

MORE SENSATIONS IN SMALL CASE

Claims He Protected Life Of Mrs. Small From Husband

Thomas Flynn Gives Sensational Testimony At Toronto Hearing.

ASKED ABOUT "PLOT"

Witness Declares Millionaire Intended Taking Long Trip Alone.

Canadian Press Despatch.

Toronto, March 22.—That he had on one occasion protected Mrs. Small's life from A. J. Small, and that Small had planned to go South to remain for a long time, leaving his wife behind, were two statements made by Thomas Flynn, friend and confidant of the missing millionaire, yesterday in connection with hearing of Mrs. Small's demand for a declaration that Small may be presumed dead in order that the will leaving the estate to her may be probated.

Flynn testified that he was in Small's private office on the night before he disappeared and Small said to him: "I don't want you to tell anybody, but we leave here on January 1. We go South, and we won't be back until the races. We will buy a stable of horses in New Orleans and turn them over to old Jim. I asked him would he take the old lady along, and he said no, he would send her down to her sister's."

After the police had started their investigation, Flynn had visited Mrs. Small at her house and had suggested offering a reward, say about \$100,000.

Some days later when he met Mrs. Small she said: "I did all you suggested, and witness had replied: 'Yes, you've offered \$500. A man who set a dog in High Park offered \$1,000.' Flynn was asked about the "diabolical plot" which Mrs. Small in her evidence had alleged had been cooked against her. He declared that the only plotting he had ever done had been for Mrs. Small's benefit. Asked to explain he declared, "I protected her life."

"Against whom?"

"Against A. J. Small."

Hearing Continues Tomorrow.

Owing to the vigorous objections from Mrs. Small's counsel, Mr. Slaght, counsel for the sisters of the missing man, who are opposing the application, did not get further into the plot.

The last time Flynn saw Mr. Small was on the afternoon of the day he

disappeared, December 2, 1919. He

was in the company of his wife, walking along the street. The hearing will continue tomorrow.

Curtis Aldridge, steward on a dining car running between Buffalo and Toronto, was recalled to the stand to tell of the conversation, he had had with Small.

"On the 26th of October, 1919, he came into my dining car, and started to talk to me. He told me he was buying a new car, and he went out for a catalog and showed a picture of it to me. He said it had cost him \$2,000 duty."

Mr. Slaght: "Well, never mind about that. What else did he say to you?"

"He said he had been giving me passes to the Grand, and he asked me for some cards so he could write me out some passes good up to Dec. 2. He said he would be out of the theatrical business in Canada after Dec. 2."

Then he related how Small had asked him to go to Shea's Theatre in Buffalo and get a bottle of medicine there that was being sent on from New York. He did not want to have to pay duty on it. "I told him I would find time to do it."

Mr. Slaght: "We will not bother any more about that. What did Small say about the future?"

"He said he was going to take one, two or three years. He talked about Mexico and California. I said that two or three years would be a long rest."

He Fixed the Date.

"How do you fix the date of Oct. 26?" asked Mr. Slaght. "I was off the following day. I am off five days after working two weeks."

"How do you fix it as October?"

"I saw an article in the paper about him being down in Colorado five or six months after he disappeared."

"Did you bring it to anyone's attention about this conversation, any one connected with Small's family or the police?"

"About three weeks after I saw this in the paper, I wrote her a letter about this conversation. 'Did you sign your own name?'"

"Yes."

"What did you say the conversation was?"

"I told her what the conversation was about Buffalo and what he said about a rest. I said that I believed he was still alive."

"Tell us some of the conversation."

"Well, I said to Mr. Small, 'I suppose you will go abroad.' He said that wouldn't interest him so much, as he had been there. He said he wanted to go to Mexico or California."

"Two or three years' absence was mentioned?"

"No, two years' rest," objected Mr. Slaght.

"Will you produce that letter, Mr. Slaght?" asked Mr. Slaght, "or ask

your client if she has it?"

"Mrs. Small says she does not remember it. If she received it, it was handed over to the police," said Mr. Slaght. Mr. Mitchell promised to look up the police files.

He said at any time received a visit from Mr. Mitchell or any of the police?"

"No."

Mr. Cowan Called.

James W. Cowan, former manager of the Grand Opera House, was called.

"I believe for many years you were associated with Mr. Small and his theatre?"

"Yes, sir, about twenty-one years with him until his disappearance."

"During that odd twenty years did you see Mr. Small frequently?"

"Pretty nearly every day."

"Do you know Mr. Thomas Flynn?"

"Yes, he was an intimate friend of Mr. Small."

"Associated with Mr. Small?"

"Yes, mostly socially, and went out nearly every day for lunch. They were known in theatrical parlance as 'Damon and Pythias,' as they were so much together."

Mr. Cowan said the only difference in the office occupied by Small and Doughty now is that the partition was removed, making it all one office.

