

EVELYN THAW'S RECITAL OF HER LIFE STORY

(Continued from page 3.)
told me the names of the people who were going to be there."
Mr. Jerome secured the names in whisper from the witness.

At this point court adjourned for luncheon.

Mrs. Thaw at the afternoon session said that when she told White of Barrymore's invitation he became angry and said he would send her away to school in New Jersey. Mrs. Thaw continued to detail at some length her relations with Barrymore, which she said resulted in her being sent to school.

"It all came about through a quarrel between Mr. Thaw, my mother and myself over Mr. Barrymore. One afternoon in the tower on Madison Square Garden Mr. Barrymore said to me, 'Evelyn, will you marry me?'"

Mrs. Thaw always pronounces with long "e's."

"I intend to, Mr. Barrymore," I said, "but not now." Mr. White asked me if I would marry Mr. Barrymore and said, "If kids like you get married, what would you have to live on? Every day after that when I would meet my mother she would ask me if I intended to marry that little pup, Barrymore, saying Mr. White was afraid I would. Mr. White then came to me and said I would be foolish to marry Mr. Barrymore, saying we would have nothing to live on, would probably quarrel and get a divorce. He also said Mr. Barrymore was a little bit crazy, that his father was in an asylum and he thought the whole family was touched. He was certain Mr. Barrymore would be crazy in a few years and for that reason said I ought not to marry him."

"Mr. Barrymore asked me a second time if I would marry him and again I said, 'I don't know,' and laughed. The upshot of the whole matter was that Mr. White came and said I ought to be sent to school and I was."

At this stage of the trial District-Attorney Jerome arose and made a protest against "any further defamation of the dead." Mr. Delmas had asked the wit-

