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THE JOURNAL.

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WEDNESDAY, MAY 27, 1896.—SIXTEEN PAGES.

PAGES 9 TO 16.

MRS. FLEMING'S LIFE STORY TOLD IN THE OPENING OF HER TRIAL.

Prosecution Opened by a Review of Her Love Affairs, Money Difficulties, and Many Quarrels with Her Mother.

Assistant District-Attorney Seaman H. Miller Checked in an Attempt to Go Into the Story of Her Four Children and Their Parentage.

Senior Counsel for the Defence Brooke Began His Objections During the Opening Statement, and Fought to Keep the Evidence Within the Small Limits of the Law.

STORY OF MRS. BLISS'S DEATH FROM POISON.

Janitress Mary Leonard's Experiences with a Pitcher Which Had a White Substance at the Bottom, Followed by Nurse Phillips's Tale of a Meringue-Topped Pie, the Testimony of the Last Physician, and an Adjournment.

By Edgar Saltus.

Illustrations in the gymnastics of yawning ceased yesterday in Part II, General Sessions. The weather had changed, the jury box had been filled the day before, the trial of the woman accused of matricide at last began and it was with the voice of an ogre in a fairy tale that Assistant District-Attorney Miller opened for the prosecution.

A moment before, in weeds so deep that



Dr. William F. Bullman.

Mrs. Bliss's physician. He was called by her friend, Augustus L. Tuebner, and saw her twice between the hour she became ill and her death. He has said Mrs. Bliss accused a relative of having poisoned her.

they betokened rather a widow than an orphan, the defendant, Mary Alice Fleming, entered court. The knowledge of coming arraignment embarrassed neither her step nor her speech. She greeted the lawyers who are to defend her against a monstrous charge with an everyday breakfast room air, and when she had seated herself and looked about you might have taken her for a mere spectator, so much at ease did she seem.

At her side was her sister, Miss Bliss, a pretty girl with a waist that would fit in a garter and a follow-me-lads expression. She, too, seemed untroubled, and in a moment when Mr. Miller turned to address the jury, the rhyme of her lips parted expectantly, and you could see she was glad that after two weeks of talsmen baiting at last the real fight had begun. So was everybody.

The Spectacle of the Audience. The court was packed as it had not been yet. The atmosphere was charged with expectancy. Within the bar the prosecuting attorneys lolled, fresh as paint, and meek as panthers that are fed. Against that bar, crouching there, were the counsel for the defence, meek as their opponents, but prepared to spring. To the rear was the forest of newspapermen, handsome young men, dressed in the ears in resplendent collars and astounding cravats. Beyond were the spectators, a solid mass; ladies of every degree, except the high one, and with them, or without them, men whom you would recognize as first lighters, others whom you would not recognize at all. To the right of the bar, and facing it, were experts in chemistry who, perhaps are experts in gastronomy, too. To the left was the jury box filled at last, after 600 efforts, and beneath the amber panoply of the bench, his eyes probing the defendant, sat the Recorder.

It was a curious spectacle, a unique one. For it is the first time since the days of Mrs. Maybrick that a woman of quasi-similar antecedents and connections has been up for murder at the bar. It was like a play with only this difference. It was real—a drama of mud and of blood without orchestral accompaniment.

The Prosecution's Review. Mr. Miller complimented the jurors, and asked them to lay their blame for the delay in choosing them upon the law, and not on the defence. He wanted them to believe Mrs. Fleming innocent until he and Mr. McIntyre proved her guilty, and he assured them that proof of guilt would be presented. He then began the story of Mrs. Fleming's life as the prosecution has learned it.

"When this defendant was born, in 1800 her mother was the wife of Robert Livingston, and resided in this State. Livingston was descended from one

of the first lords of Livingston Manor, and at one time was owner of a large estate, comprising a large portion of the land of both Dutchess and Columbia counties. In 1804 Mr. Livingston died, leaving a widow, and in and by his last will and testament he devised to that widow a large portion of his estate. After her decease certain portions of his estate were to come to this defendant, then known as Mary Alice Almont Livingston, and a certain sum of money also. In 1808 the widow was married to Henry E. Bliss, then a merchant in this city. They resided together and the daughter, this defendant, became one of the household.

"A certain portion of the estate of Robert Swift Livingston was willed to Mary Alice Almont Fleming absolutely, and she being unmarried, her mother became her guardian and held the funds in trust, after giving the necessary bonds to the Surrogate of this county. In 1870 some of the lands which Mr. Livingston died possessed of were sold. One portion of the property sold was at Eighty-fourth street, near Avenue



Mrs. Hannah Phillips. Nurse called to attend Mrs. Bliss, and was with her when she died.

