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The Evening Star.

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Weather.

Rain and warmer tonight and tomorrow.

ALIENIST PLACED ON WITNESS STAND

Defense to Allege Emotional Insanity in Strother Trial.

POINT CONTESTED BY STATE

Hypothetical Question Admitted After Protracted Argument.

MITIGATION NOT JUSTIFICATION

Court's Comment on "Unwritten Law" —Mrs. Viola Bywaters, Sister of Defendants, Seriously Ill.

Shortly after the circuit court of Culpeper county reconvened this morning to resume the trial of James A. Strother and Philip J. Strother for the killing of William F. Bywaters, their brother-in-law, the defense made known that they intended to ask the jury to entertain a claim of emotional insanity. A hypothetical case was presented, and Dr. Charles Clark was asked to characterize the homicide. Objection was made and argued, but the court sustained the position taken by the defense, and decided to admit the question. It is stated by a friend of the two families that Bywaters, the man who was killed, had other matrimonial aspirations, and that is given as one reason for his refusal to marry his cousin, Viola Strother.

Special From a Staff Correspondent.

CULPEPER, Va., March 1, 1907.

A recess was taken with the understanding that the question should be answered after reconvening. Several times during the course of the argument reference was made to the "unwritten law." Judge Harrison also had something to say upon the "unwritten law" proposition.

"Some reference has been made to the 'unwritten law,'" the judge said, "and I want to say that, so far as any court in the state of Virginia is concerned, no such law is known or is ever entertained, if by 'unwritten law' is meant that a person can take in his own hands the righting of wrongs.

"Such questions," he added, "can only be admitted in mitigation, and not in justification.

"All controversies involving questions of insanity," said the judge in passing upon the question, "are questions of fact, and therefore they are for the jury to determine. I have heard the question argued elaborately, and it is too broad a question, I think, to be determined by a court. The court certainly can lay down no iron-clad rule as to insanity in any given case."

The judge then quoted the famous De Jarnette case as the best Virginia precedent. In this trial defendant was charged with the murder of his sister, whom he found in an immoral house.

Believed to Favor Defense.

The decision of the court upon the admission of the expert testimony is looked upon as being of great assistance to the defense and, it is believed by many persons, will warrant the jury in returning a verdict for the defendants.

Although Mrs. Bywaters was able to appear on the witness stand in behalf of her brothers, it was stated this afternoon that she is still in a serious condition. A nurse has to be with her most of the time, and she is so weak that it is almost impossible for her to stand. Her experience in court this week seems to have affected her nervous condition to some extent, and her attending physician, it is stated, is not fully convinced that she will entirely recover.

New Phase of the Case.

Bywaters' reason for not wanting to marry Viola Strother, it is said, was because of his desire to marry a young woman who was possessed of considerable wealth. He had not much money, and he was fond of high living and sports, it is declared, and it was not always pleasant for him to associate with those who had money and could afford to spend it.

"That is why he was always anxious to put off the wedding," said an acquaintance of both families today. "Bywaters had several well-to-do ladies in view, and I know he could certainly have had one of them for his wife. All that was necessary was for him to get rid of the young woman he had ruined, and he was willing to cast her aside, but, as is the case with so many of his class, he was deterred and his plans thwarted."

Alienist on the Stand.

"Call Dr. Clark," said Attorney Moore as soon as Judge Harrison had the sheriff open court.

Dr. Charles Clark, second assistant superintendent at St. Elizabeth Hospital for the Insane, in Washington, responded and was sworn as a witness. The alienist told the court he received his education in a college at Columbus, Ohio, graduating fourteen years ago. He told of the hospital work and the practice in which he had engaged, and said he accepted a position at St. Elizabeth Hospital seven years ago. Before going there he had been connected with a hospital for the treatment of epileptics.

