SAYS THAW MAY BE FOUND INNOCENT

"He Certainly Was Not Responsible" Declares Expert on Law Interpretation.

FORMS OF INSANITY SHOWN.

"If Delusion That Wrong is Right is Complete Murderer Cannot be Punished," is Lawyer's Deduction.

From the opening address of the defendant's counsel in the trial of Harry K. Thaw for the killing of Stanford White and the examination of witnesses it appears that the only real defense will be insanity, and that the form of insanity relied upon will be insane delusion—that is, an insane delusion that White had ruined the defendant's wife, or an insane delusion that it was necessary for the defendant to kill White in self-defense or in defense of his wife, or an insane delusion that the homicide was an act of Providence, and the defendant the agent of Providence in committing it. There is also some intimation that questions as to irresistible impulse and emotional insanity may arise. In view of this outlining of the defense, it will be of interest to our readers to publish the following statement of the law procured from Mr. William L. Clark, the author of a number of works on criminal law, and reviewing editor of the Cyclopedia of Law and Procedure, known as "Cyc." He says:

"To say that a man is guilty of no crime in New York if he kills another while insane, although true as a general proposition, is too indefinite. It is necessary to go further and ascertain what is meant by the term insanity, for it admits of degrees and appears in various phases; and it is necessary to go further still and ascertain what is meant by the term under the laws of New York, for the law of this state on insanity as a defense differs from the law in some of the other states.

COMPLETE INSANITY.

"Under the Penal Code of New York (sections 20 and 21), as under the law in all other states, a man is not responsible for a homicide committed while insane, if the insanity was such that he did not know the nature and quality of his act or did not know that it was wrong. On the other hand, to exempt from responsibility in New York, although it is otherwise in Alabama, New Hampshire, and some of the other states, the insanity must be such as to have this effect. In this state section 20 of the Penal Code declares that 'an act done by a person who is an idiot, imbecile, lunatic or insane, is not a crime.' But section 21 expressly provides that 'a person is not excused from criminal liability as an idiot, imbecile, lunatic, or insane person, except upon proof that, at the time of committing the alyeged criminal act, he was laboring under such a defect of reason as either, (1) not to know the nature and quality of the act he was doing, or (2) not to know that the act was wrong,' and section 23 provides that 'a morbid propensity to commit prohibited acts, existing in the mind of a person who is not shown to have been incapable of knowing the wrongfulness of such acts, forms no defense to a prosecution therefor." These provisions prescribe the only test of insanity as a defense in criminal cases known to the law of New York, and therefore, although a man may be to some extent insane when he kills another, and although medical experts may agree in so testifying, he is nevertheless criminally responsible if, notwithstanding his defective or perverted mental condition, he knew the nature and quality of his act and knew that it was wrong. People vs. Crist, 168 N. Y. 29; People vs. Silverman 181 N. Y. 235. Whether he was insane to such an extent is a question for the jury. The defense must introduce some evidence of insanity, but if it doese, then the jury, in order to convict, must be convinced of his sanity beyond a reasonable doubt.

INSANE DELUSIONS.

"In order that insanity may be successfully set up as a defense in a prosecution for homicide, it is not necessary that the defendant shall have been totally insane, and on all subjects, but monomania, or an insane delusion, may be sufficient to exempt, although on all other subjects the accused may have been perfectly sane. Whether it is or not in New York must be determined by applying the test laid down in section 21 of the Penal Code above quoted; and therefore an insane delusion is a defense if it was such as to prevent the accused from knowing the nature and quality of his act, or from knowing that it was wrong, but not otherwise. People vs. Taylor, 138 N. Y. 398. The rule as to this phase of insanity in substance follows: 'If the defendant is partially insane, that is, subject to insane delusions as to certain things, but in other respects sane, he is not criminally responsible if the homicide would be excusable or justifiable in case the facts were as his delusion leads him to believe them to be; but if the homicide would not be justifiable or excusable under those circumstances, the delusion is generally held not to free him from responsibility.' To illustrate: If a man kills another under the influence of an insane delusion that God has commanded him to do so, he is guilty of no crime, for, instead of knowing that the act is wrong, he believes it is right. Of course, whether he did kill under the influence of such a delusion is a question for the jury on the evidence. The same is true if a man kills another under the influence of an insane delusion that the other is in the act of attempting to kill him (the slayer) or to inflict grievous bodily harm, for if such were really the case, the homicide would be justifiable. And the rule also applies if a man kills another under an insane delusion that the killing is necessary to save his wife from death or great bodily harm, for he has the same right to defend his wife as he has to defend himself.

