

EVELYN NESBIT THAW'S AFFIDAVIT

District Attorney Jerome Gets the Complete Story of it From Abraham Hummel.

HER RELATIONS WITH LAWYER

Declares They Were Professional and That She Called Upon Him in His Capacity as an Attorney.

New York, March 15.—"Thank God the end is in sight." This was the fervent whisper of Dist. Atty. Jerome at the Thaw trial yesterday, uttered loud enough for the reporters to hear, following a favorable decision by Justice Fitzgerald regarding the Hummel affidavit.

The strain on those attending the trial has been severe. Justice Fitzgerald has shown the effects of it, as have the lawyers for the defense and the district attorney. When Mr. Jerome asked for an additional 15 minutes at the usual hour for adjournment, Mr. Delmas protested, declaring that his endurance has been stretched to the breaking point. He would not consent to another minute of delay.

Mr. Jerome did his best to get from Mr. Delmas an estimate on the length of time that would be required to complete the re-submittal. But Thaw's lawyers declined to give any suggestion on this line.

It is generally believed, however, that Monday or Tuesday will see the close of evidence and Wednesday and Thursday will be used in summing up. There is every reason to believe that Friday will put the fate of Harry K. Thaw in the hands of the jury unless some unexpected development occurs.

The sensational affidavit which Mr. Jerome fought so hard to get into evidence will probably be read in court Monday. Lawyer Hummel testified early yesterday as to its tendency and through other witnesses Mr. Jerome established the fact that photographic and carbon copies of the affidavit were in existence. He then asked that the affidavit be read, but Lawyer Delmas for the defense objected, as time for adjournment had come. It is not thought that Mr. Delmas will object to its reading on Monday.

The affidavit gives Evelyn Nesbit's story of the wanderings of herself and Thaw on the continent, during which time, according to the affidavit, Thaw beat her several times in an effort to make her swear to a document charging White with having drugged and attacking her when she was a girl. The affidavit also declares that Evelyn Nesbit submitted to the lashings, declaring that White had never wronged her, a sworn statement in direct contradiction to her story on the stand of what she told Thaw's victims do not.

For a few minutes Evelyn Thaw was on the stand again yesterday. Except for looking a trifle paler and perhaps thinner, she was the same old woman in every appearance who testified to the most remarkable story of the trial.

A HARD FIGHT.

With Atty. Delmas fighting him every inch of the way, Dist. Atty. Jerome today secured from Abraham Hummel his complete story as to the affidavit which it is alleged Evelyn Nesbit Thaw made in the lawyer's office in 1903, charging Harry K. Thaw with beating her when she had told him that the statement that Stanford White had drugged and ruined her was not true. Mr. Delmas first objected, based on all of Hummel's testimony, offered specific objection to each question put by the prosecutor. Justice Fitzgerald overruled every objection, and Mr. Delmas made no further protest.

Evelyn Nesbit Thaw was called to the stand in the effort of the defense to keep Hummel silent. She declared that she had called upon Hummel in his professional capacity as a lawyer, and that she had taken her to the lawyer's office with that end in view.

Justice Fitzgerald declared that, admitting the proposition of counsel and client, Mrs. Thaw herself had waived the professional privilege by taking the stand early in the case, giving her version of what transpired at Hummel's office.

At the conclusion of this testimony, Dist. Atty. Jerome asked permission to introduce the carbon and photographic copy of the affidavit, which was near the closing hour. Mr. Delmas asked that adjournment be taken before arguing as to the admissibility of the affidavit. He said that he was familiar with the paper over he might not object to its being offered in evidence. "Coming as it does," he added, "in such questionable shape, we may as well best to have the paper go in evidence."

Dist. Atty. Jerome completed his medical testimony in the morning. Atty. Delmas for the defense, however, cross-examined any of the experts. Dr. Flint, who testified yesterday, was excused, and then five other alienists were called, one after another. Each said he was familiar with the hypothetical questions framed by the defense and by the prosecution. Basing their opinions on these questions, they declared that the act was wrong. One question was put by Mr. Hartridge on the defense to Dr. William Mabon, the last of the experts.

"Do doctors often disagree as to the form of a man's insanity?" he asked. Mr. Jerome's objection was overruled and Dr. Mabon replied: "They do."

Mr. Jerome announced that when the matter of the admissibility of the Hummel affidavit is disposed of the prosecution will rest.

"The defense, however, will not," said Mr. Delmas, and he further intimated that more experts will be called by him on re-submittal.

When court reconvened after the luncheon recess, Mr. Hartridge said he would withdraw the question asked Dr. Mabon.