Attorney Moore then read a carefully prepared statement reciting what he conceived were the facts covering the details of the entire case, telling of the time when the parents of Viola died and of the mother's request upon her dying bed that James Strother should look after the child. The statement also recited the visits of the cousin, Will Bywaters, to the happy home of the Strother family, told of the ruin of the girl and of the operation in Washington. Coming down to the shooting, counsel told of what occurred at the house and of the subsequent conduct of the defendants.

"Those being the facts," said counsel to the alienist witness, "how would you characterize that act of homicide?"

"I object to the question," said Commonwealth's Attorney Keith, "because the statement does not contain a true statement of the facts."

Attorney Keith said that such a hypothetical question is inadmissible, because in order to get such testimony before a jury there must be some showing of a diseased condition of the mind upon which conditions would act.

Jury Excused.

The jurors were excused from the room while the question was being argued.

Commonwealth's Attorney Keith said the paper did not contain a full statement of the facts. In opposing the admission of the testimony counsel said there was not the sudden impulse in this case.

"Was it not that the shooting was done after a long line of provocations?" he asked.

"One of the defendants said in court that if he had it to go over again he would do as he had done."

The hypothetical question, he said, should have contained a statement about the defendants being armed and of the warnings they had given Bywaters.

"There is no such thing as an insane impulse in a sound mind," argued Mr. Keith. "It must be shown that there is a diseased mind and that the provocations acting upon such a mind produce a condition which makes a man irresponsible. Here we have a deliberate shooting; a fixed and formed purpose, and the only escape seems to be emotional insanity. This trouble did not come upon the defendants suddenly and overwhelm them. Their reason was not dethroned. Philip Strother told the jury he knew he was shooting, and how can it be said that he was insane?"

"They were cool and deliberate," he added, "and the state claims they are guilty of murder."

Counsel read several legal opinions in support of his contention.

Answer by Defendant's Attorney.

Attorney John L. Lee answered the commonwealth's attorney, claiming that the lengthy hypothetical question contained a true recital of the facts. There could be no question that they were armed and that they had armed themselves at the start for the purpose of killing. That was to have been done when they learned that their sister had been seduced and debauched.

"Instead of executing that intention," said counsel, "they were dissuaded from their purpose by the supplications of the offender and the pitiful prayers of their sister."

Counsel went on to explain how the defendants had brought about the marriage and argued that the idea of shooting was then abandoned. It was then the effort of Bywaters was made to desert his wife which brought about the sudden impulse. Mr. Lee said he was not prepared to say that some slight changes might be made when the question is carefully gone over by the court. Several authorities were cited, and counsel referred to the celebrated case of Daniel Sickles in Washington, in which, he said, there was no expert insanity evidence given, but the court let the question be determined by the jury.

"The law of insanity," he said, "has undergone some radical and very wise changes during recent years. Insane asylums are filled with people who know the difference between right and wrong, but they are unable to resist the doing of the wrong."

Attorney John L. Jeffries argued that the defense was entitled to the opinion of the expert. He thought the question asked was based upon the facts as they were told upon the witness stand. Counsel wanted to know where the commonwealth attorney had learned that it was necessary to show that conditions had to work upon a diseased mind in order to produce emotional insanity.

"From the books," said Attorney Keith.

"And," said Mr. Jeffries, "I want to show by this expert that what is contained in the books is wrong."

"There is a limit to every man's mental power," argued Mr. Jeffries. "None of us is endowed with infinite power, our Creator having reserved that unto himself."

Thaw Case Cited.

Mr. Moore again addressed the court upon the question of admitting the testimony of the expert witness, citing authorities and referring to the decision of the court in the Thaw case. He said that some of the states have statutes bearing upon the subject, but in Virginia there is no compelling statute, nor is there anything to give the court power to take away from the defendants the right to enter into the fullest ventilation of the question raised.

Capt. Micajah Woods, assistant prosecutor, said to the court that he thought the statement upon which a hypothetical question is asked should contain all the facts. He argued that several of the important and vital points had been omitted.

"And," he said, "if the question is to be permitted at all, the additional facts should be embodied."