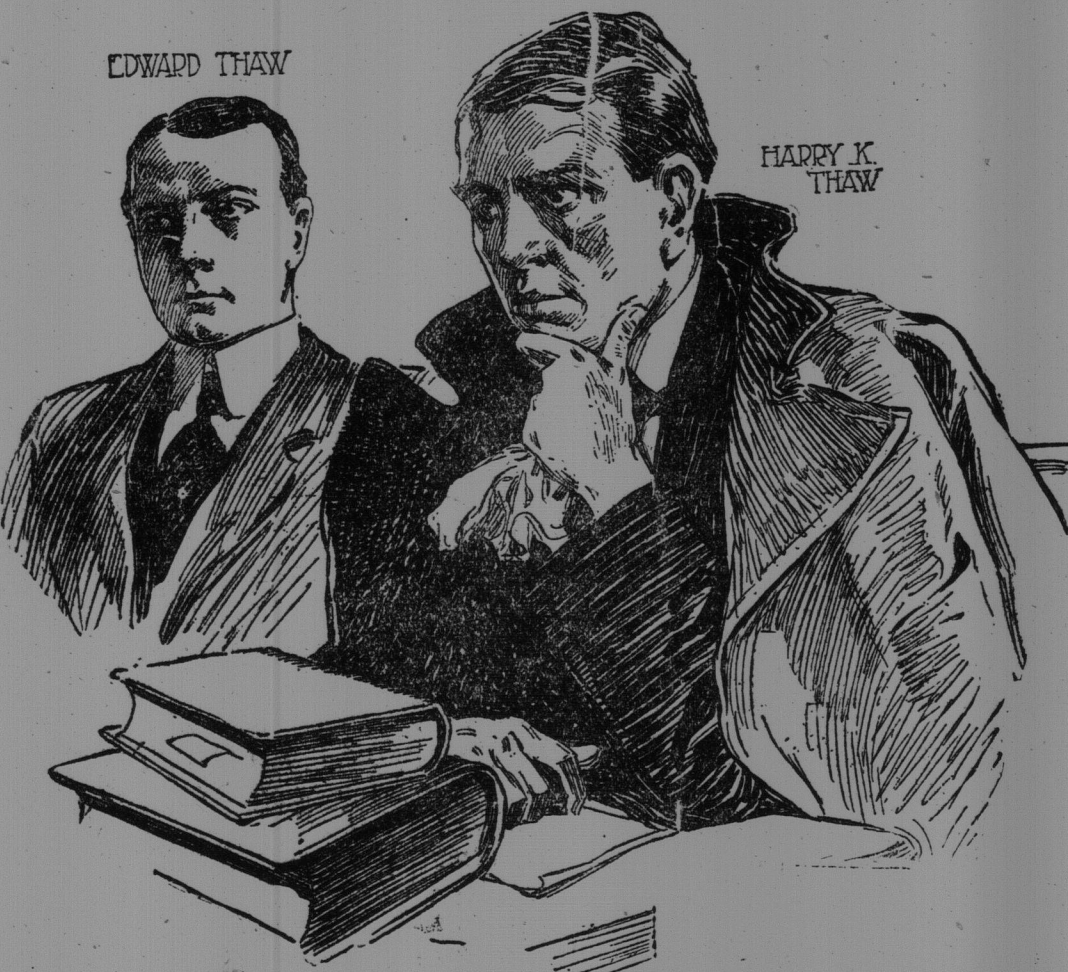


HOWARD NESBITT

was admissible because the various pages were fastened together with the signature on the last page. Justice Fitzgerald upheld Mr. Jerome's contention that the identification was not complete. Mr. Delmas then offered only the last page in evidence and Mr. Jerome again objected. Miss Pierce could not positively identify even that page. Justice Fitzgerald ruled that as it was to be used to show the unimpaired mind of the defendant, it must positively be shown that it was in the same condition as when signed. The objection was sustained.

Mr. Delmas then offered in evidence the same page leaving out all interlinings. To this Mr. Jerome objected on the ground that there was nothing in it to show Thaw was of unsound mind. Again the court sustained the objection. Mr. Delmas stated that he was not prepared to offer further evidence on the wills then and reserved the right to offer further evidence, reserving the right to offer further evidence, reserving the right to offer further evidence.

HARRY THAW AND ELDER BROTHER AS THEY APPEAR IN COURT



EDWARD THAW

HARRY K. THAW

ARTHUR WARREN'S GRAPHIC PEN PICTURE OF MRS. EVELYN THAW



DELPHIN M. DELMAS

ness: "After you told Mr. Thaw what happened between Stanford White and you in 1901, did you ever have any conversation with him in which he told you what happened to any other young girl who had met a similar fate at the hands of that man?"

"What man?" interrupted Mr. Jerome. "Why, Mr. White, who else?" said Mr. Delmas.

"I appeal to your honor that this has gone far enough; are there no limits to which the defamation of the dead may go? The prosecution has no chance to state one word, and Stanford White is dead."

"Your honor," replied Mr. Delmas, "we contend that in proving the state of this man's mind, we have the right to introduce evidence to show the cause of the insanity and as yet there was no evidence to say on word against the memory of Stanford White that my duty does not compel me to say. My duty is to the living."

To this Mr. Jerome replied: "So far we have not the slightest evidence to show that the defendant was ever of unsound mind in his life. I have no evidence of the insanity of the defendant it should be introduced now before this loose tattle of the Tenderloin goes on; take that, under the law, we are not allowed to controvert."

Justice Fitzgerald said the suggestion was a good one and explained to the jury the legal provision where insanity is pleaded as an offense, prevents the prosecution from controverting any statements made to the defendant.

Mr. Delmas then began the introduction of papers and documents.

Among several papers handed in to the witness to identify was Thaw's will in which he is said to have left all his property to his wife.

Mrs. Thaw identified Thaw's handwriting on the papers. Mr. Jerome went over the papers with the witness in whispers. A full hour was consumed in examining the papers, which were finally marked as exhibits. Mrs. Thaw was then excused temporarily to allow Miss Frances E. Pierce to be called to identify her signature as a witness to the papers. It developed that one of the papers under discussion was the will of Evelyn Thaw. The wills were executed in April, 1905, the day of the marriage. Miss Pierce identified her signature and said on cross-examination that she did not know whether all the matter in the wills as introduced was in them when she appended her name. She was simply asked to witness the signature of Harry Kendall Thaw and Evelyn Nesbitt Thaw, and did so.

