

JEROME MAKES A MONKEY OUT OF FIRST WITNESS

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near him and apparently in a quiet and orderly manner, that 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 quietly toward the elevator; that he gave up the pistol without resistance and did not make any attempt to escape, and that he said: "He ruined my wife, and that he immediately afterward saved my 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 that answer?"

Suffering From Insanity.

"I can," said Dr. Wiley. "Will you express that opinion?" "I believe that that man—" "You must not state a belief," interrupted Mr. Jerome. "You must give an opinion." "My opinion," said Dr. Wiley, "is that the man who committed the act described was suffering from insanity."

The witness was asked to define hereditary insanity, which he did, but when a question by Mr. Gleason as to the influence of hereditary insanity was asked it was objected to by Mr. Jerome. Dr. Wiley said that in hereditary insanity the common blood would flow through brothers and therefore a cousin, the son of an uncle of the defendant, might follow the same hereditary influence.

"Are you acquainted as you sit there with the form of insanity which the law of this state defines and excuses for crime?" asked Mr. Jerome. "Not entirely,"

"Then your opinion upon the question you have answered was given as a scientific man. You had in mind the various forms of mental aberration which scientific men meet together and discuss from my own application of the medical knowledge on the subject."

Mr. Jerome asked the witness if he really considered himself an expert.

Witness an Authority.

"I feel that I have had experience," began the doctor. "That is not the point. Are you an expert? We don't know whether you are or not." "I think I am competent—" "Are you an expert?" shouted Jerome. "I am an authority," Mr. Wiley replied.

After Dr. Wiley had said he was an authority, he was asked by Mr. Jerome if he was willing to go on record before the world in this case as a scientific man, after merely witnessing Thaw's action on the street in Pittsburg, and from a description of his killing of Stanford White, as saying that Thaw was insane.

Dr. Wiley replied with decision: "Yes."

Asked by Mr. Gleason if in his opinion the defendant at the time of the deed knew that it was wrong, the witness replied:

Witness Tangled.

"Yes," and started an explanation, which was stopped quickly by Mr. Jerome and Mr. Gleason, the former objecting to the explanation and the latter endeavoring to stop his witness. When the question was again put to him he answered "No."

Dr. Wiley explained that a person might know what he was doing and yet be utterly in the control of an irresistible impulse. "In other words," commented Mr. Jerome, "we have a sort of volitional insanity?"

"That is possible, coupled with a morbid impulse." "An act is morbid if it is insane?" "Yes."

"And a man may know the nature and quality of his act, know that it is wrong and against the law, and yet be swept away by an emotional impulse?" "Yes, by an impulse over which he has no control."

"What evidence of delusion was there in the hypothetical question put to you by counsel for the defense?" asked Mr. Jerome.

The witness started to answer. "Wait a moment," commanded the district attorney, "let's go over this thing again. Give us the substance of the hypothetical question on which you based so important an opinion in this case."

Made an Admission.

In repeating the question, the witness inadvertently admitted that he had taken into consideration his knowledge of the case outside of the question. "Tell us some more of your conclusions from the hypothetical question," he requested.

"The time, the manner and the place chosen—" "So," 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 arguments. I keep it out of this. What is your opinion—was the place chosen?" "No."

Insanity or Jealous Rage.

"Now, as to the manner—do you think that because this man with 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, burned, do you think that an act of insanity?" "Yes."

"Then 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 taken together, they do."

"We have gone over the entire case. Now tell me, did you arrive at your opinion that he was insane from the facts of that night alone?" "No."

Dr. Wiley said the occurrences of the night of the tragedy had not wholly convinced him.

Opinion Formed by Newspapers.

He was asked if his opinion as to the insanity of the prisoner was based upon the occurrences upon the roof garden, Dr. Wiley answering that it was.

"And after reading the newspapers," suggested the district attorney. "Yes."

Mr. Jerome then carried the witness through the various tests a alienists to discern brain trouble, such as reflexes, etc., the witness nodding his assent and asserting that he knew them all, including the Romberg test.

"Describe the Romberg test," commanded Mr. Jerome. "The witness said that it was a test of the brain."

"But that is not an explanation of the Romberg system. Do you know it, have you ever heard of it?" "No, I do not know it."

Witness Didn't Know.

"I do not exactly know it." "How many people have you examined as an expert, to your sanity?" "Oh, about 800; I don't know."

"Did you see 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 theories 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 was still undergoing cross examination when recess was taken at 2 p. m.

Had Been Posted During Recess.

Mr. 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," said Dr. Wiley. "Several other gentlemen; I don't know who they were."

"Did you talk about this case?" "I don't know," said Dr. Wiley. "The Romberg test was a test for locomotor ataxia."

"And don't you know who it was who told you that?" "He was a physician."

Thaw More Cheerful.