Capt. Woods proceeded to state the facts which had been proved, as he understood them, and Mr. Lee interrupted him to say that the defense denied that the testimony he quoted had been given.

"I don't say that I have used the exact language of the testimony," said Capt. Woods, "but I have stated the substance."

Judge Harrison said he thought that should the question be admitted each side might frame its own statement of facts.

One Right Conceded.

Capt. Woods went into a long recital of the testimony from the state's side of the case, and said he would concede the right of counsel for the defendants to argue to the jury that the exciting circumstances should be taken in mitigation of the punishment.

When Capt. Woods referred to the count in the Sickles case and the charge it involved, Mr. Moore asked: "Are you willing to have the court deliver that charge in this case? If you are, with the addition of the court's instructions, we will accept it."

"I will answer that question when it is reached," answered Capt. Woods. Counsel said he thought if the defense has the right to have the alienist characterize the homicide, they also have the right to ask him to say if he thinks their clients are guilty or not guilty of manslaughter or involuntary manslaughter. He thought the question at issue could be determined by any sane man in Virginia, as well as by the most learned expert in the world.

"It is for the jury with their knowledge of the facts and their knowledge of the human heart," he said, "to pass upon the question of guilt and punishment."

Mr. Moore said he would willingly withdraw the witness if the question of temporary insanity is to be left to the jury.

"But," he said, "I'm afraid it will be a case of 'come into the parlor said the spider to the fly;' that when it comes to the question of instructions the state will urge that nothing has been shown upon the question at issue."

In conclusion he argued that the question is a proper one, and that unless it is permitted, the twelve honest citizens of Virginia will not be able to find the verdict that they ought to find.

Capt. Woods again objected to the admission of the testimony, saying no evidence

(Continued on Twelfth Page.)

ANOTHER EXCUSE.

LIKE A THUNDERBOLT

Discharge of Employes of Mail Bag Repair Shop.

FORTY-ONE WERE DISMISSED

Services of Aged Men and Women No Longer Needed.

PATHETIC FEATURE OF THE CASE

Action by Direction of Postmaster General—Large Amount of Work on Hand.

A sweeping discharge of men and women employed in the mail bag repair shop of the Post Office Department was made today. Forty-one veteran employes of the establishment were handed the fatal yellow envelope containing in brief form announcement of their dismissal from the government service when they reported for duty this morning at the shops on C street between 4½ and 6th streets. The wholesale dismissal was unexpected and is said to have come "like lightning from a clear sky."

The pathetic feature of the case is that nearly all of those who were discharged are elderly people, and a number of the women are said to be widows of veterans of the civil war.

Sad scenes were enacted in and about the shops when Mr. Severe, the superintendent of the establishment, handed out the forty-one envelopes informing the aged workmen and women that their services were no longer required by the government.

Those who have families dependent upon their efforts were sorrow stricken at being discharged without warning and while pitiless winter is still upon them, and not a few of the number shed tears. One woman became so demonstrative in her despair that it became necessary to send for the police and have her removed from the building.

Plenty of Work.

"There is plenty of work in these shops to be done," an elderly man with age-whitened hair and beard said, "and I don't see why our rich and powerful government has put us out, to become objects of charity in many cases."

"I fought for this country when it needed soldiers," another venerable man remarked, "and now the country is showing its gratitude by dismissing me from this place, where at best I received but a pittance to support my dependent ones."

Still another—an aged woman—declared that her husband died as a result of wounds received in battle during the civil war, and said her dismissal would mean that she would have to depend upon charity unless she was restored to her place. She was surrounded by several women who were said to be widows of veterans of the civil war.

When Superintendent Severe was seen by a Star reporter today he said the discharges were sent to him for execution by the Post Office Department officials, and he disclaimed any responsibility for the dismissals. It was learned that they were signed by Chief Clerk Chance by direction of the Postmaster General. It was also said that the dismissals followed an investigation made into the personnel of the force employed at the mail bag repair shops. The investigation is said to have been started last October, and the commission of investigators is said to have been composed of Messrs. Theodore Ingalls, Carter B. Keene and G. F. Shaw.

