeks ago in an effort to gain the relator's freedom from Matteawan state hospital. The justice decides Thaw is insane and that the commitment of Justice Dowling is constitutional. The court further holds that Thaw is suffering from a mental disorder that may have a recurrence similar to that which the jury believed he was suffering from when he killed Stanford White; that the safety of the public is better insured by his remaining in custody and under observation until he had recovered or until it shall be reasonably certain that there is no danger of a recurring attack of the delusion or whatever it may be. The decision follows:

Upon application duly made, a writ of habeas corpus was allowed by which Harry K. Thaw was directed to be produced in court. In the petition it is alleged that said Thaw i: illegally imprisoned and restrained of his liberty by Amos T. Baker, acting superintendent of Matteawan state hospital, a state institution for the insane.

Thaw's detention is attacked upon the grounds, first, that he is sane now; second, that the act under the provisions of which he was committed and detained is unconstitutional, and that the court was without jurisdiction to issue the order of co-mitment and such order was null

"The return to the writ alleges that said Thaw is now insane and that the statute providing for the confinement of said Thaw is constitutional and valid, and that the court had jurisdiction to make the order of commitment. The return is traversed by the relator.

After reciting the history of the two trials and commitment, the decision says:

"I am satisfied from the evidence adduced before me that the mental condition of Harry K. Thaw has not changed, and I find that he is now insane, and that it is so manifest as to make it unsafe for him to be at

"To review the voluminous evidence adduced on the hearing would unnecessarily lengthen this opinion. Thaw was committed pursuant to section 454 of the code of criminal procedure, which reads as follows: '454-When defendant is acquitted on the ground of insanity the

fact is to be stated with the verdict. Commitment of defendant to state lunatic asylum." When the defense is insanity of the defendant the jury must be in-

structed, if they acquit him on that ground, to state that fact with their verdict. The court must, thereupon, if the defendant be in custody, and they deem his discharge dangerous to the public peace or safety, order him to be committed to the state lunatic asylum until he becomes sane. "The question of the constitutionality of this law is assailed by the

relator in that he claims there was no notice given to Thaw of a hearing on the question of insanity; that no hearing was accorded to him; that he has been deprived of his liberty withous due process of law, and that the substitute under which he was committed does not provide a method by which his mental condition, as then existing, could be legally shown. "The people contend that Thaw was not deprived of liberty without

due process of law because he knew that, if he chose to prove upon the trial of the indictment that he was insane when he killed Stanford White, and that if that defense was successful and the jury acquitted him of the charge urged the jury before whom he was tried upon a charge of homicide to acquit him because of his insanity.

"I have made careful examination of the authorities and I do not find that this statute has even been passed upon by any of the courts in this state. It has been in existence and operation for many years without question, and it is the duty of the court to presume in favor of the validity of the statute until its violation of the examination is established beyond all reasonable doubt, and upon such a determination the result which may follow from one construction or another is always a potent factor and is sometimes in and of itself conclusive.

"I believe no injustice has been done to Thaw, or will be done to him by depriving him of his liberty until such time as he can be discharged by the method prescribed by law.

"Bearing in mind that the usual punishment for the act which led up to the detention of said Thaw is death or a long term of imprisonment, and that said Thaw escaped the consequences of such act solely by teason of his existing mental condition. I do not deem it proper to allow Thaw his freedom, suffering as he is from some form of insanity, with the possible recurrence of an attack similar to that which the jury believed he was suffering from when he killed Stanford White.

"In view of the existing mental condition of said Thaw, the safety of the public is better insured by his remaining in custody and under observation until he has recovered, or until such time as it shall be reasonably certain there is no danger of a recurring attack of the delusion or whatever it may be."

Thaw Talks Incoherently and Calls Jerome "Hot Air Man." Poughkeepsie, N. Y., May 25-Thaw was told of Justice Morshau-(Continued on Page Seven.)

FEELING IN TWIN

Court Records and Then Didn't Use Them

GOV. GLENN SENT FOR

But Wouldn't Come to Speak and His Failure Causes Comment

(Special to The Times.)

Winston-Salem, May 25 .- The fact that the prohibitionists were forced to withhold the local control of whiskey from the people of Winston-Salem because the recorder's court could not be compared in their favor with dry towns, is interpreted as an admission of the weakness of their cause

tributed on the streets containing ned by the shock.

