

PLEA OF INSANITY HITS MANY SNAGS

(Continued From First Page)

but promised to have more authorities in court tomorrow.

The defense next introduced Benjamin Bowman, who testified that in January, 1904, he had a conversation with the defendant. He was about to tell what the conversation was, when Mr. Jerome interrupted, declaring a conversation so far back was irrelevant or immaterial.

Justice Fitzgerald again called upon Thaw's attorneys for citation of authorities giving the testimony of the character proposed.

"We did not expect to reach this witness today," explained Mr. Gleason, "and I have not my authorities here."

Justice Fitzgerald sustained Mr. Jerome's objection, and the witness stood aside.

Had St. Vitus' Dance in Childhood.

C. H. Bingham, of Pittsburg, who has been a family physician of the Thaws for 30 years, took the stand and testified that he had known Harry Thaw ever since his infancy. He had treated him once for St. Vitus' dance. He seemed to be a lad of highly nervous temperament and slept badly at night, said the witness.

Mr. Jerome's cross-examination was brief.

"How old was the defendant when he had St. Vitus' dance?"

"Seven."

"That is all, doctor."

May Shut Out Proof of Heredity.

Dr. J. F. Deemar, of Kittanning, Pa., the family physician of the Copleys, Mrs. William Thaw, the prisoner's mother having been a Miss Copley, was the last witness of the day. He was called to testify as to the mental condition of John Ross, a cousin of Harry Thaw, when Mr. Jerome objected. Justice Fitzgerald held that, until the defense's authorities on the introduction of testimony as to collateral insanity were presented, he thought it best to rule out all such testimony for the time being. It was at this time that adjournment until tomorrow was ordered.

Delmas Has His Backup.

Scarcely had court adjourned when there was a commotion of the different counsel and it became known that certain of the attorneys were not well pleased with the day's developments. Delphin M. Delmas, the attorney for the defense, had declared flatly that he was dissatisfied with the day's proceedings and intimated that he was surprised that the conduct of the defense for the day had been entrusted to John B. Gleason rather than himself. Dr. Wiley would not have been put on the stand today, Mr. Delmas said, and perhaps should not have been put on the stand at all.

"I expected to go on and conduct the case today," Mr. Delmas added. "I was surprised that Mr. Gleason should have done it."

It had been rumored in the courtroom that Thaw was pleased with Mr. Gleason's address to the jury on Monday and that he directed that on Monday morning should take charge of the case today.

Thaw's attorneys were closeted at Mr. McKike's office well into the evening, but nothing definite as to what transpired was made public. After the lawyers had left, Mr. McKike said:

"The lawyers for the defense had a conference, at which plans for the defense were gone over. There was really nothing done."

"Will Mr. Delmas withdraw from the case tomorrow morning if Mr. Gleason continues the examination?"

"As for that," replied the lawyer, "you will have to wait until court opens and see for yourself what goes on. I can say nothing about it at the present time."

Conference With Thaw.

Mr. McKike was then asked if he was satisfied with the manner in which the case had been conducted so far. He replied:

"Really I don't care to say anything. Anything that was done will be made known tomorrow morning, and you will have to wait until then."

After the trial had been adjourned, Mr. McKike visited Thaw in the Tomb. He talked with the prisoner for about 15 minutes and, when he left, he refused to make any statement.

Later a note was sent to the prisoner, asking him if the report that his lawyers had disagreed was true, and his reply was:

"No; there is no truth in the report. It is all nonsense."

Thaw did not appear worn from his tedious day in court. Asked what he thought of today in court, Thaw replied the day had been "apparently satisfactory."

Lawyers' Ultimatum to Gleason.

It was said late tonight that at the conference of the defendant's counsel they informed Mr. Gleason that, unless he desisted from conducting Thaw's case individually and irrespective of their wishes, they should withdraw from the courtroom at the opening of the session tomorrow morning and sever all connection with the case.