Of Long Service.

A number of the aged men and women dismissed today are said to have been employed in the mail bag repair shops since before President Cleveland's extension of the civil service law to cover appointments in the establishment. This extension was made, it is said, in 1896, and the old people who were then in the shops were retained without being required to pass the civil service examination.

It was further stated today that owing to the large amount of work on hand at the shops it will be necessary to fill the vacancies caused by the dismissals from the civil service lists.

Some of those dismissed are inclined to the belief that the discharge came as a sequence to the resignation of Second Assistant Postmaster General Shallenberger, who was known to be a friend of the venerable workmen and workwomen of the shops, which were under his immediate charge, being a part of the division of the second assistant. One aged man said pathetically:

"This would not have occurred if Gen. Shallenberger had retained his place. He has the greatest sympathy for the aged and afflicted and he would not have found the necessity for discharging us, especially as our long experience would have weighed in the balance against the stiffness of our joints as the result of advancing years. I have been a good citizen of the District for forty years and my dismissal leaves me in a sad plight."

Others said owing to the smallness of the salaries they received they had not been able to lay aside any money "for a rainy day" and are, therefore, in distress.

Organizations to Act.

The matter of the dismissals of the widows of soldiers and of veterans themselves, as alleged, has been called to the attention of the Grand Army of the Republic and the United Spanish War Veterans, and it is said it is probable immediate action will be taken in the premises.

An officer of the G. A. R. said this afternoon that there appears to be developing a tendency to remove from office the aged soldiers of the republic and their widows, and it is proposed to carry the matter to President Roosevelt, if necessary, in order that a halt may be called.

Reference was made to the recent reduction of the force of women who have had employment at the navy yard here making cotton bags for the powder charges for the big guns of the navy. It is said the reduction of that force fell heavily upon the widows and daughters of veterans of the civil war.

Result of Investigation.

The committee composed of Post Office Department officials appointed by the Postmaster General October 20, 1906, to investigate the mail bag repair shop has submitted its report. Many changes have been recommended both in the personnel and in the method of conducting the business of that institution. Orders have been issued today by the Postmaster General directing a number of promotions, reductions and removals to carry out the recommendations of the committee. Steps will be at once taken to change the existing methods, and it is thought that such changes will result in the saving of many thousands of dollars each year. Arrangements have been almost completed for the removal of the mail bag shop to new quarters in a fireproof structure located near the new railroad terminal.

The reconstruction of the mail beg repair shop and its removal to a safe and suitable building has for a number of years formed the subject of many investigations by the Post Office Department, but until this time it has been impossible to secure definite action.

For some time it has been the plan of the Post Office Department to secure a building near the railroad, in which to conduct a portion of the postal business in this city. It is desired to obviate the necessity of hauling the mail bags to and from the station to the main office at 11th street and Pennsylvania avenue, which, it is stated, is a great waste of time. It is understood that the mail bag repair shop is to be quartered in the building secured for this purpose.

No building has finally been determined upon, but it is expected that if the money is forthcoming a building owned by a local trust company in the vicinity of the union station will be purchased by the department.

MAY INVADE SALVADOR.

Indignation in Nicaragua on Account of Aid Extended to Honduras.

Official advices received by the State Department today are to the effect that the fighting in Central America has become more general, with Nicaragua bearing the brunt of a three-cornered conflict. There has been constant fighting between the forces of Nicaragua and Honduras, in which Nicaragua is stated to have won the preliminary actions. Great public enthusiasm and confidence exists in Nicaragua, particularly on account of the aggressions of Salvador, which is lending aid to Honduras. Nicaragua is preparing to resist that interference, which is interpreted here to mean that an invasion of Salvador is in prospect.

SMOKE BILL HELD UP

Effect of Senator Kean's Motion to Reconsider.

MATTER IS DEBATABLE

Prolonged Discussion Now Can Defeat Any Measure.