(Continued on Page Seven.)

are apt to have been killed in Fort

Worth and North Fort Worth as the

result of the greatest rise in the his-

tory of the Trinity river, which, be-

POLL TAX \$2 ON HEAD, THREE COMMENCEMENTS SAYS COURT TODAY

The poll tax in North Carolina, acording to a decision handed down by the supreme court this afternoon, shall of exceed two dollars on the head, The court reversed the decision of the lower court in the case of Railway vs. ommissioners of Mecklenburg councy, and the decision of the supreme court is based on the fifth article of the contitudion of North Carolina, which de lares that the "state and county tax shall never exceed two collar on the A, city may also levy as much as both the county and state and the total poll tax, therefore, may be as

high as four dollars, but not are the The opinion was written by instice Since practically eighty-five countries save been levying a polt conside ably the decision this afternoon tell ne of the most important - we ed down in North Carolina feet practically every county and mu-nicipality in the state, in some in-

tances causing change in the basis d' taxation. Other opinions filled were Britt vs Railroad, from Roberton, af

McLeod vs. Commissioners. mirmed. Rallroad vs. Commissioners

Suncombe: reversed. Sykes vs. Insurance company, from alesklenburg; modified new adjunced, with costs against defend, a

Austin vs. Insurance company, from Mecklenburg; affirmed.

Burke vs. Commissioners of Gaston; Burke vs. Jenkins, from Gaston; reersed. Younce vs. Lumber company, from

Butherford: reversed. Hallroad vs. Hallroad, from Yancey Mershon vs. Morris, from Rutherford;

dirmed. Gordon Grate company vs. Morris, from Richerford; affirmed. Long vs. Warlick, from Rutherford:

State vs. Stevens, from Buncombe affirme-L State vs. Ownbey, from Buncombe;

eve trefat. Bradburn vs. Roberts, from Bunomber affirmed.

Asheville vs. Weaver from Bun mile; affirmed. Bogers vs. Sincer, from Buncombe; officened.

Stroid ve lastrance company, from Buckson vs. rated, from nuncounter And Police Think She Must affirmed: Smith vs. Holmes, from Jackson, af-

fignies! Cozad vs. McAden, from Granaus, al-Gibbey vs. Railroad, from Swain, per

uciaca, affirmed. Sawyer vs. Lumber contonny, tron Benufert, per curiam, pulition by rehear clandssess

SUNDAY GOLF PLAYER SCORE OF FIREMENHAVE

(By Leased Wire to The Times) St. Louis, Mo., May 25 .- Joseph

A request was sent to Gov. Glenn J. Howard, the millionaire president to discuss the local situation here of the W. P. Howard Commission yesterday, and his failure to do so Company, was struck by Highting is being freely commented upon. As and killed yesterday afteraoon in a no prohibition speaker has discussed storm on the Glen Echo of fould in the blooking runs. Mark to Mark the control of the liquor traffic, cir- near Normandie. Edward Bookstel- vin may die and six others are at the culars from the antls are being dis- ler, 12 years old, a caddy, was stun-

Howard was standing under an oak Things are at fever heat, the lat- tree a hundred feet from the clubest circular issued by the high house, seeking shelter from the heavy rain, when the fatal flash hit. 24 9-16.

Texas Rivers Rising Hourly;

North Texas Hard Hit.

(By Leased Wire to The Times.) Daflas, Tex., May 25—The most

reached a climax at 5 o'clock yester- North Texas late Saturday night. It dian river is rising rapidly and seri-

day afternoon. Five of the deaths was exceptionally severe at Fort ous trouble is anticipated. A mes-

occurred yesterday and two last Worth, Dallas, Wichita Falls, Denton sage from Red River reported the

The paralysis of the railroad ser- | A. Welch, a saloon-keeper, at Fort eight inches. All the lands are un-

vice is almost total. The interurban Worth, whose place was inundated, der water and enormous damage has

(By Leased Wire to The Times) South Boston, collepsed, hurling sev hospital in a serious condition,

> London Bar Silver. (By Cable to The Times)

Boston, Mass., May 25,-A score or arry tours when the roof of the warehouse of P. H. Graham, of Ever street,

Tractured. After examination, the police were of the opinion that the woman had been killed on some canal bout and

BODY OF PETER DALY

ire working on the case,

(By Leased Wire to The Times.) Many Persons Are Drowned last Saturday after a identified man was drowned at Den- be held Wednesday and interment will ton. Railroads and crops have saf- be at Woodlawn cemetery.

