GIBSON'S HOPE IN UNDERTAKER

Mark on Mrs. Szabo's Throat Made in the Preparations for Burial, Defence of the Accused Lawyer.

WOMAN BELIES PRISONER

Mrs. Emma Benninger, of Paterson, Who Witnessed Struggle Through Opera Glasses, Says Upper Bathing Garment Was Not Torn Off.

[From a Staff Correspondent of The Tribune.]

Goshen, N. Y., Nov. 19.—By an unexpected turn in his cross-examination to-day, Robert H. Elder brought out unmistakably that he expects to clear his client, Burton W. Gibson, of the charge of murdering Mrs. Rose Szabo by proving that the appearance of strangulation found in the woman's throat by the autopsy physicians was caused by the undertaker, who, in straightening the head preparatory to burial, threw the tongue and other organs of the throat against the roof of the mouth.

At the preliminary examination, Dr. Otto H. Schultze, for the prosecution, declared that the position of the organs in the throat as found by him could have been caused only by strangulation brought about by pressure from without before Mrs. Szabo went into the water of Greenwood Lake.

This conclusion of Dr. Schultze has been considered the mainstay of the prosecution, but the defence will seek to disprove it by the testimony of a German medical expert, who will declare that the condition could have been caused by the undertaker's manipulation of the head. To test the way in which the testimony of the German expert would be received by the jury one of Mr. Elder's questions at the impanelling of the jurors was whether there would be any prejudice against the opinion of a foreigner on the witness stand.

Defence Reveals Its Plan.

Cornelius Lazier, an undertaker of Warwick, who prepared Mrs. Szabo's body for burial, was the witness through whom this plan of defence was revealed. He was practically a new witness in the case, as no intimation has been given of the testimony he would give. He was brought forward by the prosecution, of which Isidor Wasservogel, of District Attorney Whitman's staff, took full charge to-day. Save for a few minor witnesses examined by his assistant, Deacon Murphy, he conducted the examination for the state.

When Mr. Wasservogel had finished with Lazier Mr. Elder took up the cross-examination, and at once drew from him the statement that he had found Mrs. Szabo's head bent back and twisted to one side. He further explained that rigor mortis had set in, and that he had to apply considerable force in twisting it back into a natural position. He grasped her head between the palms of his hands, which were placed against her temples; moved the head to the left and then bent it forward two inches, he said.

"Did you touch or apply any force at all to the throat?" Mr. Wasservogel asked, after Mr. Elder, apparently greatly satisfied with what he had drawn from the witness, had rested.

"I did not touch the throat at all," replied Lazier, demonstrating just what he had done on one of Mr. Wasservogel's process servers. Mr. Wasservogel did not let the witness go until the fact was established that he drew no water out of the woman's lungs. The prosecution will contend that the woman was strangled before she went into the water, the closed condition of her throat preventing any water from entering her lungs. They will use this to prove, therefore, that the undertaker did not cause the throat to close subsequently, as suggested to-day by the defence.

Woman Contradicts Gibson.

Evidence more directly adverse to Gibson was brought out by the prosecution through a new witness, Mrs. Emma Benninger, of Paterson, N. J. She lived at a house on the shore of Greenwood Lake at the time of Mrs. Szabo's death, and her attention was attracted to the occurrence by seeing Gibson struggling in the water near the boat in which he had taken the woman out rowing, which, when she first looked, was right side up.

She immediately got a pair of opera glasses, through which, she said, she discovered that the boat had turned bottom up and that Gibson was clinging to it.

"Did you notice whether he had an upper garment on?" she was asked.

"Yes, he did have a covering on the upper part of his body," she replied promptly, and no amount of cross-examining could shake this statement.

Gibson has asserted all along that the upper garment of his bathing suit was torn from him by the woman when he was struggling with her in the water in an effort to save her. Other witnesses testified to-day that when he was pulled out of the water his upper garment was not on him. The prosecution is expected to argue that Mrs. Benninger's testimony goes to prove that he tore the garment off himself after he came to the surface and before he was rescued, in order to make it appear that he had struggled with the woman in the water.

Had No Relatives, Said Gibson.

Another new witness was Miss Ethel Toussaint, of No. 263 West 123d street, New York, who is employed by Martin B. Brown, a printer. She was on a vacation at Greenwood Lake at the time of the alleged crime and talked with Gibson the day after Mrs. Szabo's death. She testified he told her that the accident, as she called it, was caused while he and Mrs. Szabo were changing seats, so that she could take the oars, at his request, as his arm had become cramped. Miss Toussaint said he told her in response to a question that the dead woman had no relatives in this country.