INDIGNATION IN THE SENATE

Sentiment of Many is That the Question Should Be Allowed to Come to a Vote.

As soon as possible an effort is to be made by Senator Hansbrough to obtain an expression by the Senate, by means of a vote, on the subject of the anti-smoke law in the District of Columbia as applied to locomotives and yard engines. A bill to accomplish this purpose has been passed by the House of Representatives, and on the 16th ultimo was passed by the Senate without amendment. The subject had been so fully discussed in public hearings and otherwise that it was supposed this action met practically unanimous approval in both the Senate and House of Representatives. The bill applying the smoke law to the steam railroads appeared to be practically a law, as at the time of its passage by the Senate only the signatures of the President of the Senate, the Speaker of the House of Representatives and the President of the United States were necessary to put it in force.

But about one hour after the passage of the bill by the Senate Senator Kean arose and moved that the vote, by which it had been passed, be reconsidered. Apparently such a motion could not defeat so important a measure, as the taking of a roll call of the Senate consumes about ten minutes of time. The real importance of the motion, however, was in the fact that it involved a filibuster. It threatened delay because such a motion was debatable. During the last days of a Congress a filibuster means defeat for almost any bill, however worthy may be the one under consideration.

But the peculiar circumstances surrounding this proposed legislation are of the kind to excite opposition to this attempt to defeat by a filibuster a bill that has been fully discussed, that was passed by the House of Representatives almost a year ago, and that has been considered in public hearings before the Senate committee on the District of Columbia and, after the publication of the testimony given concerning its merits, has been passed by the Senate itself.

Indignation in the Senate.

A good many senators believe that if it is just to enforce the smoke law against private business establishments in the District it is just to enforce it against the steam railway companies. Congress has appropriated liberally to lessen the smoke nuisance in government buildings in this city. At this time the only violators of the law who are free from all its provisions are the steam railway companies. In view of this fact a good many senators feel incensed over the action of a single senator, who, by the threat of a filibuster, has tied up this bill at the very moment when it was about to become a law.

Now their purpose is to get this bill before the Senate if possible and have the Senate vote upon it a second time. They say that if there are any reasonable arguments against the passage of such a law they can be soon stated. When they have been stated they want the Senate to vote and if it sees fit, to vote down the legislation they will be entirely satisfied with this action as being at least the result of a public expression of the Senate and not the result of a filibuster by one senator.

Hearings on the Bill.

Hearings on this bill were held January 18 and January 29. Representatives of all the steam railroads were present, and to them was given all the time they desired to express their views on this proposed legislation. Their testimony was reported and printed as a Senate document, and is now in the hands of all senators. At the first hearing there was almost no hope expressed by representatives of the northern roads that they would be able to do anything to materially lessen the smoke nuisance. At the second hearing they held out a great deal of hope for such an outcome, stating that they would use coke in their yard engines, and if that did not answer would use anthracite coal. They asserted that the least objectionable fuel would be used on locomotives coming into the city and that instructions would be given to guarantee the exercise of the greatest care possible in keeping down the smoke nuisance.

At the close of that hearing Commissioner Macfarland said that although he was glad to hear of this favorable purpose of the railroads, yet the representatives who expressed these views were not in a position to guarantee the carrying out of their promises and any shifting of these officers of the companies might bring in new officers who would not feel bound to comply with these promises. He added further that it was not customary for Congress to accept the promise of any citizen to conduct himself in a desirable way, but Congress preferred to legislate so that the obligation to carry out such promises might be made legal and enforceable in the courts.

The effort to force a vote in the Senate on Senator Kean's motion to reconsider the vote by which this smoke law was passed will be made as soon as possible.

MINISTER CARBO.

To Return to Ecuador as Minister of Foreign Affairs.