"Was Mrs. Small accustomed to going to Small's private office?"

"Yes."

"How many entrances to the theatre?"

"One through the main entrance, the front Adelaide street, and other from Johnston Lane. The lane door was usually locked."

"Do you know how Small entered the theatre shortly after noon on the day he disappeared?"

"To the best of my knowledge he came through the side door from Johnston Lane. It was between 12 and 2 o'clock."

"I understand part of the time that afternoon you were selling tickets, and Percy Small did, too?"

"Yes, that's right."

"What about Mrs. Small and Percy Small, his half-brother, on good terms?"

"That is a delicate question to ask. They weren't very friendly."

"You know if Ambrose Small spoke to or had conversation with Percy Small during the three months previous to his disappearance?"

"I could not say."

Had Instructions.

"Had you any instructions from Small in regard to Percy Small?"

"Yes. He suggested to me that I get rid of him."

Judge: "Just what do you mean?"

Mr. Cowan: "That I should disappear with his services."

"And what did you do?"

"I did nothing about it. Why not?"

"Because Percy Small was his half-brother, he had engaged him and if he wanted to get rid of him it was up to him to do it."

Mr. Slaght then turned to the topic of the diamonds that A. J. Small kept in his safe in his office.

"What size was it?" asked the judge.

"About 2½ feet square and 3 feet high."

"What diamonds were there?"

"Two large ones and several smaller ones. They were wrapped up in tissue paper."

"Did you see them?"

"He showed them to me."

Mr. Slaght wanted to know where Mrs. Small had gone when she came to the theatre on January 8. He could not say.

"As the wall safe closed?"

"I could not say."

He told of Mrs. Small coming to him on the Wednesday or Thursday following the disappearance and leaving him a letter for Mr. Small. He took the letter and put it with the rest of the mail.

"Did she ask you as to his whereabouts?"

"No."

"With regard to access to the two rooms upstairs, how could the people in the general public way get to Mr. Small's office?"

"There is a stairway about 20 feet to the right, and a door opens into the office."

"No, the inner door was often open when Small was not there."

"Could anyone from the general entrance get to Mr. Small's office?"

"Yes."

"When you were absent downstairs who would be in charge?"

"Percy Small."

"Did you inform the police?"

"Yes. I went to the city hall with Mr. Flynn. It was about two weeks after Small disappeared. We went to the morality office, where we were referred to the detective office. We told Inspector Wallace and Guthrie, and I expect they took up the matter at once."

"Did you go to the city hall with Mr. Flynn?"

"Yes. I went to the city hall with Mr. Flynn. It was about two weeks after Small disappeared. We went to the morality office, where we were referred to the detective office. We told Inspector Wallace and Guthrie, and I expect they took up the matter at once."

"Did you tell her you were going to the police?"

"I did not."

"She tells the court that she did discuss the police with you?"

"I am positive she is mistaken."

"When, after December 2, did you first see John Doughty?"

"Not until the Saturday after Christmas."

"He came up from Montreal and delivered a letter to you from the trans-Canada people?"

"Yes."

"During the day Doughty brought you the letter were you with him in the upstairs office?"

"Yes. Mr. Flynn was there too."

"Did somebody call up while you were there with Doughty?"

"Yes; I did not hear the conversation."

"Did you communicate with Mrs. Small that Doughty was there?"

"No."

"Did Mr. Small usually carry a watch?"

"Yes. If he did not want to spend time with an interviewer he would take it out and handle it."

Doughty and Small.

"Who would ordinarily be in the building on the afternoon or evening of December 2?"

"Mr. Doughty and Mr. Small."

"Was there other quarters upstairs?"

"Yes, living quarters in the rear."

"On the 2nd of December who lived there?"

"Spencer family, junior, and senior and a half-brother Brood, who attended the furnace."

"Would they be there that afternoon or night?"

"I expect they would. It was their living quarters."

"Was Mr. Small a man who had a speculative mind in horse racing so far as betting is concerned?"

"Quite frequently."

"If he went to the race track would he take large sums?"

"Quite often."

"Would he bet up in the thousands?"

"Quite frequently."

"Did Mr. Small support his sisters?"

"Yes."

"How long?"

"Three or four years before he went away."

"How do you know?"

"I paid them the cash."

Mr. Cowan explained the sisters came to him with checks given to them by Mr. Small.

"I was always under the impression A. J. paid them money—and I still think so," said Mr. Cowan.

"Did the sisters come and get

money from you?"

"No—from their brother."

"By checks on which I advanced the cash. Sometimes I advanced them cash and then afterwards I would charge the amount up to Mr. Small's account."

"How did you account for the money?"

"They were taken off Mr. Small's own check every Saturday."

"What would be the amount of these checks?"

"Sometimes \$15, or \$20 or perhaps \$25. The sums varied."

Not Regular Payments.

"What specified payments were there?"