Mr. Gleason, according to the author of the report, declared he had not usurped the position of defense counsel, but had taken the initiative in the proceedings at the request of Thaw himself, under whose guidance he understood all the counsel were acting. When Mr. Gleason heard the ultimatum of his fellow counsel repeated, he declared again, it was stated, that the wishes of their client were paramount with him, and he supposed with the others. Under these conditions the counsel broke up. When seen later at the Yale Club, where with Mr. Delmas he had gone for dinner, Mr. McKike said:

"We have no more information as to what will follow the opening of court in the morning than Mr. Gleason has. We have arrived at a decision at the conference. We do not know what Mr. Gleason intends to do. What we shall do depends entirely on what occurs after court opens tomorrow."

Another rumor regarding the conference is that it referred to a demand by Thaw that Gleason be deposed. Written authority was given to the defense by Mr. Delmas to act as chief counsel with Mr. McKike in charge of all examinations, it was stated. Mr. Gleason, it was said, would henceforth merely act in a consulting capacity.

WILEY UNDER JEROME'S FIRE

Thaw's Family Physician Finds

Some Things He Did Not Know.

Dr. C. C. Wiley, of Pittsburg, Thaw's family physician, who is connected with the Dixmont Insane Asylum, was called as the first witness for the defense in the Thaw trial. Dr. Wiley, in answer to questions by Gleason, said he had do-

voiced much of his life to the study of insanity.

Dr. Wiley was asked to state his recollection of an incident in 1905 in which Harry Thaw was concerned.

"In the summer of 1905," said the witness, "I was a passenger on a streetcar in Pittsburg when Harry Thaw came in. Without any apparent reason Thaw rushed for one of the blinds of the window, drew up the blind, slammed it down again, and then drew it up once more. He had a quarrel with the conductor."

"What was Thaw's manner?"

"It was dominant, vague and his eyes flashed from right to left."

"As an expert and from your personal observation, can you say whether his actions were rational or irrational?"

"Irrational."

"And a man may know the nature and quality of his act, know that it is wrong, against the law, and yet be swept away by emotional impulse?"

"Yes, by an impulse over which he has no control."

The witness was asked to repeat the substance of the hypothetical question asked by the defense. In doing so he inadvertently admitted that he had taken into consideration his knowledge of a case outside of the question. Jerome then moved the question for answer be stricken from the testimony.

Row About Hypothetical Question.

The hypothetical question in full follows: "Assuming, sir, that the man you saw in the streetcar last summer was proved to you, as an expert, to have attended a garden, the day of June 25, the occasion of the opening of a theatrical entertainment which was largely attended, and that on coming out of the theater he was in a quiet and orderly manner, that man should turn aside and fire three shots from a revolver into a man who was sitting at the table and to whom he did not speak, that this man then held the pistol above his head and walked toward the elevator, and that he immediately said to his wife: 'I have probably saved your life—I ask you, sir, upon your judgment as an expert, whether you are able to give an opinion touching upon the sanity of the man who made this statement?'"

Counsel for the defense objected, but Justice Fitzgerald said he thought it best to strike the matter out and go all over it again so as to make the record clear.

Mr. Gleason reformed the question, this time basing it upon the law of insanity as laid down by the statutes of the state of New York.

Dr. Wiley again declared that he was competent to answer the question.

Put Through Medical Paces.

"What is your opinion of the killing based upon the form of insanity as laid down by the law of this state?" asked Mr. Gleason.

"It was the act of an insane man."

Mr. Jerome led the witness through a local series of questions dealing with all manner of subjects, and asking him his opinion, and expert opinion, on most of them.

"Are you a mythologist?" asked Mr. Jerome.

"No."

"Have you studied the subject?"

"Not extensively."

"As a matter of fact, do you know what mythology is?"

"Yes."

"Is mythology an act, or a direct act?"

Dr. Wiley would not venture a decision.

"You say a delusion is the result of a pathological condition?"

"Yes."

"Then the defendant's delusions must have come from a pathological condition?"