"How many questions did you ask Gibson?" Mr. Elder asked.

"Three in twenty minutes—very many for a woman," snapped back Miss Toussaint.

Fifteen witnesses were called to-day by the prosecution, which presented in chronological order the events surrounding the woman's death, as well as Gibson's alleged actions from the first time he visited the lake with her until he had her body buried in an obscure plot in Jersey City.

Among them was Sheriff William C. DeGraw, who testified that Gibson told him he was infatuated with the dead woman and might have married her. The face of Mrs. Gibson, who sat close beside her husband, grew tense at this point.

Daniel Dewitt, a negro boatman, who passed Gibson and Mrs. Szabo on the lake, testified that Gibson was talking "loud and rough."

As on the first day of the trial, Mrs. Gibson held a ruling place in the councils of the defence. She sat with a notebook and pencil, busily taking notes on the testimony, and was continually coaching Mr. Elder during the cross-examination. These suggestions were never disregarded. Gibson, too, was active, being frequently on his feet to whisper directions in Mr. Elder's ear.

Goldzier Listens Moodily.

Charles Goldzier, who had serious differences of opinion with the members of the defence yesterday, was practically excluded to-day from their circle. For the most part he sat with his back to the others, moodily listening, but taking no active part.

District Attorney Rogers, who is nominally at the head of the prosecution, opened the proceedings to-day with an address to the jury, in which he sketched the incidents of the alleged murder, dealt upon Gibson's alleged guilty conduct before and afterward, and declared that the prosecution would prove that first he had himself appointed executor of her will, with full powers, and then killed her to get for himself her $10,000 estate. Gibson scowled as Mr. Rogers said that he would prove his case not by circumstantial evidence alone, but by direct facts—"damning facts that will prove murder more clearly than it could be proved if this poor woman could arise from her grave and take the witness stand against her slayer."

Judge Tompkins reserved decision on objections by the defence to two counts in the indictment.

BURTON W. GIBSON AND HIS WIFE.

Listening to the testimony which may convict him of the murder of Mrs. Rose Szabo.

(Photo by Paul Thompson.)

SCHRANK REPORTED INSANE

Court Official Says Alienists Will Find Him Crazy.

Milwaukee, Nov. 19.—John Schrank, who shot Colonel Roosevelt on the night of October 14, is insane. This will be the substance of a report of the five alienists appointed by Judge A. C. Backus to examine into the prisoner's mental condition, according to a statement of a court official this afternoon.

Judge Backus said late to-day that the report probably would not be presented to the court until Thursday and that he had no idea of what the findings would be.

The commission held what was expected to be its last session with Schrank to-day, and while he was being subjected to further examination by the physicians the report gained circulation that the prisoner would be adjudged insane.

Presuming that Schrank will be found insane, it will be impossible to try him on the charge of attempting to kill Colonel Roosevelt. The only alternative is confinement in the hospital for the criminal insane at Oshkosh.

NEW DAIRY LAWS URGED

State Asked to Combat Tuberculosis in Cows.

Albany, Nov. 19.—Important amendments to the agricultural law were suggested to-day at a conference called by Commissioner Huson of the State Department of Agriculture to devise means of combating tuberculosis in cattle and glanders in horses.

It was the sense of the conference that there should be a physical test of all dairy cows from which a public supply of milk is obtained, and that those showing clinical evidences of tuberculosis should be killed; that all skim milk and whey from cheese factories should be pasteurized before being fed to calves; that if after making a tuberculin test which shows evidences of tuberculosis, a cow is killed and a post-mortem reveals that the disease was quite general, the state shall compensate the owner to the extent of $15 and permit him to retain the hide and carcass. Under the present law the owner gets 50 per cent of the appraised value of the slaughtered animal.

Glanders will be discussed at a conference to be held in New York City.

TAFT NAMES ARBITRATOR

H. L. Janes to Act in Railway Dispute with Ecuador.

[From The Tribune Bureau.]

Washington, Nov. 19.—Henry L. Janes, of the diplomatic service, has been appointed by President Taft, on the recommendation of the Department of State, one of the arbitrators in the controversy between the government of Ecuador and the Guayaquil & Quito Railway Company.

The dispute arose regarding claims for transportation and damages due to revolutions which have occurred since 1908.

DYNAMITERS SOUGHT OUTSIDER TO DO "JOBS"

Told Barber He Might Have Made Barrels of Money at Los Angeles.

HAD BOMB FOR CATHEDRAL

Witness Was Told the Explosions Were to Compel Contractors to Employ Union Men.

