Californian Pleads to Save Thaw's Life

Relatives Hear Defense of Accused Unmoved

Delmas Speaks Nearly Three Hours; He Will Close Argument Today

NEW YORK, April 8.—Attorney Delmas began his appeal to the jury in the Thaw trial today by quoting from an utterance of District Attorney Jerome. He said:

"'We have no right, if the real facts were known, to be here trying this man and would be absolutely prohibited by the statutes.' Had you heard these words from some irresponsible babbler, instead of from an official charged with a great public duty; had this been spoken in a place where idle men resort to idle talk, instead of in a tribunal where justice presided in solemnity; had the occasion on which they were uttered been some trivial discussion on some insignificant topic, instead of a debate the issue of which is life or death, and had you, after so hearing them, heard the same lips make an appeal to prove that the law demanded forfeit of the man about whom they were spoken, these words might not have filled you with amazement.

"It is to prevent such a conclusion in this case that I have undertaken the performance of one task before me. In this task it will be my duty to give you all the help in my power in deciding the question before you. In the performance of my task it is not improper to say that I shall make no attempt to influence your passions, no attempt to make your sympathies overbalance your judgment.

"I shall not call on such a flimsy thing as the unwritten law. This defendant finds his justification in the written law, in the statutes of this State. In the written law he finds it necessary to protect his life and his liberty.

REFERENCE TO WHITE

"In the performance of my duty it will be necessary for me to refer to the dead. I will do so in all respect possible, but there are cases where the memory of the dead must give way to the needs of the living. For those who are left behind, for the widow who mourns, for the son, I have nothing but words of sympathy. Gladly would I suspend, if possible, the law that the sins of the father must descend for three and four generations.

"The story is that of two young people whom fate, by inscrutable decree, had determined to link together, to be united and walk through life in the company of one another. The story covers only a few years. It is the saddest, most mournful and most tragic which the tongue of man has ever uttered or the ear of man heard. Let me begin briefly with the one story—one filled with incidents with which a volume might overflow, or which might be written by the vivid imagination of the most gifted novelist.

"She was born on Christmas eve, 1884, in the city of Pittsburg. The first year of her childhood saw the loss of her father and protector and left her in charge of her mother, who early manifested that character of frivolity and extravagance which were to lead to such deplorable consequences. When the girl was 10 years of age, the family itself in straitened circumstances, she began to feel the pangs of want.

"At 13 she became the family drudge, assisting her mother. Thus the family continued moving from place to place without any fixed habitation.

"But nature had endowed her with the fatal gift of beauty—a beauty which manifested itself in youth, a gift with which the mother soon saw means of supporting the family.

"At 14 years she was in Philadelphia, already embarked upon the perilous sea of an artist's model. But New York, the great metropolis, was the market where such natural gifts were most sought and most dearly paid for, and to New York the family came, and by the procurement of the mother the employment begun in Philadelphia was renewed and the beautiful child wended her way through the streets from morn till noon and from noon till eve, from studio to studio and from artist to artist, and at the end of the week she carried her scant earnings to her mother for the support of the family.

MEETING WITH WHITE

"Brave and courageous we find this child at 15 years of age, rushing in the daytime from studio to studio, earning $16 to $18 a week, and at night appearing upon the boards and earning an equal salary.

"At this time we find a man whose hair was tinged with gray, who had an excellent wife and an accomplished son, fixing his eyes upon the fated child and determining to make her his. To win her he had none of the graces or principles of the honorable suitor. He conducted himself to the family in the guise of an influential friend. He won his way into the confidence of the mother and established himself in a paternal and protecting attitude in the family and when his footing was sure he persuaded the mother to absent herself from the city, assuring her that the child would be safe in his hands and telling her how fortunate it was that there was such a protector to watch over her.

"The child was left alone. I wish it were in my power to pass over the scene which followed. I wish it did not have to be embodied in my argument to you, but my duty gives me no choice. In one of those dens fitted up with all the beauty and taste which this man of genius possessed—into one of these dens this child was lured and found herself alone with this man, old enough to be her father—the man who was her protector.

"Must I tell you how she was led on, step by step, how she was plied with wine and drugged and finally became his victim? That story you have heard from the child's faltering lips. Better that he should never have lived than to have lived to hear the cries of anguish of the victim who lay before him. He had committed the greatest crime that ever defiled the image of God. He had lured to destruction and had crushed the child who had trusted him. He had committed a crime against the law of this State, a crime that the Chief Magistrate of this country, in a message to Congress, said should be punished by death.

PAYING THE PENALTY

"Had this man forgotten that when our Lord set down a child among his disciples, he said:

"'Whosoever receiveth such a little child in my name he shall dwell with me forever, but who shall offend a little one such as this it were better that a millstone were tied about his neck and he were drowned in the depths of the sea?'

