

JEROME SCORED ONCE ON DELMAS

Under the Law as Interpreted by Fitzgerald

WAGNER WAS HEDGED IN

Not Allowed to Testify to Anything but His Observations—Will Evans Fare Better?—Possibility That Hummel Will Testify—Harry Thaw Thirty-six Years Old Today.

(By the Associated Press.) New York, Feb. 12, 9 o'clock A. M. The fight begun yesterday to keep out the testimony which would tend to show that Harry K. Thaw was insane when he shot Stanford White will be continued today. Dr. B. D. Evans, who is in charge of the hospital for the insane at Morris Plains, N. J., will be the first witness called by the defense. Whether he will meet a better fate than did Charles G. Wagner of the state insane hospital at Binghamton, N. Y., yesterday, remains to be seen. Dr. Wagner succeeded in answering Mr. Delmas' hypothetical question but he was unable to get into the record his impressions of Thaw based on six visits to him in the Tombs and various personal and physical examinations. Dr. Evans accompanied Dr. Wagner on all these visits and assisted in the examination.

Unless Dr. Evans can make himself more definite in his statements than did Dr. Wagner, following its rulings of yesterday, will keep out the greater part of his testimony. The alienists who examined Thaw based a large part of their examinations on Thaw's own statements regarding himself and on the personal and family history of the case.

Under the law as interpreted by Justice Fitzgerald Dr. Wagner was not allowed to testify to anything but his observations, and when he said he based his opinion as to Thaw's mental condition largely on Thaw's own statements and the history of the case Mr. Delmas was forced to withdraw the question, the answer to which would doubtless have been that the alienist considered Thaw insane when he fired the fatal shot.

Whether the answers of the alienists to the hypothetical questions will be considered prima facie proof that Thaw's mind was unbalanced at the time of the homicide and will therefore open the way for the introduction of the cumulative evidence which Evelyn Nesbit Thaw, May MacKenzie and perhaps several others are ready to give is a question that cannot be answered until the time comes when the court will pass on it.

May Be More Sensations. If this evidence is allowed to come into the case there may be more sensations, but with the exception of what may possibly develop from this testimony it is probable that the sensational features of the trial are finished. The prosecution's inability under the law to go into the truth or falsity of Evelyn Nesbit Thaw's story makes it certain that there will be comparatively little in the rebuttal that will be at all startling. It seems now that the rest of the trial will be largely technical detailed testimony.

Counsel for Thaw unexpectedly announced last night that Thaw will take about two days more to put in the direct case for the defense. This of course does not take into consideration the cross-examination of Thaw's witnesses, but it indicates plainly that Thaw will not go on the stand.

What is regarded as an important document in connection with the trial, was it is understood, obtained yesterday by District Attorney Jerome from Abraham Hummel. This document is a photographic copy of the statement which Evelyn Nesbit Thaw testified Lawyer Hummel dictated when she went to his office with Stanford White. The original copy, it is stated, was destroyed, probably at the time young Mrs. Thaw says she went to Hummel's office in search of a paper which she had signed. In the statement are charges that Thaw hit treated her and even beat her. It is understood. There is some talk that Hummel may be put on the stand as a witness in rebuttal but it is more likely that Mr. Jerome is preparing for his cross-examination of the young woman.

This is Harry Thaw's birthday. He is 36 years old. Does coffee disagree with you? Probably it does! Then try Dr. Shoop's Health Coffee. "Health Coffee" is a clever combination of parched cereals and nuts. Not a grain or real coffee remember in Dr. Shoop's Health Coffee, yet its flavor and taste matches closely old Java and Mocha Coffee. If your stomach, heart, or kidneys can't stand coffee drinking try Health Coffee. It is wholesome, nourishing, and satisfying. It's safe even for the youngest child. Sold by W. B. Mann.

Every Rexall Formula Is Public Property—And Always Has Been

This is an age of inquiry. Not since the time of the Civil War has there been so much agitation in the minds of the people on various subjects.

People "want to know" about everything. We do not say that the public has grown skeptical—quite the contrary. We believe it is a day and age of enlightened, intelligent inquiry after facts.