Senor Don Luis Felipe Carbo, the minister for Ecuador at Washington, has received a cablegrom from President Alfaro requesting him to return to his own country immediately to assume the important post of minister of foreign affairs. The Ecuadorian foreign office is now about to engage in the plan to re-establish the credit of the country in Europe, projected by President Alfaro. Another important task that will be devolved upon the minister of foreign affairs is the arrangement of a project for the sanitation of Guayaquil, the principal port, so as to guard against the introduction of yellow fever from the Isthmus of Panama. Guayaquil is that last port of call of vessels coming northward from Chile around the Horn, and as Senor Carbo, in his capacity as minister to Washington, has already been conferring with the officials here relative to that subject, he will be in possession of all the facts necessary for its treatment in its final stages, for it is probable that the sanitation of Guayaquil must be regulated by a treaty.

It is understood that when Senor Carbo has completed the negotiation of these important subjects he will relinquish his post at Quito and return to Washington to resume his place as minister. Meanwhile his duties at Washington will be discharged by a secretary and charge, who will probably be the son of Minister Carbo, at present in Guayaquil. Senor Carbo came to Washington as minister in May, 1906, and in a short time took a leading position among the Latin-American diplomatic bodies, being a member and secretary of the supervisory committee of the bureau of American republics.

TAKEN UP IN THE HOUSE.

Consideration Begun of the General Deficiency Bill.

Soon after convening today the House temporarily laid aside the ship subsidy bill in order to take up the general deficiency appropriation bill, the last of the appropriation bills to be reported, Mr. Littauer of New York announcing that early disposal of it was necessary to insure its becoming a law before the end of the session. The bill carried $9,847,000, one of the important provisions being a reduction in the mileage paid senators and representatives from 20 cents to 8 cents a mile, and another that Cuba shall reimburse the United States for expenditures made in connection with the intervention of the United States in that country.

On a point of order by Mr. Mann of Illinois a provision in the bill for the reimbursement of officers and enlisted men of the revenue cutter service for losses incurred while on duty in San Francisco after the earthquake, was eliminated.

An appropriation of $25,000 for amusements in soldiers' homes was added in the House.

ONE ITEM IN DISPUTE.

Senate Action on Agricultural Bill Conference Report.

The Senate today agreed to the conference report on the agricultural appropriation bill. The additional amount appropriated by the Senate for agricultural colleges is still in dispute, and the bill was sent back to conference on that item.

FOR CROSS-TOWN ROAD.

East Washington Residents Greatly Interested.

The citizens of East Washington are very much in earnest in their efforts to have Congress enact into law the cross-town street railway section of the Babcock union station bill. The statement was made today that both the citizens' associations in the eastern section of the city have come out squarely in favor of the cross-town railroad proposition, and urge its enactment as a crying necessity. When Mr. Thomas W. Smith was seen by a Star reporter this afternoon he said:

"For ten years both the citizens' associations on the east side have been urging both of the District railway systems to give them a cross-town railroad along any street east of the Capitol. About eight years ago a bill was passed by one of the houses of Congress providing a cross-town road along 4th street east."

"This measure was defeated. Since that time the officers of the citizens' associations have made repeated efforts to have either of the two railroad corporations give the people of East Washington the desired facility, so that it will not be necessary to travel to 15th street west, a distance of three or four miles, in order to get across town, a distance of not more than a half mile from the original starting point.

"The railroad companies have refused in the past to do this, urging that there is no money in it. We claim our money has been dropping into their boxes for more than thirty years and that the profits have enabled both companies to capitalize their roads at many times their actual value. Notwithstanding all this we are still willing to pay 25 cents for six tickets to enable either road to build a crosstown railway in East Washington."

Mr. Smith added that in order to bring about the improvement the citizens would not favor universal transfers, as that is a question for the future. The vital question at this time to East Washingtonians, he said, is transportation across town. There seems to be such a strong demand for this in the eastern section, he concluded, that that portion of the Babcock bill should not be eliminated.

CUP GIVEN TO LACEY.

Presentation by Associates on Public Lands Committee.