"He, gentlemen, who had erected a temple to Abraham, had forgotten the words of the great Jehovah of the children of Israel—that he who afflicted a fatherless child should surely die.

"Oh, Stanford White, who entrapped a child who had no father, who had been deserted by her mother and was left alone in a city of millions, had you imagined that God would not hear that cry? Had you forgotten that retribution would be at hand? Better had it been for you had you died before that day, for then you might have died in the splendor of your fame, when your departure would have been deplored by your family; when all would have attended your obsequies; before your name was a byword and before your genius had been an aggravation of your crime."

Delmas next went into a long discussion as to whether or not it was true that Evelyn Nesbit had told her story to Thaw in Paris in 1903. Reverting to the story of the wrong done Evelyn Nesbit by White, Delmas recounted how White had poisoned the mind of the girl by telling her that she had committed no wrong. He continued:

WHITE'S ASSURANCE

"When daylight came the big, strong man went to her apartments and knelt at the feet of this child, kissed the hem of her garment and told her that what she had done was not wrong and that the only sin was to be found out. He told her that if she would refrain from telling her mother or any one else all would be well—told her that all women were wicked; that some succeeded in concealing their vices, some were found out.

"And so he lured her again and again, plied her with wine in the same den of iniquity or others he kept, and their relations continued for a period of several months.

"Again I ask, is this story true or rather is the story which I have related to you—the story which Evelyn Nesbit told Harry Thaw in June, 1903, in Paris.

"If she never told Harry Thaw these things, then when she appeared on the witness stand she was an untruthful witness. Again, if she did tell this story to Harry Thaw, was it true? Did the things she told of actually occur?

"That they did, you have many evidences. In the first place, you have here testimony that they did take place. In corroboration of her statements, I beg to call your attention to various things in the evidence. You have watched her manner of testifying. From your experience as men of the world, you can tell whether or not this child—for child she is today—is a cunning actress, who was repeating a story she had learned and rehearsed.

"You saw her countenance; you saw how horror overspread it when she told that horrible story. Gladly she put herself in that plight for the sake of the one person in the world who loved her, the one person she loves.

"You saw her strained face, you saw her struggle to tell the truth. You saw her for days struggling through a cross-examination which has no parallel in this country or any other country. You saw her fight for days, inch by inch, against the man who has sworn to make her a widow. You saw her fighting against the arts that learned and brilliant man could bring to bear to break the story.

PROVING EVELYN'S STORY

"You saw her undergo that terrible ordeal, but did you see her flinch, did you see her hesitate? No. Under the merciless cross-examination you heard from her unwilling but truthful lips that her relations with Stanford White continued until her nature revolted, until God asserted himself.

"Do you know any more proof than that that her story was true? If it were false would it not have been easier to say that the relations were not continued? But she told the whole story, the whole truth.

"One other question I want to ask you. Why did Stanford White just at that moment remove the mother, this child's only protector as guardian upon her tender years, her sentinel on her tottering steps upon the slippery walks of New York? Why was the mother sent to Pittsburg with money furnished by Stanford White? Why was the young brother sent away to school, except to remove prying eyes?

"Another matter I call your attention to. During the year following this terrible event Stanford White contracted to pay Evelyn Nesbit $25 a week when she was unable to earn a living upon the stage. The checks which are here in evidence show that many of them were payable to her mother. It has been figured that the mother received from the hands of Stanford White in that year $3500—an enormous sum to this woman who had been living in mean lodgings without enough to eat.

"The District Attorney will tell you that Stanford White was then in straitened circumstances. Why, then, I ask you, was he paying Evelyn Nesbit's mother $300 a month?"

Delmas then took up the story of Miss Simonton's return from Europe, where she had learned Evelyn's story. She went to Stanford White and confronted him with it. It was then that White went to Hummel.

WHITE SAW HIS DANGER

"That shows that Stanford White saw danger ahead and was ready to do anything to gain protection. Thereupon as soon as Evelyn Nesbit returned a paper was drawn up, to which I will refer later.

"Gentlemen, do you remember Christmas, 1903? Do you remember that banquet which Stanford White had arranged in celebration of Evelyn Nesbit's birthday? Do you remember that Harry K. Thaw succeeded in rescuing her from Stanford White's clutches and that White went to the theater later and, flourishing a revolver, swore to take Harry Thaw's life before morning?

"Things like these pay glowing tribute to Evelyn Nesbit's story."

Delmas had a score or more of legalcap sheets, to which he referred occasionally, and particularly when he came down to the actual argument as to the motive Stanford White had in paying money to Evelyn's mother and sending Howard Nesbit to school at his expense.

When Delmas had concluded his denunciation of Stanford White he began a merciless attack on Evelyn Thaw's mother. He first recalled to the jury that in the early part of the trial, when the name of the mother was first mentioned, he stated that he would not cast any reflections upon her, and held her guiltless, believing her to have been the helpless victim of circumstances.