Each man and each woman now-a-days wants to do his and her own thinking. They are not looking for any concentrated essence of wisdom boiled down and given to them in capsule form. They want to figure out for themselves what is right, and what is wrong, and what to do about it.

Public sentiment has forced the government of the United States to pass a law compelling medicine manufacturers to state on their labels any injurious ingredients their remedies may contain.

We believe that the Rexall remedies have had as much to do with the creation of this sentiment as any other one single element in the country.

Why? Simply because the Rexall remedies, from their inception several years ago, started out on an entirely new line.

The first principle in the Rexall platform was one remedy for each ill—not a cure-all.

Second—no secret combinations. Every formula has always been open to the public; anyone can know what he is taking when he buys Rexall—and always could.

Third—every Rexall remedy has been sold on the basis of "money back" if you are not more than satisfied.

This is frank, square, open-handed business, that's all. But it made Rexall the greatest success in the medicine world in a very short time.

Rexall "OO" HAIR TONIC

The famous Rexall "OO" Hair Tonic is one of the 200 Rexall Remedies. It is composed in part of Lascoria, Euxa Naphthol and Pilocarpin.

Research is one of the latest and most effective germicides discovered by science, and in connection with Beta Naphthol, which is both germicidal and antiseptic, a combination is formed which not only destroys the germs which cause the hair to fall out, but creates a clean and healthy condition of the scalp, which prevents the development of new germs.

Pilocarpin is a well-known agent for restoring the hair to its natural color, where the loss of color has been due to a disease of the scalp. It is not a coloring matter or dye.

This combination of caratives mixed with alcohol as a stimulant, perfects the most effective remedy for hair and scalp troubles known to-day. Per bottle, 50c.

King-Crowell Drug Co., Druggists THE Rexall STORE

JUDGE WINBORN'S RAILROAD BILL

(By the Associated Press.) The bill of Judge Winborne compelling railroad companies to obey orders of the corporation commission provides: "That if any railway company or telegraph company doing business in this state shall refuse to perform any duty lawfully enjoined upon it by law for which a penalty has not been provided by law, or shall fail, neglect or refuse to obey any lawful requirement, order, judgment, or decree made by the corporation commission of this state, for every such act of violation, it shall pay to the state a penalty of not more than \$5,000, the amount to be fixed by a jury in a civil action to be brought by the attorney general in the name of the state against such railway company whenever requested by the corporation commission."

VOLIVA'S SWEET DREAM OF SMALL EMPIRE BROKEN.

(By the Associated Press.) Seattle, Wash., Feb. 12.—Overseer Voliva's dream of establishing a new Zion City in the northwest has been abandoned with the announcement yesterday that he has given up a trip here and along the Pacific coast planned for next month. Rev. August Ernst, elder of the local Zionite organization, says the plans have been changed because of the revolt in Portland, Seattle, Tacoma and Vancouver against the rule of Voliva. "We believe the teachings of Dr. Dowie, but we do not believe in the one-man rule which he instituted and which Voliva is following," said Dr. Ernst.

JUST GOT READY SLYDEN GIVES WAY TO MIRTH FOR BUSINESS

Large Distillery Seized In Durham County Why So Exercised Over This War Scare

MAKING THE FIRST RUN WHERE'S JAPAN'S CASH

Several Men Were at Distillery but Only One Was Caught—Officers Found 1,000 Gallons of Beer but No Whiskey—Slyden Had Just Been Put in Operation.

Deputy Collector W. G. Pool has returned from Durham county where he seized an eight-gallon illicit distillery yesterday afternoon, the same having been in operation when the officers arrived on the scene. Several men were there at work but all made their escape but Jack Barker, a white man, and who is said to have been one of the owners. He was placed under arrest, carried to Durham and placed in jail. The preliminary hearing will be before United States Commissioner A. W. Moye.

It was a very large distillery and was located near South Lowell in Durham county. No whiskey was on hand as the distillery had just been moved to its present location and the first run was being made when the officers arrived and put it out of commission. The owners were preparing to do a large business for they had 1,000 gallons of beer on hand and every thing fixed in good order and if the United States authorities had been a few weeks later in finding out about the distillery the people around that section could have been well supplied. But other distilleries will probably be soon started up in that section for there is hardly a term of federal court without several citizens from that part of Durham county who are charged with illicit distilling. When the officers arrived on the scene those at the distillery made tracks but Barker was not as fast as the others and consequently occupied quarters in the Durham county jail.