"On the other hand if a man kills another in revenge under an insane delusion that the other has inflicted a serious injury to his character or fortune, he is fully responsible, for even if the supposed facts were true, they would not justify or excuse the homicide. And the same is true if a man kills another in revenge or jealous passion under an insane delusion that the other has ruined his wife or is attempting to take her from him, for such facts, if they really existed, would not justify or excuse. In any case there must, to exempt from responsibility, be a direct connection between the monomania or delusion and the homicide; and care must be taken to distinguish an insane delusion from the erroneous conclusion of a sane mind, which is no defense.

IRRESISTIBLE IMPULSE.

"It is held in Alabama, Massachusetts, New Hampshire, Pennsylvania, and a number of other states, that a man is not responsible for a homicide committed under the influence of an insane irresistible influence, although he may know the nature and quality of his act and that it is wrong, on the ground that medical experts practically agree that such a mental condition may exist as the result of genuine insanity, and if it does in fact exist in any case, then the person laboring under such an infirmity is, in so far as criminal responsibility is concerned, in the same position as if a strange man should seize his hand and compel him, against his will, to commit the act. In other states, however, this phase of insanity, in spite of the medical testimony as to its existence, is not recognized but such a condition of mind is regarded as mere moral perversion or passion, so long as the slayer knows the nature and quality of his act and that it is wrong; and this is true in New York under the express provisions of the penal code above quoted. In this state, therefore, an insane irresistible impulse is a defense if the accused did not know the nature and quality of his act, or if he did not know that it was wrong, but not otherwise, even though medical experts may all agree in testifying that the impulse was due to genuine insanity, and that it was irresistible. People vs Carpenter, 102 N. Y., 238.

EMOTIONAL INSANITY.

"Mere emotional insanity, so called, where the person knows the nature and quality of his act and that it was wrong, is no defense anywhere, and is expressly excluded in New York by the provisions of the penal code quoted above. If a man under the influence of excitement, passion, or frenzy, caused by anger, jealousy, the passion of revenge, or any other cause whatever kills another, when he has sufficient mental capacity to know the nature and quality of his act, and that it is wrong, he may be guilty of murder in the second degree only, because of the absence of the elements of deliberation and premeditation, which are necessary to murder in the first degree, but he is not exempted entirely from responsibility, even though his excitement or passion may have been apparently uncontrollable; and, it has been held, even though he may have also been laboring under some mental defect, rendering him more liable than a perfectly sane man to yield to the influence of such excitement or passion.

"This rule, however, does not exclude as a defense genuine insanity, as distinguished from mere turbulence of passion, merely because it was produced by anger, jealousy, revenge, or other like cause. If it was genuine insanity, whether total or merely partial as in case of delusion, and prevented the accused from knowing the nature and quality of his act, or from knowing that the act was wrong, it is as complete a defense as like insanity produced by any other cause; and if there is any evidence tending to show such genuine insanity, it is within the exclusive province of the jury to determine whether as a matter of fact, it did exist.

THAW NOT RESPONSIBLE.

"Referring to the case of Harry Thaw, who is now on trial in New York for the murder of Stanford White, it seems clear from this summary of the law that he may be innocent, and the homicide merely a great misfortune. He is certainly not responsible if, by reason of genuine insanity at the very time of the homicide, by whatever cause it may have been produced, and the testimony thus far introduced, if true, would seem to show ample cause for at least a temporary overthrow of reason,—he was incapable of knowing the nature and quality of his act, or incapable of knowing that the act was wrong. And even though he may have been in all other respects sane, if at the very time of the homicide, by reason of brooding over the supposed wrongs, or from any other cause, aided perhaps by threats against his life made by White and communicated to him, he was laboring under a genuine insane delusion that it was necessary for him to kill White as he did to save either himself or his wife from death or great bodily harm, however unnecessary the homicide may in fact have been, then he was guilty of no crime at all, for if such were the real facts, the homicide would be justifiable.