GEN. MILES IS DEAD.

But It's Evan, Not Nelson, Miles This Time.

(By Leased Wire to The Times) San Francisco, Cal., May 25 .tion during the war of the rebellion and through a number of Indian Island made no attempt to operate was drowned with him. Four men banks and miles wide at many points, campaigns in the west. He was also

Closing Exercises of A. & M., Baptist University and THE HARBOR St. Mary's

ARE BEING HELD TODAY

BRUTAL MURDER

Bedy of Woman Found Float

ing Through Hell Gate,

Barrel Tied to Leg

HER SKULL FRACTURED

Have Been Killed On

Canal Boat

turbent, discovered the

a somen floating in Little

de, a be reel tied to one leg. The

rel had evaluatly contained stone

vinkling the body, but had dropped

FINE SERMONS SUNDAY

Big Event in Lives of Hundreds of College Students

The commencement season is on n Raleigh. Yesterday three of the colleges .-- A. and M., the Baptist University for Women and St. Mary'sbegan the closing eexrcises with three splendid baccalaureate sermons. All were attended by large crowds and the music furnished was unusually splendid. The exercises will continue through today and part of tomorrow at the Baptist University, until Wednesday at noon at A. and M., and until Thursday at noon at St. Mary's.

Never in the history of Raleigh was the interest in the colleges any greater. All have been blessed with large attendances, and all are sending forth into the world great numbers of young men and women.

Dr. McDaniel at A. and M.

our cut and the body had come to Dr. George W. McDaniel, of Richmond, Va., yesterday delivered the The face of the woman was beaten baccalaureate sermon to the graduand gashed almost beyond recognition ates of A. and M. College in the The body is that of a woman about presence of the students and their 35 years old, five feet, seven inches friends. In spite of the other comwell-aing probably 145 pounds. had dight brown hair and bluish as a placed was clothed in a win-ter jacket, with a dark skirt and len Hall being taxed to its fullest mencement exercises, Dr. McDaniel striped sairtwaist. Her skull had been capacity. The preacher spoke on the Power of Young Manhood."

Young men, speaker declared, have ever been a mighty factor in the histhe body fastened to a barrel filled tory of the world and leaders in every with rocks, after which, the load was battle waged for truth and righteousbumped into the Harlem. Detectives ness. They have salled the trackless seas, discovered unknown continents. helped in the making of the laws of the nations and determined the des-COMES EAST FOR BURIAL. tiny of the world. Henry Clay, he said, was speaker of the house at 34 New York. May 25.—The body of years old: Stephen A. Douglas was a Peter F. Duly, the comedian, who died candidate for the presidency at 29; John Jay, chief justice of the suass of two days, arrived in New York preme court of the United States at Two hundred persons, actors 45; James G. Blaine, sepaker at 39; and actresses, together with a number Alexander Hamilton had charge of Fort Worth, Tex., May 25 Seven the flood. Not until the water has persons are reported drowned near of his friends, met the body at the the United States treasury at 32; persons are known to be dead, 5,000 receded will it be possible to tell the Wichita Falls and Childress. An on- Grand Central, Funeral services will Columbus was only 30 when he explained to the king and queen of Spain his theory of the world that led to the discovery of the western world; Napoleon attained his greatness before his thirtieth birthday; William Pitt was premier and practically ruling England at 24; and Jesus completed his life's work at 33 Brigadier General Evan Miles tre- years Truly, declared Dr. McDaniel. tired) is dead at his home here, aged young men may accomplish a vast 71. Gen. Miles served with distinc- deal for the weal or woe of the state and the nation.

Strength of manhood, the preacher declared, grows from obedience to (Continued on Page Three.)

Dr. Bell Says Wright Boys Have Solved The Problem

(B) Leased Wire to The Times) risked their lives on the trip.