"And this reference to Stanford White, you don't know whether it was in the papers at the time you signed or not?" said Mr. Jerome.

"No, sir."

Mr. Jerome declared the wills had many interlinings, additions, etc., in various handwritings. He thought all these changes should be proved before the papers were received in evidence. Justice Fitzgerald upheld the objection and ruled the wills out, the defence excepting.

Mr. Delmas argued that the document

NEW YORK, Feb. 7.—Lured, drugged, betrayed, at the age of 16. That was the story. For hours the crowded court room was silent except for a girl's voice which sounded through it like the tinkling of a little silver bell. It was the most pitiful story that a crowd ever heard.

If the verdict could have been taken at the end of the day the jury would have liberated the prisoner at the bar, the hapless husband of the sweet-faced girl with the wonderful eyes and with the clear, silvery voice.

It was a terrible story. The pen of any writer, the tongue of any preacher must falter in the telling of it. And all of it cannot be told. For hours there was only that girlish voice, interrupted every little while by the questioning of the lawyers. Even the lawyers lowered their voices, and the hushed through hardly stirred. Even the brusque police, the callous reporters, and the swarm of lawyers that had drifted in to behold the legal tragedy, were grave and quiet during this recital of the tragedy of a soul.

There she sat before all the world and told her bitter story. She looked like a child; in all her movements and her little ways she was like a child, but with a sad, sad face, on which the gleam of the sorrows has left its enduring mark.

In the witness stand up there beside the judge she seemed such a dainty wisp of mortality that a breath might wait her away. She is very little, very lovely, and of an appealing tenderness of look and voice beyond anything that has been told of her.

The dashing amorosities of the show-biz is not hers. She is not in the least like

what has been written about her. She is a delicate, well-spoken little creature, of rare charm. She is only 22 and looks younger. And her husband, though 39, is only a boy.

They are two children who have played at life and filled themselves with sorrow. Nobody who heard her story today, and who heard the counsel read her husband's letters, thinks tonight as they have been thinking hitherto of Evelyn Nesbitt and Harry Thaw.

Nobody with a heart capable of sympathy can resist the appeal which today's evidence makes upon it. But sympathy is not a legal weapon of defence. Drudgery as today's ordeal must have been to Evelyn and Harry Thaw, an ordeal more cruel must come when the district attorney puts this little witness on the rack of cross-examination.

There was a child of rare beauty. Before she was in her teens her father died. After a while the money that the father left was lost. Then this little girl became the sole support of her mother and younger brother. She posed for photographs and became an artist's model. In this way she earned \$15 to \$17 a week. By and by she went on the stage.

In the daytime she posed in the studio of artists of high repute; in the evening she was a chorus girl; and so she kept the little family together, mother, brother and herself. She came under the baneful gaze of Stanford White, who seems to have been the modern Minotaur.

White made the acquaintance of her family, enacted the part of generous, interested and noble friend, sent the mother on a long journey to visit her relatives, and in her absence, drugged and betrayed the little, fair-faced daughter of sixteen.

Thaw afterwards met the girl, loved her, wanted to marry her. She rejected him and told him her pitiful story. Still he loved her, still he offered her marriage; but now Stanford White was intervening with hideous stories about his younger rival.

Documentary evidence today proved Thaw's sincerity. It also seemed to establish, as well it might, the fact that Thaw more than three years ago was suffering awful mental anguish over the wrong that had been done to the girl he loved.

In that still court room this morning Thaw, under trial for murder, covered his face with his hands as his child-wife told the story that she hoped would set him free; the pitying gods must have looked down upon that scene. It all seemed as if these children had had no guidance. There was not a rift in the clouds which overcast the annals of their lives.

The strongest influences around them were influences which blast and wither human lives. They moved in a world of which protected womanhood and most families know nothing. In all the course of their young lives no hand with the capacity to help, no mind with the wisdom and the strength to guide came forth to aid them. And the world they were drawn into, flung into, should make us weep with shame when next we send misnomers to the heathen.

