

EVELYN NESBITT THAW ON WITNESS STAND

PALE, TREMBLING, WEEPING,
TELLS HER STORY.

Her Face Bathed in Tears, the Show Girl Tells the Jury How White Duped Her and of His nefarious Scheme in Robbing Her of Her Virtue.

New York, Feb. 7.—Attorney Delphin M. Delmas, of California, placed in charge of the defense of Harry K. Thaw on yesterday proves a formidable match to Attorney General Jerome. Under his direction the defense began to assume definite shape and when adjournment was taken last night testimony had been placed before the jury to the effect that Stanford White had been heard to make a threat to kill the defendant—coupling the threat with the display of a revolver—that Thaw's actions following the killing of White on the roof of Madison Square Garden was considered by several eye-witnesses to have been "irrational," that an uncle of the defendant was insane; that Evelyn Nesbit Thaw passed a note to her husband during dinner at the Cafe Martin the evening of the tragedy; that District Attorney Jerome has this note and refused, on the demand of the defense, to introduce it in evidence. So far, indeed, had Thaw's defense progressed that at the close of today's proceedings the announcement was made by Mr. Delmas that either the wife or the mother of the defendant would be the first witness on the stand tomorrow morning.

The threat against Thaw's life was made two years and a half before the tragedy occurred. District Attorney Jerome objected to the introduction of the evidence, declaring the defense was not understood by him to be one of self-defense.

To Use Every Legal Defense.

Mr. Delmas replied that the defense intended to take advantage of every legal defense allowed in the State of New York, be it insanity, self-defense or any other legitimate justifications for the taking of a human life. This was but the first of a series of interesting tilts between the district attorney and Mr. Delmas during the day, and it was agreed that Mr. Jerome had found Thaw's leading counsel a foeman worthy of his best efforts. The two men are of widely different types—Mr. Jerome, quick, passionate, forceful, sarcastic and brilliant at ridicule; Mr. Delmas, calm, courteous, resourceful, witty, crafty and ethical, to whom the district attorney was always "the learned district attorney." There was never a deviation from this method of address.

Benjamin Boman, formerly a stage doorkeeper at the Madison Square theatre was the witness who told of White's threat. Boman was offered as a witness yesterday, but the district attorney was successful at that time in blocking the evidence by objections. Mr. Delmas today withdrew the objectionable questions and Mr. Jerome in turn withdrew his protest against the witness. Boman declared that on Christmas eve, 1903, Stanford White came to the stage door about 11.15 p. m., and asked for Miss Nesbit. The doorkeeper told him the actress, who was then playing in "The Girl from Dixie," had gone home. White at first accused him of a falsehood and then asked who had been her escort.

"Mr. Thaw," the witness said he replied.

McCaleb an Eye-Witness.

Thomas McCaleb, the young Californian who was with Thaw's party the night of the tragedy, was a witness during the afternoon session. It was he who testified that at dinner that evening Mrs. Thaw had suddenly asked her husband for a pencil, scribbled a few words and passed a folded piece of paper to him. What was in this note the witness did not know and he was not allowed, because of an objection by the district attorney, to testify as to what change of manner, if any, it produced in Thaw. It has been reported from time to time that it was in this note that young Mrs. Thaw, referring to White, wrote to her husband: "That b— (blackguard) is here."

"We understand," said Mr. Delmas, "that this note is now in the possession of the learned district attorney. We want to get at the contents of that slip of paper, believing it to be material evidence. We demand that the learned district attorney produce it."

Mr. Jerome sat silent. He tugged at his short, stubby mustache. There was absolute and dramatic stillness in the court room as Mr. Delmas stood waiting, and all eyes were turned on the district attorney. He continued to look at the floor. After waiting some little time, Mr. Delmas resumed:

Jerome Was Silent.

"I take it that the silence of the learned district attorney is not intended as a discourtesy, but a conception of what he feels to be his duty in the matter. We will attempt later to prove the contents of the note."

McCaleb detailed, so far as he could, the incidents of the night of the tragedy. He was leaving the roof garden with Mrs. Thaw and thought

Harry was following when the three pistol shots were heard. Mrs. Thaw exclaimed: "My God, he's shot," and then, "Oh, Harry, what have you done and why did you do it?"

Thaw replied: "I have saved your life," and bent and kissed her.

On cross-examination Mr. Jerome went briefly into the past history of the witness. Mr. McCaleb said he knew Thaw some years ago in Paris and subsequently in California.

"Did you ever try to borrow any money from him?" demanded the district attorney.

"Never," the witness replied.

It came out during the redirect examination that McCaleb had met Mr. Jerome some months ago at the Union club and discussed the case with him. The witness answered a question to which the district attorney had taken exception and in which he had been upheld by the court.

Evelyn on the Witness Stand.