"When I said this, gentlemen, I wish you to bear in mind that three things had not yet developed—that for years after this rape had been committed upon this girl the mother received $300 a month from the ravisher; that the mother had given to the District Attorney a written statement by which he might torture the soul of the daughter, by which he might leave her alone in the world—her father dead, her mother unnatural, her husband executed.

MRS. NESBIT DENOUNCED

"When I learned that every shaft aimed at her heart came from a quiver supplied by her mother; when I learned that it was the mother who was pointing out the sore and tender spots for the District Attorney to attack, and when I learned that the poor babblings of a girl in school—her diary—had been furnished by the mother that they might be used against her, I retracted, as I retract now, the statements which I made in behalf of the mother.

"Oh, unnatural mother that she was, to desert her girl and leave her the victim of the lust of this gray-haired man; to receive for a year the wages of her daughter's downfall; to wear diamonds purchased with such money as this, and then to come in the hour of her daughter's supreme agony to steal away the life of her only protector.

"Why, gentlemen of the jury, a beast protects her young. I have seen a little bird watching over her brood of young in a dusty road, ruffle her brave little feathers until she was twice her natural size and fly straight at a pointer, who had come running up, until the dog stood abashed and respected the mother.

"Oh, shame upon this woman!

"Not content with what she has already done, she would take away the life of the one human being who came as an angel into the life of this girl upon the downward path, who told the girl that whatever she might be in the eyes of a sinful and debauched world, he knew her soul was pure.

"He said: 'Yes, I know that your soul is pure; I know that it was not your fault; you are an unfortunate and betrayed girl; but come to me and I will protect you. About your form I will throw the strong arm of a man. I will fight the battles of life with you at my side. No matter what others may think of you, I think you are an angel. To me you are fairer than Rachel at the well or Ruth in the fields.'"

Delmas halted his address for a few minutes at this point and sat down to rest. A juror wiped his eyes with a handkerchief.

When Delmas resumed he declared that there was documentary evidence to prove that Evelyn Nesbit told Harry Thaw the story of her downfall in Paris in 1903.

QUOTES THAW'S LETTERS

He quoted at length from the letters Thaw wrote from Paris to his attorney, Longfellow. These letters make many references to the girl's life. The attorney declared that Thaw had no occasion to lie to his mother when he told her the story in Pittsburg after his return from Europe.

In contrast to the mother of Evelyn Nesbit Delmas pictured the mother of Harry Thaw. He reviewed the testimony she gave upon the stand and pointed to the love and affection displayed for her son. He spoke of her as a noble character and of the sacrifices she made to lighten the burden and ease the pain of her heartbroken boy.

Mrs. Thaw listened to the compliments paid her without evincing emotion. Her children sat stolid as ever. Evelyn was unmoved by the attack on her mother and as a matter of fact her features were immobile during the argument.

After paying his tribute to Mrs. Thaw Delmas rehearsed the evidence which related to the attentions which Thaw paid to Evelyn, laying particular stress upon that portion which referred to his visits to Pompton, where she was a pupil in a boarding school. He spoke in the tenderest tones of Thaw's visit to the girl's bedside when she was ill, of his deep concern for her when she was convalescing and of his efforts to restore her to health.

He declared that Thaw was then paying honorable court to Evelyn and made her an honorable proposal of marriage soon afterward in Paris.

Delmas called attention to the testimony of Mrs. Caine to the effect that Thaw had at the time Evelyn Nesbit was ill at school asked her mother for the child's hand in honorable marriage.

The incidents of the European trip in 1903 were next taken up, as showing Thaw's great love for Evelyn Nesbit.

HUMMEL'S RECORD

"Does a man who loves a woman," exclaimed Delmas, "who has loved her for two years, who has lavished his whole being on her, who centered on her his happiness and his future, who wanted her for his wife—does such a man, I say, invent a story which disgraces in his mind and in the minds of the world the woman he loves?

"Can any man tell you that Harry Thaw deliberately invented this most disgraceful and most debasing story ever told? Gentlemen, I think I have established to your satisfaction that this story was true, that it is not a fabrication, that Evelyn Thaw's statement that she told this story to Harry Thaw in Paris in 1903 was true.

"Against this what is there in this case? Nothing except the testimony of Abraham Hummel. I do not wish to speak of that unfortunate man in terms any stronger than the stern exigencies of this case demand. It is a melancholy picture—that of a man in the declining years of his life, when the time is approaching when life's sun is setting, closing a life strewn along its entire path with misdeeds by one crowning act of infamy in resorting to perjury in an attempt to deprive a fellow being of life.

Delmas read exhaustively from Hummel's testimony, pointing out what he said were discrepancies in almost every statement. He first read what Hummel said about sending for a photographer to make a picture of the affidavit alleged to have been signed by Evelyn Nesbit and having the photographer come to his office.