Harry Thaw came back from the Tombs for the afternoon session with a spring in his step. He had appeared depressed at the morning session. His wife, who came to the witness chamber for the forenoon session, visited the prisoner during the luncheon hour.

Elimination of the witness, Thaw's counsel were a study. Mr. Gleason looked appealingly at Dr. Wiley as he was plied with Mr. Jerome's questions. Mr. Delmas looked interested, and at times appeared fatigued. Mr. Hartbridge was worried. Mr. Peabody was busy in conversation with the prisoner a good part of the time.

Attorney McPike could not suppress a smile. Thaw finally began to bite his fingernails. Dr. Wiley did not appear disconcerted in the least, however. He rubbed his eyes with his hands as Mr. Jerome hurled broadsides of questions at him, and made no reply.

After bringing in every possible charge in the pneumo-gastric nerve, Mr. Jerome passed on to the tests of insanity by the light and the eyes.

"Do you know of the Argyle-Robinson 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.

"Nailed Hard and Fast." "Where?" said Jerome, "in any book in God's whole wide world did you ever hear of that 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, in Pittsburg."

"Can you determine whether or not a man is insane by looking at him?" "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 it as your opinion that a man is insane when you have not submitted him to any examination?" "I have given my opinion on a hypothetical question, not on 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 do 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."

"If a man at 36 years of age," asked Mr. Jerome, "whose blood is tainted with insanity, is he seized with a homicidal mania, is he not likely to lapse into such delusions as these?" "He might. It is a possibility."

"Is it not a probability?" "That depends. If the object and circumstances of his delusion are removed he is not likely to lapse."

"What do insane people usually do after killing a person?" "They usually follow evidences of satisfaction and relief and a declaration of fact. Thaw's declaration was 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."

Second Pittsburg Witness. Mr. Jerome concluded his cross-examination of Dr. Wiley, and Dr. C. H. Eisingman a Thaw family physician from Pittsburg, was called as the second witness for the defense.

Dr. Eisingman knew Harry Thaw for thirty years, and his mother the same length of time. "Did you attend Harry Thaw in his infancy?" "Yes."

"What disease do you first recall?" "St. Vitus dance."

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ACTIVITY OF HEYBURN.

Idaho Senator Proposes Several Amendments and One Resolution. (Special to The Herald.)

Washington, D. C., Feb. 5.—Senator Heyburn today introduced a resolution instructing the secretary of the interior to issue patents in all land and mineral applications where the proofs submitted show full compliance with the requirements of the law, and where no protest has been filed against granting such patents. It is expected by Heyburn that by the adoption of this resolution a large percentage of the land business of the country will be resumed which is now tied up by order of the secretary of the interior prohibiting the issuance of all patents excepting in cases where special agents have made personal examination of the lands.

Mr. Heyburn introduced an amendment to the sundry civil bill providing for the completion of the survey of public lands in Idaho without waiting for requests or demands of settlers as prescribed shall be done by the regulations of the interior department. Two hundred thousand dollars is proposed for making these surveys.

He also proposed amendments to the agricultural bill providing that none of the sections sixteen and thirty-six shall be included in any forest reserve where such sections were granted to the states by act of admission to the Union or enabling act, and that lands more valuable for grazing than for timber shall not be included within forest reserves.

Mr. Heyburn also introduced a bill to create a national park out of the northern portion of Coeur d'Alene Indian reservation. The proposed park will include lands along the St. Joe river and Coeur d'Alene lakes.

IDAHO LEGISLATURE.

House Recommends Passage of Two Bills on Same Subject. (Special to The Herald.)

Boise, Feb. 5.—The peculiar temper of the house was illustrated today. At the morning session the committee of the whole body took favorable action on the local option bill, against which there is a furious fight. The recommendation was made without a dissenting vote. In the afternoon again, in committee of the whole, the body made a similar recommendation with respect to the optional license bill.

The latter provides a uniform license of \$1,000 and gives the commissioner an option whether license shall be granted. It has been supposed the local optional license would be supplanted by some such measure as this optional license bill, but the house, without division, has in committee of the whole thus recommended both for passage.

Abbott's bill admitting veterans of Indian wars to the Soldiers' home was passed by the house and a number of minor measures.

The senate had a quiet day. It passed the house bill by Cavanaugh, making a minor amendment of the law governing paving in cities, but its work was mainly routine.

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And the Sun Shone and the Day Was as Spring

The white-winged messenger, carrying an olive branch in his beak, returned—glad sunshine poured forth—and trade fairly hummed yesterday at Keith-O'Brien's.

There were several features.

The annual shoe sale—the only time in the year such bargains are offered—was the center of attraction. There is little profit in shoes anyway—\$5.00 and \$6.00 shoes for \$3.85; \$4.00 and \$4.50 for \$3.35; \$3.50 for \$2.95; children's school shoes at like reductions—who wouldn't come out for shoes on such a bright and balmy day? Style—every time. Quality—the wearing kind.

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