

STEPHENSON  
OPENS FIGHT(Continued From Page 1)  
"I didn't say anything about water," said Cox, exasperated.

"Well, the action would be slower than if in solution," said the witness.

The wanderings of the alimentary canal were the adscribed for Attorney Cox.

## Discusses Flu

"Since the war, many persons have thought they had the influenza when they only had the grippe," said the witness when questioned about the influenza Miss Oberholzer had before her momentous trip.

"If you had known that the subject of Mr. Inman's hypothetical question had been bitten from her cheeks to her ankles, and not merely bruised that would have affected your answer?" Cox asked.

"I'd have to have more information than you've given to change my mind," retorted the witness.

"Are you absolutely sure?" asked Cox, emphasizing the "absolutely."

## Reasonably Sure

"Yes, I'm reasonably sure," replied the doctor emphasizing "reasonably."

"But you told me you were absolutely sure."

With this exchange between the two, Dr. Smiley was excused, it being almost noon, Judge Sparks acceded to the defense request to be allowed to gather their witnesses and recess until 1 p. m.

## Defendants Serious

The three defendants sat at their table surrounded by their attorneys, with as serious expressions on their faces as they have yet shown.

The motions, asking the enquest of the defendants were presented by Christian on the opening of court. They were filed in behalf of each of the trio.

The motion, in behalf of Stephenson, the principal in the case, was "for the judge to issue peremptory instructions to the jury to return a verdict for the defendant on the indictment and each separate count thereof."

The motions in behalf of Klinck and Gentry were phrased similarly.

In denying the motion, Judge Sparks said:

"Gentlemen, in regard to these motions, I want to be entirely courteous in the matter, but I'll say frankly, gentlemen, that I am not going to affect arguments on these motions.

## Has Own Opinion

"I have my opinion about these matters, and so do you, but I'm not going to sustain these motions."

Interrupting him, Christian said.

"But, Your Honor, I think there are some legal points in this case that have not been presented."

"Arguments at this time would

merely attack the validity of the indictment or points in it," Judge Sparks continued.

"I'm willing to take the risk of making the error. Of course, gentlemen, I know we all make mistakes. I have my own notion about it. That I should have those notions, of course, is not wrong."

"Gentlemen, I don't care to hear any arguments on these motions."

In reply to Christian's suggestion that maybe the court did not know all the points of law, and ought to hear arguments, Judge Sparks said:

"I am not so sure about that. We all have access to the same books."

## Up to Jury

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## Record Crowd

At 9:30 sharp, before the largest crowd that has occupied the courtroom in the early hours of the morning, Inman rose and announced to the court:

"Your Honor, the defense waives its opening statement."

"All right," replied the judge.

Inman called to the stand as the first defense witness Dr. Smiley.

Dr. Smiley qualified himself as an expert witness on the subject of mercurial poisoning, declaring that he had treated approximately 100 cases. He said he had been practicing since 1908.

See Suicide Theory

That the first defense witness was a physician, was regarded as a verification of the belief that the defense will base all hopes on the theory the young woman actually committed suicide.

Dr. Smiley said he had lived in Indianapolis twelve and half years, that he was a graduate of Western Reserve University, Cleveland, Ohio, that he did surgery.

"Have you had experience with patients who had taken a poison known as bichloride of mercury?"

"Yes, I have. In the last six months I have had three cases."

"Are there different ways mercuric poison may be taken into the human system?"

"Yes. By breathing or through

"An autopsy shows there was no

the mouth and other body openings," said the doctor, enumerating them.

Dr. Smiley said he was acquainted with the two sizes of mercury tablets, the larger one containing seven and three-tenths grains.

Inman put to Dr. Smiley a hypothetical question which required more than half an hour to deliver, twice as long as the famous one asked by Attorney Charles E. Cox of the State.

## The Fatal Dose

"What is a fatal dose?"

"From three grains up, depending on circumstances."

Inman then began to develop his theory that Madge dissolved the six bichloride of mercury tablets in a glass of water and swallowed the solution, instead of taking the dry tablets, as she said in her dying statement.

"Now, Doctor, suppose six tablets of this size, seven and three-tenths each, were dissolved in a glass of water, and the solution drank into the stomach, would absorption take place faster than if they were taken in solid form?"

"Yes, somewhat."

Empty Stomach

"As to the rapidity with which the system takes up the poison, would that depend on whether the stomach had food in it or not?"

"Yes, very much."

The huge crowd made no sound, expectantly awaiting developments of the defense.