Jack Barker was the man who ran away from Durham on account of having got in trouble there and left unprotected his wife and aged mother-in-law, and it was his house that the negro, Freeman Jones, who was hanged last week, entered. There were several cases against him for retailing. In addition to the white men at the distillery there was one negro and he and Barker ran in the same direction. As above stated, all of the moonshiners took to their heels as soon as the officers were sighted. One of the officers took after Barker and the negro, but the latter was fleet of foot and soon outdistanced his pursuer. Not so with Jack Barker, who is a man getting along in years and soon began to fall. When the officers saw all of the bunch were too fleet for them but Barker they made for him. In an effort to get out of the way he jumped into a stream which was thick on each bank with brambles, but the officers were not eluded and soon had him in tow. After capturing him they proceeded to cut up the distillery.

The officers with Deputy Collector Pool were Deputy Collectors Banks and Marshal J. B. Jordan.

FRIENDS OF MR. WILL HELLER WITH THE "VANDERBILT CUP."

Those who were so fortunate as to have witnessed the "Vanderbilt Cup" last night were highly pleased with the work of the Pendleton Sisters, three unusually clever dancers, who made money in the third act.

PLUNGE FROM FIRE ESCAPE TO DEATH

(By the Associated Press.) Philadelphia, Pa., Feb. 12.—A fire in which one man lost his life and several other persons had narrow escapes from death today, seriously damaged the five-story building at 105 and 107 South Third street, in the heart of the financial district. The building was occupied by the Phoenix Pants, Overall and Shirt Company, and Dursee Sons & Company, cotton commission brokers. The flames cut off the escape by means of the stairway of the employees working on the top floor, forcing them to use the fire escapes which were covered with ice and snow. Louis Dekevsky, aged 26 years, in the excitement either jumped or fell from the fire escapes. He was instantly killed. Several of the employees in escaping were injured, but not seriously. The damage done by fire and water is estimated at \$75,000.

KINGSTON'S LOSSES BY LAST EARTHQUAKE

(By the Associated Press.) Philadelphia, Pa., Feb. 12.—According to a schedule of losses gathered by Allen D. Roberts, the Kingston representative of the Commercial Museum, who has arrived here on the Atlantic Fruit Company's steamship, Ametia, the damage done by the recent earthquake and fire in the city of Kingston is estimated at \$12,000,000.

In Harry Teaw's Restless and Glaring Eyes Dr. Evans Saw Brain Storm, Insanity

(Continued from First Page.) repeated. We asked various questions and the prisoner gave his own answers to them and made a diagram with matches.

Mr. Jerome objected to the diagram but was overruled by Justice Fitzgerald and the witness was told to proceed.

Mr. Thaw took matches and toothpicks and placed them so as to show positions, which may have been clear to him but were confusion to me. I did not think his explanations were clear or logical.

The eighth and last visit, Dr. Evans said, was on October 8.

"We had a protracted interview with Mr. Thaw, in which a subject near to his heart was discussed. It lasted two hours," said Dr. Evans.

"Under the rulings of the court, can you say anything further regarding this visit?"

"Under the court's elimination there is nothing more I can say."

At this point court took recess for luncheon.

Evans Again on the Stand. Dr. Evans resumed the stand immediately after recess.

"Doctor," asked Mr. Delmas, "as a result of your eight visits to Thaw did you form an opinion as to the mental condition of Mr. Thaw?"

"Yes."

"Was it based on the oral statements of Mr. Thaw during these visits?"

"It was in part."

"Will you now state what that opinion was?"

Mr. Jerome objected on the ground that the visits covered a long space of time and that the time was therefore too indefinite.

Asked by Mr. Jerome what he referred to by the "then mental condition" of the defendant Dr. Evans said he referred especially to the time of his first three visits.

The witness finally said that as the result of his first three visits he formed one opinion, and as the result of the last five visits he formed another.

"Were they based in part on oral statements by the defendant?"

"Yes."