"Yes, coupled with a functional condition."

"Is it possible for a function to be abnormal unless there is a disease?"

"Yes, a dilated artery, for instance."

"But a dilated artery has nothing to do with the case of Harry Thaw, has it?"

"No."

Mr. Jerome wanted to know if Dr. Wiley believed in Christian Science.

The doctor did not answer directly, but was pinned closely to the question by Mr. Jerome. He finally replied that he did not.

Has Clash With Jerome.

This line of questioning soon led to a wordy clash between the attorney and witness, in which Mr. Jerome interrupted the witness with a loud exclamation:

"Did I ask you that? Did I? Answer me!"

"Upon what in the hypothetical question did you base your conclusion as to insanity?"

"By the fact that the man, sitting with a party, suddenly arose and without provocation—"

"Is there anything in the question about provocation?" Jerome interposed.

"No," Dr. Wiley replied with a show of feeling. "It was the manner of the man and the fact that he raised his hand in a peculiar way."

"Stop!" shouted Jerome angrily. "Is there anything in the question about peculiar?"

The witness admitted there was not.

"The remark to his wife, 'I have probably saved your life,' was another reason for the conclusion," said Dr. Wiley.

"Did it occur to you that after firing three bullets into the body of his victim the man held his revolver aloft to indicate that he had done so, that there was to be no further killing, and that he wanted to exert a pacifying influence?"

"That entered into the calculation."

"Did motive have no bearing?"

"Yes, I read in the papers and I decided—"

"Stop! Did the question of motive make as light an impression on your mind that when you came here to testify as a scientific man you want to import into the case what you read in the newspapers?"

The witness was silent.

"Isn't jealousy the dominant element in the mind of every man who kills from jealousy?" asked Jerome.

"There may be other elements."

"Stop that volunteering; answer my question. Tell us some name of a conclusion from the hypothetical question," he requested.

Catches Doctor Tripping.

"The time, the manner and the place chosen—"

"No," shouted Jerome, "you think the place was chosen for the crime, do you?"

"No; my argument is that it was not chosen—"

"I don't want your argument. Keep it out of this. What is your opinion—was the place chosen?"

"No."

"Now, as to the manner—do you think that because this man, malice and hatred of the man he saw on the roof garden, walked over to him and fired three bullets into his body, with the revolver so close that the face was powdered, do you think that was an act of insanity?"

"Yes."

"When the killing of any person in a jealous rage is per se an act of insanity?"

"Yes."

Mr. Jerome took the witness over every incident of the night of the tragedy and asked him if in each case he thought Thaw's acts were those of an insane man. The witness finally replied:

"Taken alone, they do not impress me so, but taken together, they do."

The witness was asked if his opinion as to the insanity of the prisoner was based upon the occurrences upon the roof garden. Dr. Wiley answered that it was.

"And, after reading the newspapers?" suggested the District Attorney.

"Yes."

How He Tests Brain Disease.

Mr. Jerome then carried the witness through the various tests of alienists to detect brain trouble, and asked:

"How many people have you examined as an expert to their insanity?"

"Oh, about 80; I don't know."

"Did you use the Romberg test on any of them?"

"I don't exactly know what the Romberg test is; I cannot say."

Mr. Jerome displayed the thoroughness with which he has studied medical authorities to fit himself for the Thaw case by leading the witness through a chain of questions dealing with pathology which at times seemed to thoroughly baffle the witness, who hesitated time and again and evaded direct answers.

Dr. Wiley resumed the stand as soon as the afternoon session was convened.

"Who have you talked to during the recess?" was the first question Mr. Jerome hurled at the witness.

"With Mr. Gleason and several others," replied the witness.

A physician whom he did not know had told him that the Romberg test was a test for locomotor ataxia.

Mr. Jerome further continued the tactics of the morning session, putting the witness through a rigid test as to his professional knowledge.

Posed With Technical Questions.