Indianapolis, Nov. 19.—Labor conditions in Kansas City, Mo., in which W. Bert Brown, business agent of a local ironworkers union, is alleged to have conspired with James B. McNamara to have a bridge across the Missouri River blown up and to induce a barber to do dynamiting at Los Angeles were described at the "dynamite conspiracy" trial to-day.

Charles Brown, who had been referred to by the government as a "citizen with important evidence," testified he became acquainted with McNamara in a barber shop, and later, having met the dynamiter on the Pacific Coast, McNamara loaned him $50 with which to return to Kansas City.

"McNamara told me he could fix it so I might earn lots of money," said the witness. "He said a lot of non-union jobs were to be blown up and there would be work in Kansas City. He introduced me to Bert Brown, and said he would pay me $200 to blow up the bridge. Brown said it was an open shop job, and they wanted to make the contractor put on union men. I asked Brown why he didn't do it, and he replied they wanted to get some one outside the union, because union men would be suspected. McNamara said he would see that I got the $200 from Brown, and then I was to go to Los Angeles, where there would be a lot of cleaning up. I was interested in an amusement enterprise then, and, after putting them off, finally told them I wouldn't do it."

The witness said the last conversation occurred in August, 1910, shortly before Ortie E. McManigal, according to his confession, blew up the bridge.

Might Have Made Barrels of Money.

"After the explosion I met Bert Brown on the street and told him I read in the newspapers that he and William J. McCain, another union official, had been arrested. Brown replied they could not prove anything and added I made a mistake in refusing to do the job, as I might have made a barrel of money at Los Angeles."

"Did McNamara tell you in Brown's presence that you were to blow up jobs in Los Angeles?" asked the District Attorney.

"Yes; he told me in Brown's presence that after I blew up the bridge I was to blow up a building in Kansas City and then I was to go to Los Angeles." The witness said it was arranged for him to pay to Brown the $50 he borrowed from McNamara.

Eugene A. Clancy, of San Francisco, and John J. McNamara talked about blowing up a cathedral in course of construction in Indianapolis, according to the testimony of Patrick J. Dugan, a former ironworker's business agent. Dugan said he accompanied McNamara and Clancy when they went out to look at the cathedral, and after McNamara had pointed out a place to put the explosive Clancy measured off with his feet to learn whether a wall would fall on a nearby residence, but the explosion did not occur.

Edward Smythe and James E. Ray, of Peoria, Ill., two of the forty-five defendants, were taken to jail to-night because their bondsmen had surrendered them. It was said the men would procure new bonds to-morrow.

Testimony was given that Smythe attempted to conceal evidence in connection with an explosion at Peoria on September 4, 1910. McManigal had been notified that Smythe had assisted him in carrying nitroglycerine to the job. When the government examined the register of the hotel where McManigal had stopped under the name "J. W. McGraw" the page containing the registration was torn out. J. W. Murphy, the hotelkeeper, testified that shortly after the explosion Smythe called at the hotel and asked to see the register, explaining that McGraw had been an administrator of an estate and absconded with money. The hotel man said he permitted Smythe to have the register, and later he found the page was torn out.

The government read from the ironworkers' union magazine a letter from Smythe, alleged to refer to the Peoria explosion, as follows:

"I thought it about time to let the members at large know that Local 112 is still on top of the earth. Halley's comet passed through here on time."

After the constructor agreed to use union men, Jesse Smith testified Hockin said:

"You may take your guards off the job. There will be no further explosions."

MANIAC'S BOMBS COW HUNDREDS

Continued from first page.

for the stairway. A similar scene was enacted in Justice Frederickson's court.

There were not enough patrol wagons to remove the prisoners from the jail to the Doyle Heights prison, and two streetcars were sent for. It was an orderly procedure, and the prisoners were soon on their way to the East Side, guarded by the reserves, who had been called out.

Ambulances removed the patients from the city emergency hospital just around the corner from the chief's office. The hospital was crowded with patients injured in last night's fire at the St. George Hotel.

Realizing the necessity of keeping the man's attention engaged until the building was cleared and some means devised for foiling his plans, Secretary Snively and the detectives in the room carried on a conversation with him.

"Why didn't you go down to the Southern Pacific and blow up the man you wanted?" he was asked.

"Well," he replied, thoughtfully, "I thought the police could handle it better, and I wanted to do a good job. Otherwise, I might have killed the wrong ones."

"Snapped" the Madman.

While the conversation was in progress several policemen and newspaper men passed through the room. A newspaper photographer even came in and took a picture of the man sitting on the chair with the infernal machine resting on his knee. Davis finally asked that everybody be kept back.

"Curiosity has killed lots of people," he said, "and if this thing goes off there's going to be a whole lot of them go up."