Evelyn Nesbit Thaw was the first witness for the defense. She was pale and trembling as she entered. She was dressed in the same blue dress she wore in the early days of the trial. She lifted her veil for the first time. With a voice almost firm she told her name; born Dec. 25, 1884. She told the events leading to the dinner at Cafe Martin. She said she first saw White on the night of the tragedy at Cafe Martin. "I wrote a note and handed it to Mr. Thaw, who asked me if I was all right, to which I replied, Yes."

Evelyn said that the note contained references to White, but not what it was. She traced events to the roof garden; told of leaving the theatre. She saw White at a table, then a moment later, saw Harry fire three shots at White. She did not know what Thaw did then. The witness said, in trembling tones, I only know Harry came to me and I said to Mr. McCaleb, my God, he's shot, then I said to Harry, what have you done? He answered: "I have probably saved your life." Mr. McCaleb said something like "He must be crazy." Then we took the elevator down stairs.

Evelyn said she refused to marry Thaw when he first proposed in Paris, June, 1903. Reason for refusal was connected with White she declared. Harry told her he loved her, and would never love anybody else. "I cried and Harry asked me to tell him the whole affair," Delmas said.

"Now, I want you to tell the jury just what you told Thaw that day in Paris."

The show girl replied, that Edna Goodrich, a chorus girl, asked her to a party in August, 1901, where she met White, and then went to White's studio. Thought White was an ugly man. Remembered White teased her about her hair, which she wore down the back, and short skirts, reaching to her shoe tops. After supper we went up two flights of stairs in the room with a large swing. White swung her very hard, Evelyn said. Witness said she went home, and told her mother of the visit. Later she received a note from White that a carriage would be waiting to take her to a party. Went to Madison square studio with White. No one else was there.

Evelyn explained many parties in White's studio. Then White proposed to her mother to take a trip to Pittsburg. White would care for Evelyn. "Mama went away, White came for me in a carriage; we drove to a studio. There were two men there. White bought a beautiful Japanese Kimono; I posed. White knocked on door while I was dressing and asked if I needed help. Told him no. He took me home after lunch. Another time at a studio he took me into rooms to show me around. The rear room was a bed room. He opened a bottle of champagne, prevailed on me drinking. Then came thumping in my ears. About two minutes after things began going around. When I awoke my clothes were pulled off. Saw Mr. White sitting on the edge of the bed. Then there was music all around the room. The girl wept as she told the story; tears fell on her dress. While the girl told her story Harry Thaw cried, holding a handkerchief to his eyes. "I screamed, White said be quiet, then White said it was all over. I looked at my dress and found blood. Sat up all night in the room. He said that it was all that people lived for. That he liked young girls, thin ones; I must never get fat. He told me never to tell any one, not even my mother." Evelyn, with her face bathed in tears, said, "Mr. Thaw renewed his proposal after two months."

New York, Feb. 8.—In the afternoon yesterday the session of court in the Harry Thaw trial, was taken up by the pathetic story of Evelyn Thaw, relating the early struggle of her family; her experience as an artist model, and her stage and past life.

In the sympathy impelling story of the girl, the girlish fascination of a voice of softest quality, yet ringing clear in enunciation, the court room lost view of the prisoner. But when there came a halt in the girl's fight against the tears the people, who had gazed unceasingly at her, lowered their eyes, as if the relief from their

stare might bring her the composure she finally won. Then they saw Harry Thaw again, his whole frame shaking. He sat with his head buried in his hands, a handkerchief covering his eyes. Where the defendant sits he is all but shielded from the jury. Bent over the table as he sobbed, he could not be seen at all. Thus Thaw sat for many minutes, and when he finally lifted his head his eyes were red and swollen.

Even if they could have seen, the jurors would have had no eyes for the prisoner. They, too, had turned their gaze from the witness as the tears came to her voice as well as her eyes, and each man of the twelve seemed intent upon some object on the floor beneath them. Justice Fitzgerald looked out through the long grated windows. The scene and the story marked a new precedent in the history of criminal proceedings in New York city. Old court attendants gave their ready assent to this.

Mrs. Thaw was still on the stand, her direct examination uncompleted when the day was done. Only during the afternoon she was excused for an hour, while Lawyer Frederick Longfellow was sworn to fix the date of certain letters written to him by Harry Thaw subsequent to the revelations Miss Nesbit had made to him in Paris.

Witness Has Recess.

The girl had identified the writing, but the court held that the date must also become a matter of competent evidence. Mrs. Thaw seemed to appreciate the relief this incident offered, although during the hour and a half recess for luncheon she had recovered from the fatigue of the two hours spent in the witness chair during the morning session. As she left the stand for the recess she walked unsteadily, and passing back of the jury box, ran the fingers of her left hand along the wall as a blind person might.