"Doctor," Mr. Jerome proceeded, "does the cardiac nerve connect directly with the cerebellum?"

The witness hesitated.

"Well," resumed Jerome, "maybe you can tell us if the pneumogastric nerve joins the spinal column in the lumbar circle or in the dorsal region?"

"In the dorsal region."

"Where is the dorsal region?"

"I have not read up on that."

"Oh, well, never mind that. Tell me if it is not a fact that the pneumogastric and cardiac are one and the same thing?"

"They may be."

"Don't you, as a specialist in nerve diseases and an expert, know which is which?"

The witness remained silent. Mr. Jerome rained question after question upon him and no answer was vouchsafed.

"Did you ever hear of a single? What books on nervous diseases have you ever read?"

The witness mentioned two authorities.

"Do you recollect a single thing that any one of these authorities said?"

"Not in their language."

"Dr. Wiley, can you recall anything you ever read in any book? Please state it to the jury."

"I have read translation of Oppenheimer's works."

"How many volumes?"

"One."

"What did the book look like?"

"I don't recall."

"What was the precise title?"

"I don't know."

"Getting back to the pneumogastric nerve or cardiac nerve, is it not a fact that they do not connect with the spinal column at all, but enter the skull cavity?"

The witness hesitated.

"I will withdraw the question, your honor," he said, turning to Justice Fitzgerald.

"Are you a homeopathist?" asked the District Attorney.

"No."

"Well, what are you?"

"I am a nervous practitioner."

After bringing in every possible change in the pneumogastric nerve, Mr. Jerome passed on to the tests of insanity by the light and the eyes.

"Do you know of the Argyle-Robertson test of light? Where did you ever hear of it?"

"I don't recall."

"Did you ever hear of such a thing before I asked the question?"

The witness hesitated.

"Where," said Jerome, "in any book in God's wide world did you ever read anything about the Argyle-Robertson test of light?"

Dr. Wiley did not reply.

"Did you ever examine this defendant as to his sanity?"

"No."

"Have you seen him often?"

"Yes, you determine whether or not a man is insane by looking at him?"

"No, I must have some conversation with him."

"Did you ever converse with Thaw?"

"No."

"Do you think it right for you to come here and give an opinion on the insanity of a man who has not been examined by you?"

"I have given my opinion of a hypothetical question, not upon an examination."

"Are you willing to stake your reputation on that opinion?"

"I came here as a material witness of fact and I have been converted into an expert witness without any preparation."

"So you did not come here as an expert witness, but believe you have been converted into one?"

"Yes."

"Do you think the conversion will last?"

"I am inclined to believe it will."

"What do insane people usually do after killing a person?"

"There usually follow evidences of satisfaction and relief and a declaration of the fact. Thaw's declaration to his wife that he had probably saved her life was a very suspicious circumstance."

"Do you know that her life was not in danger?"

"No, I assume it was not."

Mr. Jerome then concluded his cross-examination of Dr. Wiley.

LEAVE FOR HERMANN TRIAL

Oregon Witnesses Leave En Masse

for Washington, D. C.

When Representative Blinger Hermann appears for his trial at Washington to answer to the charge of destroying and mutilating public records, he will probably be surprised to see so many familiar Oregon faces in the courtroom.

There have been many delays in bringing Hermann to trial for the alleged destruction of the letter files in his office, while he was Commissioner of the Land Office at Washington. He was indicted and his trial has been postponed several times; first, because Hermann was not ready and on account of the illness of several times by the Government. The last postponement was due to the fact that the United States Attorney for the district was injured in a train wreck. The authorities at Washington sent between 30 and 35 subpoenas to the Federal authorities here to serve on Oregon witnesses wanted at the trial by the Government. These subpoenas were served last week and the other night practically one whole Pullman car was loaded with the witnesses. Those who will testify in the Hermann case are: A. H. Tanner, Richard Haughton, Clark E. Loomis, B. T. May, W. G. Steele, George C. Brownell, Joseph

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