"Of course, the existence of such insanity or insane delusion is a question of fact to be determined by the jury from the evidence, and the defense must introduce some evidence to prove it. If such evidence is introduced and it is sufficient to raise a reasonable doubt in the minds of the jury as to whether it did exist or not, then, under the law of New York, the defendant must be acquitted.

FILIBUSTERING STARTED IN SENATE

Bacon and Tillman Object to Attempt to Force Adoption of Report on Immigration Bill.

WANTED TIME TO READ IT.

South Interested in the Labor Question Where There is a Scarcity of Cotton Mill Hands.

Washington, Feb. 14.—The sudden development of a full-fledged filibuster resulted today in the senate when an attempt was made to force the adoption of the conference agreement on the immigration bill. This report carries a provision intended to bring about a settlement of the Japenese-California school problem and speedy action was desired by administration senators.

Expressing sympathy with this object, yet regarding the report with suspicion on other points, Messrs. Bacon and Tillman first endeavored to have action delayed until tomorrow, that they might study the report. When this was refused, the filibuster began. Mr. Bacon held the floor two and a half hours. Mr. Tillman said he was prepared to make a 10-day fight on the floor against the report, because he objected to being run over as with an automobile.

Mr. Bacon objected on the ground that the report changed existing law in respects which he believed on hurried examination would deprive southern states from obtaining even the meager labor supply from abroad, which was available under the present immigration laws.

A truce was declared until tomorrow at the suggestion of Senator Spooner, when the report will again come up for consideration.

Administration senators interested in the adoption of the report were alarmed by apparent Democratic hostility. All of the Democratic leaders, when questioned as to their attitude disclaimed the adoption of a party policy in regard to the report, and the senators making the objections insisted that they were actuated wholly by resentment of what they thought was an attempt to force immediate action. Senator Blackburn, chairman of the Democratic steering committee, said he felt sure there was no disposition to filibuster against the report beyond carrying it over until tomorrow.

Senators Bacon and Tillman made similar statements. They agreed that the restriction of immigration provided in what is familiarly known as the "Japanese coolie clause" is of great importance. They would not say what their attitude would be. It was made plain, however, that they would consider the report overnight and then if the question proved one on which it was advisable to hold a conference, the party will be called together tomorrow.

The session was begun with an extended address by Senator Knox in defense of the right of Reed Smoot to his seat as senator from Utah. The agricultural appropriation bill also was considered.

Friction developed early over the conference report on the immigration bill. Senator Dillingham, in charge of the report, was importuned by Senator Bacon to allow the matter to go over until tomorrow. Mr. Dillingham expressed a willingness to do this provided unanimous consent could be had that a vote be taken on it before adjournment tomorrow. Mr. Tillman objected to fixing a time for the vote, saying that he did not want to be put in a corner. After he had read the report, and by tomorrow morning, he thought that a time to vote might be fixed. Mr. Dillingham changed his request to vote Saturday before adjournment, but this arrangement was blocked by Mr. Tillman.

Immediate consideration of the report was then pressed by Mr. Dillingham.

"Well, Mr. President," declared Mr. Tillman, "I have been in the senate 12 years, and I have never seen anything gaind by an effort to dragoon the senate, and even the people who are not willing to fight and not spoiling for a fight can be very easily aroused and driven into the attitude of hostility."

Mr. Tillman made a point of order against what is known as the passport regulation. The provision is considered to be in the interest of adjusting the California Japanese problem, and Mr. Tillman declared the matter presented in the amendment was extraneous to any matter within the jurisdiction of the conference committee.

Senator Lodge opposed Mr. Tillman's point of order.

That a point of order would lie to the amendment was contended by Senator Culberson, but he believed the matter should be submitted to the senate for its vote.

The vice president, however, ruled that the point of order was not well taken and overruled the point of order.

The vice president later modified the ruling, by making it simply that the point was one on which he could not properly rule, but that the senate must decide the matter by its vote upon the conference report.