Everybody lives like this, and only the foolish are found out. That was Stan-

ford White's motto, as revealed in his instructions to the child whose life he had ruined.

He had a house on Twenty-fourth street, where he initiated many into that way of living, and the eternal knows how much ruin was wrought. Under the pressure of the hour, no one can write of what he heard today in court and do it justice. Somehow the mind will not readily grasp the ghastly horror of it all. Time and reflection are wanted. It was an eerie, shivering tale. Some of us can wonder, in a phantasmal way, how others are brought up, but that wonderment does not contribute much to the comprehension of a state of things like that revealed today in a five-hour session of the court.

We cannot grasp other lives; it is as much as we can do to grasp our own. Some of us do not accomplish that.

Infinite pity shed itself throughout that crowded court today. No one thought of the genius of the lawyers, nor the grimness of the judge, nor the nearness of the prison, nor the possibilities of fate. It was only the girl and boy, for that's what they are, we thought, and yet it was Delmas' genius as a defender that got the most telling evidence admitted. Turn after turn he fought for with a persistence and a knowledge of law none the less remarkable because it was quietly asserted, and because his assertions were always urbane.

It was a hard-contested struggle, but he won, won all along the line. And yet we did not think much about all this at the time. There was the girl and her husband; we were thinking of them and of their pitiful, torn and twisted lives. Two or three times the girl's voice broke, and the little hands gripped each other in pain and the words came in sobs, but the wonder was that she could bear up through it, that she could tell it at all. She had nerved herself to this for six months, gone through every detail of the narrative, probably time after time, and had been carefully prepared by this sagacious and powerful man, the counsel who had come to the rescue of this sorrowful pair.

But for all that it was a wondrous effort of self-control, to sit there all day in the crowded court, before those hundreds of staring eyes and greedy ears, and tell what the heart aches to hear.

There was a woman's sacrifice for a man. When Harry Thaw passed out from the court room through the far door leading to the prison, he turned, looked back and smiled in gratitude to the little woman who was just rising from the witness stand. He smiled as if he were proud of her. He should be proud of her for her superb courage this day.

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FREDERICTON FACES A SERIOUS PROBLEM

Cannot Empty Sewage Into The River

The Local Government Decision Means The Loss of \$75,000 More-City Buildings and Many Towns Have Been Polluting the Stream for Years

FREDERICTON, N. B., Feb. 10.—The decision of the local government in the Fredericton sewage case, dismissing the appeal, was handed out yesterday afternoon and created great surprise here. The decision is squarely against the city's contention and upheld the Provincial Board of Health in their refusal to allow the city permission to discharge sewage into the St. John river in its crude state.

The full text of the order in council is as follows: "This is an appeal from a decision of the Provincial Board of Health, refusing permission to the city of Fredericton to discharge crude sewage into the River St. John."

The authority of the city to construct a sewerage system is contained in the Act 59 Victoria, Chapter 52, which by section 7 provides as follows: "The mayor, aldermen and commonalty of the city of Fredericton are hereby authorized and empowered to construct, to lay, put down, complete and construct, in every respect, with all necessary pipes, manholes, flush tanks, outlet entrance, a system of sewerage, of the best available description for the purpose of sewerage drainage," etc.

This section was amended by the Act 6 Edward VII, Chapter 40, by adding thereto the words: "Provided, however, that no sewage matter shall be discharged into the River St. John unless the consent of the Provincial Board of Health thereto shall be first had and obtained."

The amending section also provides that an appeal shall lie from their decision to the lieutenant-governor in council, who is empowered to confirm, rescind, vary or amend such decision.

On the hearing of the appeal, in addition to the evidence given before the board of health, a number of witnesses were called, including two sanitary experts of wide experience and unusual ability, one of whom gave evidence on behalf of the city and the other on behalf of residents along the river below the city of Fredericton, who opposed the city's application. The committee also had the advantage of hearing arguments of counsel.