"Then there is no cross-examination?" queried Mr. Jerome.

"None," said Mr. Hartridge. "In that case, your honor," said Mr. Jerome to Justice Fitzgerald, "we come back to the question as to whether or not Abraham Hummel was acting as an attorney for Evelyn Nesbit at the time he was testifying about yesterday."

MRS. THAW CALLED.

"Call Evelyn Nesbit Thaw," commanded Mr. Delmas.

Mrs. Thaw took her place in the chair.

Mr. Delmas called Mrs. Thaw's attention to the fact that she had already testified as to visiting Hummel's office with Stanford White.

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Unsuccessful in blocking Hummel's testimony, Atty. Delmas on cross-examination brought from his own file the fact that he had been convicted in December, 1905, on a conspiracy in the same courtroom in which Thaw is being tried. He further admitted that the paper handed him was a carbon copy of the statement of perjury are pending against him, and that one of these indictments charges him with having caused a false affidavit to be made.

Atty. Jerome protested against the witness being dragged through the humiliating details of his trial, but Justice Fitzgerald declined to interfere.

Mr. Delmas asked Hummel if he had not heard the speech made by Dist. Atty. Jerome when sentence was about to be imposed; when Mr. Jerome urged the court to pass the longest and heaviest sentence within its power upon Hummel, as "he had been a menace to the community for 20 years." Justice Fitzgerald finally sustained an objection to this, and Hummel was not compelled to answer.

Mr. Delmas wanted to know if Hummel had any more recent business transaction with the district attorney, and asked if Mr. Jerome was pressing the charges against him.

"He certainly is," said the witness, with spirit.

WHAT EVELYN NESBIT SAID.

Hummel's testimony in brief was to the effect that Evelyn Nesbit told him, among other things, that Thaw had beaten her when she refused to sign the affidavit which charged Stanford White with her betrayal; that he had dictated a statement to a stenographer in the presence of Miss Nesbit and Stanford White, and that he had dictated to two of his clerks to take to Miss Nesbit in the Madison Square Garden tower and that the next day the paper was returned to him with Evelyn Nesbit's signature attached. He kept the affidavit until Miss Nesbit called one day and demanded it. He refused to give it to her and turned it over to Stanford White, advising him to have a photographic copy made.

Hummel said he himself arranged for photographing the affidavit and that the photographer came to his office. He completely contradicted himself on this point, saying he did not make the arrangements, that the photographer did not come to his office, that he had not testified. After Stanford White had the copy made he returned the original of the affidavit, the photographic copy and the carbon copy to him. He said he kept the original until Miss Nesbit called today and she subsequently delivered the original affidavit to Miss Nesbit and has not seen it since.

Abraham Synicker, one of Hummel's clerks, was called and said he took the affidavit to Mr. White's rooms in the lower and handed it to the woman agent and to him as Miss Nesbit. She kept the affidavit for five minutes and signed, saying she had read it through.

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that Thaw had begged her time and again to sign and swear to documents he had prepared charging Stanford White with her betrayal, and that when she had told Thaw it was not so, he beat her?" asked Mr. Jerome.

Mr. Delmas objected to the question, Justice Fitzgerald overruled the objection.

"Yes," said Hummel. "Did you then swear to a stenographer?"

Mr. Delmas objected on the ground that the question was irrelevant already having been sworn to by Miss Nesbit.

Mr. Jerome said he remembered that Mrs. Thaw had sworn that she heard the dictation, and withdrew the question.

"Can you recall what was dictated?" asked Mr. Jerome.

"Yes," said Hummel. "Was the dictation subsequently reduced to writing?"

"Yes," said Hummel.

"TOO QUICK FOR DELMAS.

Mr. Delmas protested that the quick answers of the witness did not permit him to object. He asked that the last question be stricken out.

Justice Fitzgerald ordered this done, and Mr. Delmas offered an objection to the question as irrelevant.

Justice Fitzgerald asked if the dictation statement had been reduced to writing in Miss Nesbit's presence.

"No," said Hummel. "Mr. Delmas asked Hummel who then abandoned temporarily the question upon which the objection was offered, and asked Hummel if he could recall to which one of the stenographers he had dictated the statement.

"I cannot," he replied.

Mr. Jerome handed to Hummel a copy of the affidavit Evelyn Nesbit wrote, said to have been seen by him, and asked if he had ever seen it before.

"Yes, sir, in my office," said Hummel.

Mr. Delmas objected to the whole line of examination, was overruled and noted exceptions.