Mr. Bacon pointed out what he regarded the grave danger of the proposition announced by Mr. Lodge, that the only limitation to a conference committee was that it confined itself to the general subject when each house had passed different bills.

Mr. Bacon indicated that he should later read to the senate the entire lengthy conference report, as he was not permitted to read elsewhere.

"There is," he declared, "an attempt to destroy the possibility of securing any immigrants."

"Does the senator refer to the further restrictions against the importation of contract laborers?" asked Mr. Lodge.

"We all know," answered Mr. Bacon, "what has brought this report to the senate. We know that a condition of affairs which in no manner relates to the injustices to which I am referring has attracted the attention of the whole country, and that there is an acute situation which it is proposed to relieve by bringing in this report.

"In order to meet the case of emergency on the Pacific coast a report is brought in which does not simply relate to that matter, but covers the entire field, and opportunity is taken to enact a drastic rule which will do great injustice to certain parts of this country and to make this acute situation the means of inducing senators to vote for a report containing this injustice."

"In order that the senator may not misrepresent the conference committee," interrupted Mr. Lodge. "I desire to say that this report without the clause relating to passports, was complete several days ago and would have been presented to the senate without any reference to that clause."

Mr. Bacon replied it was a fact that opportunity to induce votes for the report was being taken advantage of. "It is not necessary," he said, "that it should be on this bill and not necessary that senators should do a great injustice to another section of the country to protect the Pacific coast. It is important that the Pacific coast should be protected and we of the south have ever stood here to co-operate for its protection."

Mr. Bacon then turned his attention to the scarcity of cotton mill labor in the south, and read at length a report from the department of commerce and labor regarding the situation which he construed to indicate a desire of the department to aid in meeting the need of labor.

While Mr. Bacon was speaking, Senator Tillman marked with slips of paper certain passages in a pile of books he had on his desk. During a pause by Mr. Bacon, Beveridge asked if he had concluded.

"Oh, no," was Mr. Bacon's reply. "The senator very much mistakes the scope of my remarks."

"I am just getting ready to talk for a week or 10 days," interjected Mr. Tillman. "When I get so little justice at the hands of senators as not to be permitted even to read a bill I am prepared to fight. I object to having a matter brought in here and run over us like an automobile."

Senator Spooner came to the relief of the situation at this point, saying it was evident that senators were at a disadvantage in not having had time to read the report. "I appeal to the senator," he said, turning to Mr. Dillingham, "to let the matter go over until tomorrow." Mr. Dillingham, saying he recognized the situation, consented, and the report went over, two and a half hours having been consumed in its consideration.

BUTTE PUBLISHERS LAY DOWN LAW TO UNIONS.

Butte, Mont., Feb. 14.—The Butte Publishers' association in a statement directed to the typographical and stereotypers' unions, notifies them that when the pressmen's strike is adjusted the printers and stereoptypers must return to work at a scale 50 cents less per day for each man, the scale of wages prior to May 6, 1906, to be in force. The stereotypers must return under the scale in effect prior to Jan. 26, 1907. The typographical union must abrogate several of its rules, one providing that where a change is made in an advertisement that change be made without resetting the whole ad. The publishers also demand that they be permitted to run picture and matrix matter without being compelled to pay the typographical union for the space consumed, or for having the plate reading matter set after it has appeared in print, to be thrown away without use.

The publishers state in emphatic terms in their announcement to the allied printing crafts that until the unions see fit to accede to the demands of the printing companies there will be no publication of any papers in Butte or Anaconda. The wage scale demanded prevails at Helena and Anaconda. The Anaconda Standard, in an appended statement to the typographical union, states that it has decided to cease publication until the demands of the Butte newspapers have been entirely satisfied.

THAW CASE.

New York, Feb. 14.—The Union League club in a resolution today commended the president and other federal officials for their efforts looking toward the suppression of publication of the Thaw trial details. The club declares the scattering broadcast of the "disgusting testimony" is a national calamity. Trials with such evidence should be conducted privately, declares the resolution.

PROBATE AND GUARDIANSHIP NOTICES.

Consult County Clerk or respective signers for further information.