One of the spectators was J. Randel, a mining man from Chihuahua, Mexico. Randel came in and shook hands with Davis, asking him if it was really dynamite in the box.

"Yes, and it's 60 per cent stuff, too," declared Davis.

"I dont' believe it; you are bluffing," laughed Randel.

Davis lifted the cloth cover of the box, which had a glass front, and drew out a stick of dynamite. Randel took it, bit off a piece and tasted it, miner fashion. He knew what it was, but dissembled in order to gain time.

"That's not dynamite," he said, contemptuously, "somebody cheated you."

"Light it and see," said Davis.

Randel lighted a piece of the "giant" with a match. It burned briskly, and those who had hitherto clung to the joke idea made a hasty exit.

Foils Him with Blackjack.

After Davis had held complete possession of the station for almost an hour and a half, a plan was devised by the detectives to trap him. While Secretary Snively carried on the conversation with the maniac Hosick tiptoed from the outer room, which was at Davis's back, and struck him on the head with a "blackjack." The infernal machine dropped, and Browne, who was at Hosick's elbow, grabbed it.

Davis reached in his coat pocket, but Hosick hit him again, and he tumbled to the floor, unconscious. The bottle of nitroglycerine and the revolver were in Davis's inside coat pocket, toward which he had reached.

As Davis had said, his left hand was attached to the infernal machine, and its withdrawal ignited the fuse, but the quick work of Browne prevented the sparks from reaching the explosive. There were sixty half sticks of dynamite. An expert said it was 60 per cent and that there was enough to blow up a city block.

At the receiving hospital, Davis said to-night he "guessed" the fuse was too long, and for that reason there was no explosion. He said he was born in Germany, was thirty-four years old, and had lived in this country fifteen years. He admitted that Davis was not his right name, and finally declined to talk about his past.

Identified as Carl Warr.

Afterward he was identified as Carl Warr, a German laborer. In a search of his home tax receipts bearing that name were found, and after much questioning by detectives the man finally admitted that it was his name. He said also that more explosives were secreted in the vicinity of the house, and that when he recovered from his injuries he would take the police to the hiding place.

He said that he stole the dynamite from the powder house of a quarry at Bloomington, Cal., near Colton. He made an impression of the lock and made keys which opened the powder house. The search of his home revealed numerous mechanical contrivances.

A San Diego detective said that the maniac had been driven from San Diego during the trouble over the Industrial Workers of the World last spring, but this the prisoner denied.

The man apparently had been brooding over the Southern Pacific shopmen's strike of more than a year ago, but he denied that he had been employed by the company.

"They brought a lot of scabs out here and they overran the country, taking the jobs away from other men," he said. "I wanted to see if the company wouldn't treat their men better. That was all I wanted."

The infernal machine was an ingenious contrivance, with a large number of springs, and a wire lever attached to the hammerlock of an old army rifle. Davis's hand was attached to the wire that led to this hammerlock detonating device.

DIDN'T LIKE HER POSING

Dudley in Counter Suit Says Artist Addressed Wife Familiarly.

Edward Dudley, the wealthy Jersey resident, who is involved in a counter suit for divorce, was on the stand yesterday in the Chancery chambers, at Jersey City. The couple were married at Naples, Italy, on March 4, 1899, and are well known socially in this country and Europe.

Mrs. Marie Mulock Dudley is thirty-five and Mr. Dudley sixty years old. Mrs. Elizabeth Battell Vanderpool, a wealthy widow, of Saugerties-on-the-Hudson, is named as corespondent. Mr. Dudley denied the allegations, and said in his counter suit that his wife is inordinately jealous and has a violent temper. He stated that on one occasion at dinner in their Philadelphia home his wife threatened him with a carving knife. His wife also broke up a tea party in Philadelphia by provoking a quarrel with a Mrs. Tillman.

In 1902 his wife, he says, went to New York and stopped at the Waldorf-Astoria, and a friend telegraphed him that his wife was posing for a picture. He came to New York and found her with an artist named Terry, who addressed her familiarly. The picture the artist painted was shipped to him, but he refused to receive it. The charge was $1,500. He said his wife used to bolt the front door and muffle the bell so he could not get in his home without arousing the neighborhood. The finale came when Mrs. Dudley locked her door against her husband, on January 5, 1905. Then they parted.

On cross-examination Dudley said he refused the portrait of his wife because the drapery scarcely covered her limbs. The case will continue to-day.

R. R. MAY COLLECT EXTRA FARE.

Albany, Nov. 19.—The right of the Long Island Railroad Company to exact an extra fare from passengers who fail to buy a ticket before boarding its cars was upheld by the Court of Appeals to-day.

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