Washington, May 25-The accischoe dirigible balloons and to my dents that have happened to balloons own flying-machine, while deplora- been due to any fault of the ma-Sagan and Mmc. Anna Gould were not borers in the future will not be per- ble, especially the accident in Cali- chines, but to lack of skill in the mitted to frequent saloons during forming in which so many persons were operator. The dirigible balloon and working hours, nor will they be per- injured, will do much toward the ad- the flying-machine are not things of he has established a claim to a \$4,000,- been alleged, according to the positive mitted to take beer upon the work ex- vancement of the science of aerial the future; they are here, and, navigation," said Dr. Alexander Gra- while they are susceptible of great This is one of the rules issued to- ham Bell. "Accidents have happened improvement, still, when the operatruckman about the Pennsylvania and Mme. Gould," he said. "If I had, day by the board of public works. An- to aerial navigators in the past and tors have learned how to manage the continue to home to the past and tors have learned how to manage will continue to home to the past and tors have learned how to manage will continue to home to the past and tors have learned how to manage will continue to home to the past and tors have learned how to manage will continue to home to the past and tors have learned how to manage will be a said. able-bodied men, capable of doing a will continue to happen to them in their machines, accidents will befull day's work. This means the dis- the future, but it is by these mis- come things of the past." takes we are able to advance.

> rell balloon in California was inex- any other inventor in the world. Lisbon, May 25-It is stated on cusable. The operators should not

"None of the accidents reported feats to the Morrell and Knaben- today, nor, in fact, any of the acciand flying-machines recently, have

Dr. Bell thinks the Wright broth-"The injury and probably ultimate ers have made infinitely greater loss of life by the falling of the Mor- progress with the aerodrome than

"The Wright brothers," he said, why more than two men should have practically eliminated,"

PROPERTY OVER IN ERIN

Many persons are missing, and the \$100,000.

authorities believe this is only the

are homeless, and a dozen or more exact loss in life and property.

ginning at 7:30 Saturday evening, violent storm of the year broke over

Fort Worth and Dallas. The Rock 15-year-old boy working for Welch

trains, neither did the Fort Worth & were seen to be swept into Marine

Denver. The Frisco detoured; in creek, in the suburbs of Fort Worth,

fact, not a road escaped more or less and drowned. The property loss at

and Abilene.

has discontinued service between was drowned in trying to escape. A been done to crops.

(By Leased Wire to The Times.) New York, May 25 .- By the discovery of his father's marriage license, Robert James Kelly, a peddler, thinks 900 estate in Drogheda, Ireland. With statement of the justice today. him there are four brothers-William, a who is manager of "The Hermitage"

on Seventh avenue, and Alexander.

The property consists of Linen hall, linen factory; Drogheda, a part of Ulster Lane, containing about 80 small houses; and the police barracks, or station house of the city. Besides these there is the property of a relative who died intestate.

New York Bar Silver.

(By Leased Wire to The Times.) Mexican dollars, 75c., unchanged.

POOR NEW YORKERS GET PRINCE AND ANNA NOT MARRIED IN HOBOKEN

Wade Owens and Ernest Staettler

(By Leased Wire to The Times.) New York, May 25 .- Prince Helie de married by Justice of the Peace William Budenbender, of Hoboken, as has never married Prince de Sagan the board of health long ago."

Federal Jobs in South. (By Leased Wire to The Times.) Washington, May 25.—The following nominations were announced

today: To be surveyor of customs for the Nathan H. Alexander.

CITY LABORERS CAN'T DRINK WHILE ON DUTY

Canadian River Makes Trouble,

Denison, Tex., May 25-The Cana

unprecedented rise of 21 feet and

The Washita river is out of its

Austin was in the path of the

worst of the storm, and for hours

the streets were impassable, electric

disabled, and many houses were un-

Fort Worth and vicinity exceeds light and telephone connections were

(By Lensed Wire to The Times.) Milwaukee, Wis., May 25.-City tocept during the noon hour.

missal of many aged pensioners.

Garter For Lisbon Monarch. (By Cable to The Times)

good authority here that King Ed- have thought of taking so many pas- "I think, have solved the problem of port of Memphis, Joseph T. Spence, ward of England will confer the or- sengers with them on an experimen- navigation with a machine heavier of Tennessee; to be receiver of pub- der of the garter on King Manuel, tal flight. If they desired to test the than air, and as soon as they shall lic moneys at Monigomery, Ala., The information is said to come from carrying capacity of their balloon, have gained greater experience in New York, May 25-Commercial John A. Steele; to be register of the British foreign office, where they should have used ballast and not operating it, accidents such as hapbar silver, 53 1/4 c., advance, 1/4 c. land office at Montgomery, Ala., every effort was made to keep it human freight, as there is no reason pened to them a few days ago will be secret.