The letters which eventually were offered in evidence after much objection by Mr. Jerome and a flood of argument by opposing counsel during the afternoon sitting of the court, are regarded as corroborative of Mrs. Thaw's testimony yesterday, which she often declared, in response to objection offered from time to time by the district attorney, was a repetition of the reasons she had given Thaw for refusing to become his wife.

They also were offered as tending to show the state of mind of the defendant just after he had heard from her own lips the story of the girl he loved and her relations with the man it is claimed he killed as a result of insanity inherited in part, or induced by a stress of circumstances.

The letters were written by Thaw to Mr. Longfellow as the attorney. They told of his coming marriage to Miss Nesbit and of the "row they want to raise." Disconnected and jerky jumping from subject to subject, they nevertheless breathe the love he bore the girl, and he wanted, among other things, that provision should be made that in the event of his death all his property should go to her. The letters constantly refer to "that blackguard" who poisoned her as a girl, and say that her name was falsely connected with two others besides "that blackguard." Only two of a half dozen offered in evidence were read during the afternoon session. The others probably will be presented when court convenes today and Mrs. Thaw again called to the stand.

In testifying yesterday Mrs. Thaw was not allowed to state the names of certain persons, but by consent of counsel for defense she gave them in whispers to Mr. Jerome, "in order," as Mr. Delmas said, "that the prosecution may have the fullest possible opportunity to refute any of her statements if he can."

Paid Tributes to Thaw.

The girl paid other tributes to her husband, to save whose life she braved all.

"When I told him the story in Paris," she said, "he came to me and picked up the hem of my skirt and kissed it and said he would always love me."

"He nearly always called me his angel. We sat together that night until daylight talking the matter over."

"The effect on Harry was terrible. Stanford White sent me to school in New Jersey in October, 1902, and in 1903 I became ill. The doctors came and said an operation was necessary. They told me I was very sick, but did not say what was the matter. Mr. Thaw came to see me and was the last person, except the doctors, whom I saw before being placed under the influence of an anaesthetic. He had been told it was dangerous for me to talk. So he came in quietly and knelt down by the bed and kissed my hand looked at me for a moment and went out."

"When I recovered I found he had made arrangements for my mother to take me abroad to recuperate. It was while we were in Paris on this trip that he proposed to me."

While the Thaw jury was on its way to court yesterday morning a snow shoveller in the street shouted "Vote for Thaw."

He was promptly arrested and taken before Justice Fitzgerald in chambers and allowed to go after a severe

reprimand.

At the opening of court this morning a frantic mob attempted to force admittance to the Thaw trial to hear Evelyn Thaw resume her story of the events leading up to the killing.

Evelyn looked tired and worn as she went up on the witness stand. Attorney Delmas offered more letters written by Thaw. In them Thaw reproached Evelyn for listening to the "false friends" who slandered him. The letters were written in a rambling, incoherent style, hardly intelligible. In all the letters to Evelyn, however, Harry recites his respect for her, and comments that he always treated her in a respectable and trustworthy manner. One place he says: "They say you are going to be in the gutter in eight months morally, mentally and dishonorably. But you could not deteriorate for me." Again Thaw writes, "I'm not responsible," also, "I am poor and must stay in Pittsburg; terrible fate."

She said on her return from Europe in 1903, she had told Harry of speaking to White while riding in the park. Thaw said: "Oh, Evelyn!" and looked surprised. The next day White called her on the telephone and insisted on calling on her at Hotel Savoy. White told her that Thaw was a morphine fiend. After that White called constantly. White took her to Lawyer Abraham Hummel's office. She told him about her trip to Europe and Hummel inquired where she had been with Thaw. He remarked that as she was a minor it would be hard for Thaw. Hummel called a stenographer and dictated a statement, saying she had been carried to Europe against her will, and had been kept away from her mother and ill-treated, although this was untrue. She tried to interrupt, but Hummel would not listen. She gave Hummel letters from Thaw and he locked them in his safe, saying that he would hold them over Thaw's head. She saw Hummel again and he advised her to sue Thaw for breach of promise, as an advertising scheme, but she declined.

Thaw questioned her later about signing a paper for Hummel, but she denied doing it. Said she did sign a paper in White's studio, but didn't know what it was. Evelyn said she persisted in refusing Thaw until April, 1905, because she loved him too dearly to compromise his reputation. Thaw's mother and sisters received her kindly. Delmas brought out that after her marriage White tried to make advances to her. White stopped her on Fifth avenue once and later followed her in a hansom cab. She told Thaw, who made her promise that she would tell him if White tried to approach her again. She kept the promise.

Court adjourned for recess.

Delmas Proves to Be Equal to Jerome and Brings Out Much Evidence Favorable to Defense Strenuously Objected to By the Attorney General.