IN THE DISTRICT COURT, Probate Division, in and for Salt Lake County, State of Utah. In the matter of the estate of John G. Smith, Deceased. Notice.—The petition of Hester Smith, the administratrix of the estate of John G. Smith, deceased, praying for an order to sell the following described personal property of said decedent, to-wit:

An undivided one-half interest in the property and business of the Salt Lake Transfer Company, has been set for hearing on Saturday, the 23rd day of February, A. D. 1907, at 10 o'clock a. m. at the County Court House, in the Court Room of said Court, in Salt Lake City, Salt Lake County, Utah.

Witness the Clerk of said Court, with the seal thereof affixed this 9th day of February, A. D. 1907.
(Seal) J. U. ELDREDGE, JR., Clerk.
By W. H. Farnsworth, Deputy Clerk.
Thurman, Wedgwood & Irvine, Attorneys for Petitioner.

DELINQUENT NOTICE.

CHERRY CREEK MINES CO. Principal place of business, Salt Lake City, Utah.—Notice.—There are delinquent upon the following described stock, on account of assessment No. 1, of two (2) cents per share, levied on the 26th day of December 1906, the several amounts set opposite the names of the respective shareholders ,as follows:

Names.	No. of Cert.	No. of Shares.	Amount. Due.
Orson Allen	27	500	$ 10.00
S. W. Anderson	81	2,000	40.00
H. S. Beatie	19	2,000	40.00
J. Henry C. Beekman	95	15,000	300.00
H. J. Fouiger	7	6,000	120.00
W. H. Folland	40	1,000	20.00
H. C. Gaw	58	1,000	20.00
H. C. Gaw	59	1,000	20.00
H. C. Gaw	60	1,000	20.00
H. C. Gaw	61	1,000	20.00
H. C. Gaw	62	500	10.00
H. C. Gaw	63	500	10.00
H. C. Gaw	64	500	10.00
H. C. Gaw	65	500	10.00
H. C. Gaw	66	500	10.00
H. C. Gaw	67	500	10.00
H. C. Gaw	68	500	10.00
H. C. Gaw	69	500	10.00
H. C. Gaw	70	250	5.00
H. C. Gaw	71	250	5.00
H. C. Gaw	73	250	5.00
H. C. Gaw	75	250	5.00
H. C. Gaw	74	250	5.00
H. C. Gaw	76	250	5.00
H. C. Gaw	76	250	5.00
H. C. Gaw	77	250	5.00
Henry Green	82	3,000	60.00
Wm. Green	84	1,000	20.00
Geo. N. Lawrence	136	1,000	20.00
Geo. N. Lawrence	138	1,000	20.00
Geo. N. Lawrence	137	1,000	20.00
Geo. N. Lawrence	138	1,000	20.00
Geo. N. Lawrence	139	500	10.00
Geo. N. Lawrence	140	500	10.00
P. S. Maycock	22	500	10.00
Lester Merrill	24	1,000	20.00
Alvin E. McElhany	53	500	10.00
J. R. Reeve	83	1,000	20.00
E. M. Sherradan	96	750	15.00
M. Thomas	21	500	10.00

And in accordance with law and an order of the Board of Directors made on said 20th day of December, 1906, so many shares of each parcel of such stock as may be necessary will be sold at public auction at the office of the secretary of said company at the State Bank of Utah, Salt Lake City, Utah, on Monday, the 25th day of February, 1907, at 10 o'clock a. m., to pay the delinquent assessment thereon, together with the costs of advertising and expense of sale.

HENRY T. McEWAN,
Secretary.
State Bank of Utah, Salt Lake City, Utah.
First publication, February 9, 1907.

SUMMONS.

In the Justice's Court, in and for the City of Murray, Salt Lake County, State of Utah. Jacob Dorr, Plaintiff, vs. Pete Smith, real name unknown, Defendant. The State of Utah to the Said Defendant: You are hereby summoned to appear before the above entitled court within ten days after the service of this summons upon you, if served within the county in which this action is brought; otherwise within twenty days after the service, and defend the above entitled action, brought against you to recover the sum of $45.60, due for goods, wares and merchandise, furnished by the plaintiff, also all costs of suit, and in case of your failure to do so, judgment will be rendered against you according to the demand of the complaint.

C. T. DURAND,
Justice of the Peace.