Then he read where Hummel denied sending for the photographer or that the man had come to his office.

"These statements," declared the attorney, "came from the lips of the same man upon that witness chair. They were uttered under the solemnity of his oath, or whatever solemnity may attach to the oath of a felon—a man convicted and under sentence for perjury. One of these statements was a deliberate falsehood. Which was I care not—they probably both are false.

"Hummel testified that he dictated this thing miscalled an affidavit. He says he dictated it in his office in 1903 to a stenographer whose name or individuality he does not recall. If he dictated it, if this is his work, if these are his words, then he committed deliberate perjury here before you, and the evidence is here on the face of the paper.

"To testify against the defendant it was necessary for Hummel—that wretched little old man—to swear that he was not acting as Evelyn Nesbit's attorney, that no legal action was contemplated in her behalf. He came here to tell you that Harry Thaw had beaten like a hound the woman he loved. That is a thing you men know Thaw would rather have died than have done.

CONTRADICTORY EVIDENCE

"He swore he had never been attorney for Evelyn Nesbit, yet on the back of this very paper which lay before the District Attorney's eyes when this man was on the stand are the words, 'Howe & Hummell,' attorneys for the plaintiff. On the paper itself were these words: 'Evelyn Nesbit, plaintiff, versus Harry K. Thaw, defendant.'

"This man was perjured—perjured when he told you that he was not her counsel; perjured when he said he was not her attorney; perjured when he told you no action was contemplated in her behalf.

"What was the reason for the drawing of this paper? It is simple. Miss Simonton had returned from Europe and went to Stanford White with the story Evelyn Nesbit had told her. He knew that what he had done would eternally disgrace him if it became known and might send him to prison.

"He found Evelyn Nesbit so soon as she returned. He told her Harry Thaw was a bad man; that it was necessary for her protection that he be kept away from New York. He told her in Hummel's office, and what was his object? To get from her by a cunning trick, a monstrous deception, a statement which would keep Thaw from telling what he knew that would make trouble for White.

"In some way, I know not how, this paper was drawn up. Then in the tower Evelyn Nesbit was induced to sign it, or to sign some other paper, without reading it or knowing what was in it. I don't know whether it was this paper or not. Is this her signature or is it a clever forgery or photograph? All I know is that it comes from so questionable a source as to be valueless. It is a trick. How the trick was done I don't know, but that it was a trick I do know.

"Upon its face this paper proves the man who dictated it committed perjury on the stand. I know he is an old felon; I know there are now two indictments against him for procuring false testimony."

To illustrate what he termed Hummel's perfidy, Delmas delved into the history of the Dodge-Morse divorce case and explained to the jury how the "discredited lawyer obtained false testimony in an effort to set aside a marriage which had been legally performed and which had resulted happily."

"And you, gentlemen," Delmas continued, "are asked upon this man's testimony to make this child a widow by sending this defendant to an ignominious death."

Delmas then asked for an adjournment until tomorrow morning, saying he expected to finish his address by the noon hour.

Adjournment was ordered until 10:30 a. m.

Tells How the Defendant Rescued Evelyn From White's Clutches

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throng were many attorneys, some of whom have traveled hundreds of miles to be present at the climax of a trial which for length and sustained interest has no equal.

All the members of Thaw's family were in the courtroom. They sat unmoved, as usual, throughout Delmas' argument. Thaw turned to them from time to time as his attorney seemed to strike some telling blow.

Thaw's face was also turned frequently to his wife, who seemed to be standing the brunt of the storm. She had a responsive smile for his every look.

District Attorney Jerome was not in court to hear Delmas' speech. His assistant, Garvan, took notes. Jerome, it was said, was busy with the preparation of his own address.

At the morning session Jerome formally protested against the confirmation of the report of the lunacy commission. He made no argument, however, and his motion was quickly overruled. The defense then sought to have Dr. Allan McLane Hamilton testify, but the District Attorney objected and was sustained.

Delmas then announced that the defense rested. Jerome made a similar announcement and an adjournment was ordered until 2 o'clock in order that the jurors, who were to be deprived of their liberty, might adjust their business affairs.

ELDER MRS. THAW DENIES

PITTSBURG, April 8.—"The statement that Mrs. William Thaw has or had settled $250,000 on Mrs. Harry K. Thaw is untrue and might be characterized by even stronger language," said Frank Sample, financial agent of Mrs. William Thaw, today.

FATHER VISITS DAUGHTERS AFTER ABSENCE OF YEARS

SANTA ROSA, April 8.—Charles Gossage, who left here fifteen years ago, subsequent to the death of his wife, has just seen for the first time since then two daughters whom he knew as infants. By correspondence he learned that one was still here and he came to see her. They have gone to Oakland to pay a week's visit to another daughter.

Not all People

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