"They were regular payments, no specified times."

"And the amounts paid to the sisters appeared as if paid to Mr. Small himself?"

"Yes."

Mr. Cowan said it was Mr. Small's own personal matter and the names of the sisters did not appear in it.

"Did you keep his accounts?"

"Just his theatre account."

"Did you keep books?"

"It was practically a cash business and many books were not needed."

"How long back had he been letting the sisters have money that way?"

"Four or five or six years."

"Was it weekly or monthly?"

"They would come weekly or twice a month or even twice in one week."

"You said that on December 2 Mr. Small came in the theatre and there was something about him coming in through the side door?"

"He did come in the front door. I am positive he must have come in the side door."

"If you were sitting at the desk in the box office, couldn't some one pass and you not just happen to see them?"

"I adhere to it that no one could get by."

"Was Mrs. Small in the entrance way?"

"I couldn't say. My memory is not certain as to how many were there and who they were."

"What time were you there?"

"Between one and two."

"What time did you see Mr. Small?"

"I saw him on the staircase going to his private office. There is a stairway from Johnston's lane to the stairway, explained Mr. Cowan, illustrating his evidence from a plan of the theatre."

"What called it to your mind that he came in the side door?"

"It has always been my opinion."

"When did you last see the loose diamonds?"

"No. I saw them months or two years before, he showed me the loose diamonds."

Saw Him After December 2.

George J. Soucy was called next. He is an operating and supervising engineer and the editor of the "Toronto Evening Star."

"Did you know Ambrose Small?"

"Casually, not intimately, from 1911 until his disappearance."

"Tell us what you had to do with Mr. Small."

"When with the Toronto Electric and the City of Toronto, I had construction work which brought me near the Grand Theatre, and I often had casual conversations."

"Had Mr. Small seen you there?"

"I think so, yes."

"We have heard that he is said to have disappeared the week of Dec. 2. Were you in the city that week?"

"Yes."

"Is it your belief that you saw Mr. Small after Dec. 2?"

"Yes."

"Just at dusk, the evening of Dec. 6, near Pleasant avenue, when I heard an auto coming up. It was a power auto, for I heard the exhaust. There were quite a few hold-ups at that time."

"I had heard about a few hold-ups, getting that one-dollar check, and I thought it was very foolish advising it that way."

"When the auto got 75 or 100 feet from Pleasant avenue, the man in the center got up and tried to make some remonstrance with the men in the front seat."

"It was a seven-passenger car, with a driver and a man beside him. Mr. Small was in the center of the rear seat, and a man on each side."

"He rose up as if he suddenly realized that they were taking him some place he did not want to go."

"My opinion first was that, having received the million-dollar check, they were going on a spree. But when I saw him rise up I knew they were interfering with his liberty."

"Have you the record of your attempt to take the car number?"

"No—But I have another memo I made after, and I went to police headquarters."

"Have you the memorandum here?"

"Yes."

Soucy stated he called at police headquarters to tell Mitchell. "He was not in, and then I asked for Cronin. Cronin said it must have been a hold-up party I had seen. They did not believe my story. That afternoon Cronin took me down to Court street station and showed me an

automobile—but it was not the car I had seen Small in."

Mr. Soucy then produced the memo which he had taken of the date and car."

"Twice About Dusk."

Then Mr. Tilley took up the cross-examination.

"Do you remember the time of the day?"

"It was just about dusk."

"Was on the sidewalk on the east side of Yonge street?"

"Yes."

"You knew about the million-dollar check?"

"Yes. I had heard some talk about it. On account of all the hold-ups about that time I thought it was a foolish thing for them to talk about it. It would make him a mark."

He repeated how he had gone to the police and notified them of it.

Thomas Flynn, friend of Small, was then called to the stand.

"Were you and the confidential friends?"

"Yes, we were. I occasionally did some theatrical work for Small."

"He was accustomed to bet on races?"

"Yes."

"Large amounts?"

"Sums up to \$1,000 and \$2,000."

"And how about his winnings? Did he have large winnings?"

"Yes, from \$15,000 to \$18,000 on a race," said Flynn.

Witness said he was frequently with Small at night.

"On Tuesday night?"

"No, never on Tuesday nights."

"On the Sunday?"

"No, that would be the exception."

He was with Small on Monday evening, December 1st, and Small asked him to wait—he wanted to talk to him.

Several times the judge and the lawyers had to ask him to speak up. Flynn's voice was so low.

"What did you talk about?"

"He wanted to talk to me about his managers, he said."

"He said to me, 'What about Cowan?' I suggested that he should give him \$4,000."

"That's a lot of money," I said.

"Yes, but do you realize how much money that man has made for you?"

"I said, 'I don't know.'"

"When did you see him on Tuesday?"

"Between 2 and 2:15. I promised to see him and went up to the private office. Mrs. Small said, 'Is that you?' I thought it was Ambrose."