Hummel said that the paper handed him was a carbon copy of the statement he had dictated in the presence of Miss Nesbit.

"What did you do with the original copy?" asked Mr. Jerome.

Objection by Delmas overruled. "I handed it to Synicker or Jacobson—one of the men in my office. I do not know which," replied the witness.

"What day was it you handed the original to the man?"

"Tuesday, Oct. 27, 1905."

"When did you next see the original?"

"The next day, Wednesday, Oct. 28."

Mr. Jerome asked Hummel the photographic negatives and copies of the original affidavit. He said he had caused the photographic copy to be made.

"Have you ever seen Evelyn Nesbit write?" asked Mr. Jerome.

"No," replied Hummel.

"Are you familiar with her writing from the inspection of things she told us she has written?"

"Yes."

"What became of the original?"

GAVE IT TO EVELYN NESBIT.

"I handed it to Evelyn Nesbit in my private office."

"When did you see the paper again?"

"Not after I delivered it to Evelyn Nesbit."

Mrs. Thaw testified that Hummel had shown her a negative and without her seeing anything but her signature, he burned it.

The examination of Hummel proceeded with much difficulty because of the objections of Mr. Delmas, who now interpreted the objection that the prosecutor had not laid sufficient ground for secondary evidence—the existence of the original being in doubt.

Mr. Jerome said he had asked Mrs. Thaw about the original and she had denied ever having had it in her possession.

Justice Fitzgerald overruled this objection, along with all others.

Hummel identified the photographic copy of the affidavit as having been made from the original.

Mr. Jerome then turned the witness over for cross-examination.

"And you refused to deliver the paper to her?"

"I did," he told her it belonged to Stanford White.

"Did she insist?"

"No."

"How long have you known Mr. Jarom?"

"Twenty years."

"When was your last business transaction with him?"

"I think I understand what you mean. It was in this very courtroom in December, 1905."

"And you were?"

"Yes, I was a trial."

HUMMEL'S CONVICTION.

"And you were sentenced here on a conviction obtained against you on an indictment for conspiracy presented by Dist. Atty. Jerome?"

"Yes, ever the mistake."

"We admit the witness was convicted of a misdemeanor," interrupted Mr. Jerome, "but I submit the details of this incident are not proper cross-examination."

Justice Fitzgerald allowed Mr. Delmas to proceed.

"When you were sentenced," said Mr. Delmas, "did you not hear the remarks made by Dist. Atty. Jerome asking the court to inflict the longest and heaviest penalty possible upon you, as you had been a menace to the community for 20 years?"

Justice Fitzgerald asked if the witness renewed his objection to this, and was sustained.

"I do not want to put the district attorney upon the stand unless he makes it necessary," said Mr. Delmas, who turned again to the witness and said:

"Now, Mr. Jerome."

A wave of laughter swept the courtroom. Hummel, the district attorney and Mr. Delmas all joined in the merriment over the mistake.

"There are two other indictments—for subornation of perjury—pending against you, Mr. Hummel," asked Mr. Delmas.

"Yes."

"One charges you with procuring a false affidavit to be made in a proceeding to set aside a divorce decree?"

"And the other charges you with procuring false testimony in the same proceeding?"

"Yes, sir."

"You appealed from your conviction, I believe. Was it confirmed?"

"No, indeed," said Mr. Hummel, bristling up. "On the other hand, I obtained a certificate of reasonable doubt as to the legality of my conviction."

"Is Dist. Atty. Jerome urging the case against you?"

"He certainly is."

"Is he urging a speedy trial for you on the two indictments for felony?"

Mr. Jerome objected and addressing the court, said:

"Will your honor admit that?"

Justice Fitzgerald said he would, and Mr. Hummel said his trial had been stopped on account of his appearance in two pending indictments involving the same transactions as the conviction for conspiracy.

"If the purpose of this line of examination is to show bias on the part of the witness it is proper," remarked Mr. Jerome, "but I would like to be allowed to go upon the stand and show the status of the case."

"The district attorney has a perfect right to call any witness, including himself," replied Mr. Delmas.

"What is the penalty involved if you are convicted upon the pending indictments?" asked Mr. Delmas of Hummel.

"The maximum penalty is five years on each."

ABRAHAM SYNICKER.

Mr. Delmas next brought out from Mr. Hummel that he had been disbarred from practicing law in 1872 on charges of bribery. Hummel declared he was stopped after two years of practice.

He admitted that he is now under suspension and a petition for his disbarment is pending. Hummel was then asked on account of his appearance in the two pending indictments involving the same transactions as the conviction for conspiracy.

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