In view of the very great importance of the question to the citizens of Fredericton and to large numbers of people who are in the habit of using the water for domestic purposes, as well as for the watering of stock, the committee has given the subject most careful consideration.

Sunbury People Must Be Protected.

On behalf of the city it was urged that the water of the river below Fredericton is not potable at the present time, that it cannot be safely used for drinking purposes without being filtered or boiled, and that the additional pollution which would be caused by the construction of the proposed sewerage system would therefore not to any material degree injure or inconvenience the residents down the river.

On behalf of those residents it was claimed, on the other hand, and the claim was supported by uncontradicted testimony, that a large number of people have no other source of supply for either water or ice—that they have been in the habit of using the river water for domestic purposes since the earliest settlement of the country, that many of them have been unable to procure suitable water by sinking wells, and that they have not heretofore found the water injurious to health. They contended that to permit the city to discharge the whole of its sewage matter into the river would cause danger to the public health, and would greatly depreciate the value of their properties.

In considering as to whether the decision of the board of health should be interfered with, the committee feels that regard must be had to the principles which ordinarily govern the legislature when a public corporation is, for the public welfare, permitted to injuriously affect the property of others. In such cases, the legislature is always exceedingly care-

ful to provide for compensation to the parties whose property is so injured. It was reasonably possible in the present case to act upon this rule and provide a mode of affording just and reasonable compensation to cover the expense which would be caused to some persons by procuring water from other available sources, and to cover the value of the properties of others who by reason of their inability to obtain suitable water from other sources might be obliged to abandon such properties, the city might well be granted the privilege asked for.

The circumstances, however, are such that no principle of providing compensation can be acted upon, and if the city were to succeed upon this appeal, the result would be that great, lasting and irreparable injury would be done to a large number of persons, without the possibility of affording to them any compensation whatever for such injury.

Appeal Dismissed.

It seems to the committee that it is not a sufficient answer for the city to say that these people cannot with all the water of the St. John river at present. The fact is that they do drink it, as they have a right to do; and the committee feels that only supreme necessity would justify the lieutenant-governor in council in formally sanctioning the pouring into the river of vast quantities of polluted matter, which might, and frequently must contain poisonous germs which would carry disease and death to the people living below the city of Fredericton. To do so would be to assume a very grave responsibility.

The committee would further observe that the legislature has provided that if the system of sewerage shall be of the "best available description." It is of opinion that a sewerage system, to be of the best available description must take into account, not only the best mode of ridding the city of its sewage matter, but also the best mode of providing that the disposal of such sewage matter shall cause the least possible injury to people residing below the city.

It has been shown that in the case of many cities, sewage matter is purified by means of septic tanks and filter beds, whereby it may be rendered harmless, and the committee is of opinion that under the provisions of the statute the city might properly be required to provide such a mode of purification in connection with its sewerage system.

The committee has, for the above reasons, arrived at the conclusion that it would not be proper to interfere with the decision of the Provincial Board of Health and recommends that his honor, the lieutenant-governor should allow such decision to stand.

His honor the lieutenant-governor concurring in the foregoing recommendation, it is now ordered that the said appeal be, and the same is hereby dismissed, and the said decision of the Provincial Board of Health confirmed. (Sgd.) J. B. SNOWBALL, Lieutenant-Governor.

ALIENIST WHO WAS GRILLED BY JEROME; COUSIN OF THE PRISONER.



DR. CHARLES J. WILEY OF PITTSBURGH

THE WAY THAW HELD THAT GUN ALOFT SHOWS THAT HE WAS INSANE

ALBERT E. THAW, HARRY K. THAW'S COUSIN

Dr. Wiley, called as an expert, was taken in hand by the district attorney and compelled to submit to a searching

fire, after which he was recalled by Mr. Gleason and again scorched by Mr. Jerome.

CASTORIA

For Infants and Children

The Kind You Have Always Bought

Bears the Signature of Dr. J. C. Watson

To have all his hair turn grey at the early age of six years with no apparent cause, has been the lot of the son of John Ervine of Bloomsburg (Pa.). The boy's parents first noticed that his hair was turning about a year ago.