New York, Feb. 9.—The entire session of Friday in the Thaw trial was occupied by the evidence of Evelyn Nesbit Thaw and when the usual week-end adjournment was taken last night until Monday morning, she was still on the stand and will probably be the first witness at Monday's court.

Mrs. Thaw had taken up the story at the time of her return from Europe in October, 1903, following her refusal of Thaw's offer of marriage on the grounds which she related yesterday. On Monday she may be called upon to finish the relation of the events which, it is claimed by the defense, brought on the explosive impulse in the diseased brain of the defendant and caused the killing of Stanford White.

While the testimony was lacking in the personal quality which made yesterday's recital so dramatic, so impelling, enthralling and pathetic, it served to clear away some of the doubts and influences which remained from the incomplete details as to the full extent of the revelations she claims to have made to her husband. There were repetitions, too, at the suggestion of counsel, and incidents which had not been gone over in the first years of Mrs. Thaw's acquaintance with Stanford White were brought out in completion of the life story.

Jerome and White's Memory. District Attorney Jerome, who had throughout silently listened to the young wife's statement, sent a thrill of excitement through the court room late in the day by jumping to his feet and vigorously protesting against "this defamation of the dead."

Justice Fitzgerald held that the district attorney's suggestion was a good one and he thought the defense should lay a broader foundation to show insanity before proceeding along the lines suggested by Mr. Delmas' question.

"We will proceed to do this as soon as possible," announced the attorney. Mrs. Thaw declared today that Stanford White, during the year which followed her experience in the room of the mirrored walls, repeatedly sought to have her visit him alone.

The defense had Mrs. Thaw to tell of another incident which has been cited in her life—her acquaintance with Jack Barrymore, the actor. Mr. Barrymore was in the court room one day during the early part of the trial, at the instance of the district attorney, it was said. Mr. Delmas asked Mrs. Thaw today to tell what she had told Mr. Thaw of her acquaintance with the actor. She said she had first met Barrymore at a party given by Stanford White the year following her introduction to the architect. She then told of an offer of marriage made to her by Barrymore.

The Thaw Wills. The defense endeavored to get into evidence today the wills of Harry Thaw and Evelyn Nesbit Thaw executed the night of their wedding in Pittsburg. There were so many interlineations, additions and erasures that Justice Fitzgerald held the documents were not admissible until the changes were proved. Mr. Delmas said he would later endeavor to do this, as the wills and the interlineations and a codicil by Harry Thaw had to do with the proof tending to show the insanity of the defendant. It came out in the discussion of the wills that the name of Stanford White occurred in Thaw's testament.

Mr. Hartridge of Thaw's counsel said after court adjourned today that Mrs. Thaw would go on with her direct examination Monday morning. Just what will be the nature of District Attorney Jerome's cross-examination when he takes the witness is mere conjecture. It is said he may try in some way to attack her credibility, possibly as to her ability to remember other things as well as she has the stories she has declared she told Harry Thaw from time to time.

New Trial Certain if Convicted. Error of law in the Thaw trial in the event of conviction will insure him another trial. This is the opinion of three justices of the supreme court, now sitting here. The names of the justices are withheld for obvious reasons. These justices say the

court of appeals will grant a new trial on one of the simplest incidents of the trial—the leaning forward of Evelyn Thaw in witness chair whispering names of men and women she knew in company of Stanford White to the prosecutor. This incident followed stipulation of counsel on both sides that names of persons figuring in her story should not be mentioned. Whispering names to Jerome violated the agreement. Should prosecutor make use of information it will only be necessary for the defense to show connection between witnesses Jerome calls and the incident, to get new trial.

LEE RANDOL ACQUITTED. Plea of Defense "Unwritten Law" and the Jury Renders a Verdict of Not Guilty. Fort Worth, Tex., Feb. 8.—Lee Randol, charged with the murder of J. H. Stacey, has been acquitted by a jury after a trial of a few days. This case is similar to that of Harry Thaw, but the defense relied entirely on the "unwritten law." Randol killed Stacey, according to all witnesses. It was a cold-blooded affair. The dead man was found unarmed. The defense did not attempt to prove self defense or insanity. Instead, they introduced a letter written by the dead man to Randol's wife just before the killing. When the prisoner was asked, "Did you kill Stacey because of his relations with your wife?" Randol answered, "I did."

Neighbors Got Fooled. "I was literally coughing myself to death, and had become too weak to leave my bed; and neighbors predicted that I would never leave it alive; but the god fooled, for thanks be to God, I was induced to try Dr. King's New Discovery. It took just four \$1 bottles to completely cure the cough and restore me to good sound health," writes Mrs. Eva Un-capper, of Grovetown, Stark county, Ind. This King of cough and cold cures, and healer of throat and lungs, is guaranteed by Sibert's Drug Store, 50c. and \$1. Trial bottle free.

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