Representative Lacey of Iowa, chairman of the House committee on public lands, who will retire from Congress on March 4, was presented today with a handsome silver loving cup by the members of his committee. Representative Mondell of Wyoming, made the presentation speech on behalf of the republicans, and Representative Burnett of Alabama spoke for the minority members.

EXPERT DECLARES THAW WAS INSANE

Not Responsible When He Fired at Stanford White.

HAS PERIODICAL ATTACKS

Malady Found to Be Present in an Adolescent Form.

JEROME FENCES WITH EVANS

Cross-Examination of the Alienist Continues—His Answers Definite.

District Attorney Jerome's intention of applying for a commission in lunacy to examine Harry K. Thaw seemed to be definitely established today during the continuance of his cross-examination of Dr. B. D. Evans, the principal medical expert for the defense. Dr. Evans stated that he believed Thaw to have been suffering from adolescent insanity in 1903 and at the time of his marriage, April 4, 1905, and that when he killed Stanford White June 25, 1906, he was the victim of an acute and recurrent attack of the same mental malady. Dr. Evans was more definite in his answers today and was induced to make these statements with positiveness.

NEW YORK, March 1.—When the Thaw trial opened this morning District Attorney Jerome announced that there had been a second packet of letters from J. D. Lyon, the Pittsburg banker, who until November last had custody of Thaw's will. The letters received today were written to Mr. Lyon by Thaw while in the Tombs, and all bear dates subsequent to June 25 last. Mr. Lyon first sent on only letters written prior to the roof-garden tragedy.

Mr. Jerome was very anxious to have the later letters, and they were sent on by consent of Thaw's attorneys. The letters are held subject to the court's orders.

Dr. Britton D. Evans was recalled as soon as the letters from Pittsburg had been examined by counsel, and Mr. Jerome continued his cross-examination of the alienist.

"Taking all the letters you have read in the light of all you know about this case, what is your opinion as to the mental condition of this defendant at the time he wrote these letters?" was Mr. Jerome's first question.

Mr. Delmas promptly objected on the ground that he assumed that the witness had knowledge that was not in evidence.

Mr. Jerome withdrew the question and asked the witness if he had any knowledge of facts that have not been testified to.

Anxious for the Facts.

An argument was the result, Mr. Jerome claiming that the only point in the case was whether or not the defendant was insane when the homicide was committed. He was anxious, he said, to bring out all the facts.

Dr. Evans was not allowed to answer, and said that, so far as he could recall, he had told all of importance that he could remember of what he had heard and seen on the first three visits to Thaw in the Tombs.

"Taking everything that you have testified to into consideration, what, in your opinion, was the mental condition of the defendant when he wrote these letters?" asked Mr. Jerome.

"He was in a state of mental instability."

"Do you mean he was insane?"

"Not necessarily. He was in a state of mental unsteadiness."

Mr. Jerome handed the witness a copy of the letter Thaw wrote to Anthony Comstock, complaining that "dens of vice" were maintained by Stanford White and "other rich scoundrels" for the ruin of young girls.

After Dr. Evans had examined the paper some twenty minutes Mr. Jerome asked him if anything in the letter suggested the mental state of the writer.

"It shows," said the expert, "that his mind seemed to be running upon young women and their supposed wrongs."

"Anything else?"

Delusive State of Mind.

"It indicates a delusive state in the writer's mind."

"Were the delusions of an exalted or depressed nature?"

"I don't think there is enough in the letter for anybody to say as to that."

Dr. Evans' attention was called to Thaw's will and codicil, and he stated that the ideas and delusions indicated in those documents were different from the ones indicated in the letters.

"Are not the ideas or delusions shown in the will and codicil more concentrated than in the letters?" asked Mr. Jerome.

"Yes, that is my opinion," was the answer.

The will and codicil were written some years after the letters, and Dr. Evans' answer would indicate that, in his opinion, Thaw's mental disease changed in form and became more serious.

Mr. Jerome then took up the letters, nine in number, and began asking the witness

(Continued on Eleventh Page.)