"Suppose no solid food were in the stomach, but the stomach was empty, and that six of these tablets or forty-five grains, dissolved in water, were dropped into the stomach, what would be the effect on absorption?"

## Action at Once

"It would start at once. It would start spasmadic action of the walls of the stomach."

"Suppose that the patient hadn't taken any solid food for twelve or fifteen hours, and that at 9 a. m. drank one cup of coffee, would her stomach then be empty one hour after drinking the coffee?"

"Ordinarily, yes sir, in a normal stomach."

Inman began at this point to lay the foundations for his contention that the sores or inflamed conditions on Madge's lips, tongue, the inside of her mouth and other body openings, was caused by action of the poison.

"If the poison solution came in contact with the tongue would it affect the tongue?"

"Yes."

"The throat?"

"Yes."

"The stomach?"

"Yes."

Dr. Smiley said that hospital attaches sometimes get mercurial poisoning from washing their hands in a mercurial antiseptic solution prior to performing operations. He said the infections on the breast and body of Madge could have been caused by vomiting the mercury. He further said that Madge's poisoned condition

could have resulted from use of mercury as a prophylactic.

## Hypothetical Question

Inman put to Dr. Smiley a hypothetical question which required more than half an hour to deliver, twice as long as the famous one asked by Attorney Charles E. Cox of the State.

## The question in brief:

"A young woman about 28, in good health, has the flu, and apparently recovers. On an empty stomach about 10 a. m. she dissolves six tablets of bichloride of mercury in a glass of water, swallowing the solution, instead of taking the dry tablets, as she said in her dying statement.

"Now, Doctor, suppose six tablets of this size, seven and three-tenths each, were dissolved in a glass of water, and the solution drank into the stomach, would absorption take place faster than if they were taken in solid form?"

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access in or about the kidneys, but portions of the liver and kidneys show the presence of mercury."

Inman then asked the witness what his opinion was as to the cause of her death.

"Bichloride of mercury," the doctor replied.

Inman then phrased a new hypothesis, in which he included many of the points the State had emphasized in its hypothetical question.

He asked the witness to assume the patient was thrown into the lower berth of a Pullman drawing room, attacked and beaten, and that a revolver was used to force her into submission. Inman included the alleged statement of the girl, "Oh dear! Put that gun away. I am afraid of it," over which bitter controversy has arisen as to just how she emphasized "the gun, dear."

"Would those things change your opinion as to what caused her death?" Inman asked.

"No, sir," the doctor said, repeating his opinion that bichloride of mercury poisoning caused her death.

Previously Inman had drawn from Dr. Smiley the statement that the use of powerful mercurial solutions, or undissolved tablets of the drug, particularly the latter, as a prophylactic often results in death. That preceded Inman's hypothetical question.

Inman also drew from the doctor that a case of influenza, even when recovery is apparent, may suddenly assert itself disastrously in the patient's vital organs.

Evidence is already before the jury that Miss Oberholzer had recovered from the influenza.

Defense Surprised

Remy rested his case Wednesday with such abruptness the defense camp was thrown into confusion. Inman leaped to his feet as Remy said:

"The State rests, Your Honor."

"Wait! Wait!" called the defense leader. "Before the State closes, we wish to renew our request that some of the State witnesses be recalled from Hammond for further cross-examination."

"I am ruling the defense had

their chance at the time the witnesses were on the stand, as I said then," said Judge Sparks.

Judge Sparks, however, said that he would summon the day clerk of the Indiana hotel, where the party put up.

Reporter Threatened

Stephenson, who has been unusually serious for the last few days, suffered a case of nerves as court adjourned, and threatened to "snack" a newspaper reporter, whom he claimed had insulted him. Klinck, his co-defendant, took part in the argument with the remark: "Let me hit him, Steve." No blows were struck.

The defense held a long conference in the courtroom after court.

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## CITY TO CLEAN UP ALL LEAVES

A general clean-up campaign was begun today by the board of works.

The street cleaning department first

will remove all leaves from the streets.

Citizens were asked to cooperate by placing leaves where they can be gathered up. John F. Walker, superintendent, said:

This campaign may end activities of the department in this administration, unless additional money is appropriated, Walker said.

All mules, horses and street cleaning equipment was ordered back into the city barns at Shelby St. from the three rented barns in various parts

of the city. The animals and vehicles were removed from the Shelby St. barns several weeks ago when the board talked of selling the property. The council refused to authorize the sale.

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