"State those two opinions."

"That is objected to," interrupted Mr. Jerome. "The two questions should be separated."

"If I ask the one question, will I be allowed to ask the second?" inquired Mr. Delmas glancing from District Attorney Jerome to Justice Fitzgerald.

"Of course you can ask the questions," remarked the judge.

A Mind Diseased. "What was your opinion after the first three visits as to the mental condition of the defendant with reference to his mind being sound or unsound? What, in your opinion, was the condition of mind the result or sequel of?"

"I am of the opinion that he was suffering from a positive disorder or derangement of mind as a result of hereditary predisposition. I am of the opinion that there was additional exciting causes in the order of stress, strain and ordeals of the mind which formed a brain storm or mental explosion which left its traces behind."

Dr. Evans was here handed the letters written by Thaw and heretofore introduced in evidence. Dr. Evans explained that the letters were submitted to him last night but he had been unable to read the letters. The doctor then began the perusal of the letters which were later to form one of the bases of a hypothetical question.

A recess of forty minutes was ordered at 3:10 to give Dr. Evans an opportunity to finish reading the letters and permit airing of the court room.

SOME OPPOSITION TO NEW COUNTY

The "Lee County" special arrived this morning from Sanford with more than five hundred citizens on board who favor the establishment of the new county. The house committee on counties, cities and towns in hearing argument in regard to the matter this afternoon, and it is said that each side is claiming a majority of the committee. Those advocating the establishment of the county are going to find more opposition in the house than they did in the senate, and it is said that the opposition has more representatives than at the former hearing.

CASE OF MURDER AND OF SUICIDE

Washington, Feb. 12.—Leonard T. Brown, 36 years of age, a merchant, and Margaret Straw, aged 26, were both found dead in the rear of the former's store 214 Fourteenth Street, this city today. The discovery was made early this morning when two employees of the store, Claude C. Gardner and Lee H. Smith went to work. The district coroner after an investigation, said that it was a case of suicide and murder. Miss Straw and Brown were found lying on a cot, the latter with one bullet wound in his mouth, while the former was shot four times. A revolver was found on the floor near the cot.

TWO MEN KILLED IN A COLLISION

(By the Associated Press.) Columbia, S. C., Feb. 12.—Two men were killed and three injured in a rear end collision between two extra freight trains on the Southern Railway near Johnston, this state, at an early hour today. The dead are Sever DeVan, a negro fireman, thirty years of age, and an unknown white man. The injured are West Goodwin, brakeman; G. D. Stewart, engineer; and D. C. Black, conductor, none seriously.

DANGER IN DELAY

Kidney Diseases Are Too Dangerous for Raleigh People to Neglect. The great danger of kidney troubles is that they get a firm hold before the sufferer recognizes them. Health is gradually undermined. Backache, headache, nervousness, lameness, soreness, lumbago, urinary troubles, dropsy, diabetes and Bright's disease follow in merciful succession. Don't neglect your kidneys. Cure the kidneys with the certain and safe remedy, Doan's Kidney Pills, which has cured people right here in Raleigh.

A. H. Haynes, policeman, who lives at 567 New Bern avenue, says "I have used Doan's Kidney Pills procured at Bobbitt-Wynne Drug Company's store, and attribute my being cured entirely to them. I was so sore I could not sit up in a chair and my back ached right across the loins and was so weak I could not stand. In spite of using well known kidney remedies I did not obtain a particle of relief. Doan's Kidney Pills acted like a charm, the soreness and pain left me and my back is as strong as it ever was."

For sale by all dealers. Price 25 cents. Foster-Milburn Co., Buffalo, N. Y., sole agents for the United States. Remember the name—Doan's—and take no other.

OVERCOATS AT SHARPLY REDUCED PRICES



There is no easier way to make money than to watch the markets in buying. Men over watchful in saving the dollar, and those looking ahead will BUY OVERCOATS and CRAVATTE COATS NOW.

The time such garments are of most service, still an "off season" to some extent, when Overcoats are selling at a marked sacrifice in price. If you find the overgarment here to your liking, surely the price will be made to fit your pocket-book.

LEE & BROUGHTON, Mail orders and out-of-town patrons have our very best attention.