A. Two-twentieths of this land was devised to Mrs. Bliss (then Mrs. Livingston) for her life. A decree privileged her to take a lump sum in lieu of her share in the annual income. The balance remaining—something like \$7,000—was placed in the hands of the City Chamberlain and remained in his hands until Mrs. Bliss's death last August, when it had augmented to about \$25,000. In 1873 a bill passed the Legislature allowing another portion of the estate of Robert Livingston to be sold under the supervision of the Supreme Court. Under the decree in the case the widow could elect to take her sum in gross also, and she took it and the balance was first

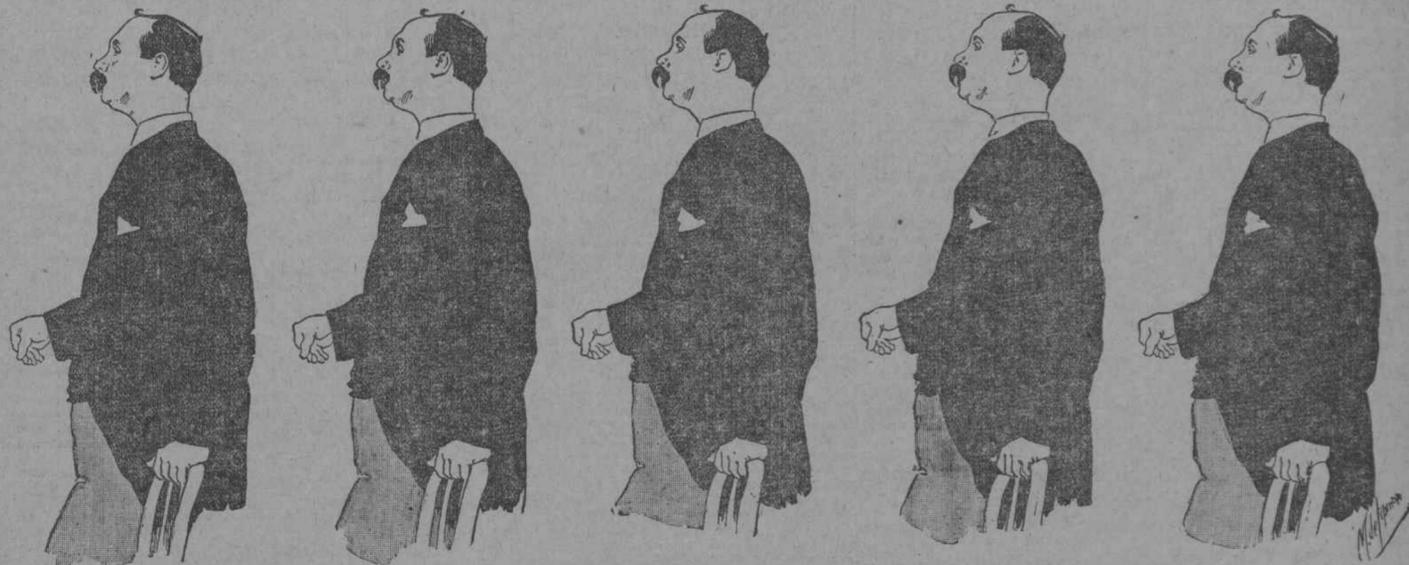
turned over to a trust company and subsequently placed in the hands of the City Chamberlain, and this sum on August 30, 1895, amounted to about \$60,000, making the sum in the hands of the City Chamberlain at the time of Mrs. Bliss's death about \$85,000.

Miss Livingston's Estate. "Not, while her mother was allowed to receive her portion in gross, Miss Livingston could not receive anything until her mother's death. Mrs. Bliss invested some of her money, and when the panic of 1873 came, these investments turned out very unfortunately, and she lost all or nearly all of her estate which she had received from her husband Robert Livingston. During the latter part of 1870 the defendant resided with her mother and step-father, and was educated by them. For a considerable portion of the time she was at the academy of Mount St. Vincent, a little below Yonkers. About the year 1877 she went to reside with her mother at Toms River, N. J., on the property which her mother had purchased with part of the proceeds of her fortune. This property was heavily encumbered by mortgages and, piece by piece, was swept away from Mrs. Bliss.

"In 1883, while at Toms River, a child was born to Miss Livingston, as she was then called. Subsequently litigation arose between this defendant and Henry Fleming. Mr. Brooke stopped him with indignant objection. "I object to the District-Attorney making that statement," said the senior counsel for the defence: "first, because it is untrue, and, second, because the prosecution has no right to go into matters affecting the life and morals of this defendant."

Mr. Miller waited solemnly while Mr. McIntyre defended him. "This is not intended as an assault upon the character of the defendant. It is merely leading up to the story of the motive of this defendant in premeditating the crime."

"I think," said the Recorder, "the prosecution may present in a general way the story of the defendant's life, but without details reflecting upon her character."



"One of your number said: 'I cannot conceive of a woman's committing such a crime.'"

"Doctor, I know I am going to die."

"This great and learned Judge"

"She used to meet him clandestinely."

"And you will bring in a verdict of guilty of murder in the first degree."

Five Poses of Assistant District-Attorney Miller Opening the Fleming Trial.

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Mr. Brooke was not satisfied, but Mr. Miller was allowed to go on.

The Story Grows Interesting. "A short time prior to 1882 Mrs. Bliss was engaged in business in Eighth avenue, in this city, and just prior to the litigation she made a general assignment of all her property. In view of the fact that she was guardian of Miss Livingston and had used some part of the funds belonging to the defendant, she made the assignment to Charles Lyon, Jr., making this defendant a preferred creditor for such money as she justly owed this defendant."

Mr. Miller referred guardedly to the defendant's suit for breach of promise against Henry Fleming, the father of her first child, according to her contention in that proceeding, and to the verdict in her favor for \$75,000 damages.

"That judgment was never appealed from," said Mr. Miller, "but a settlement was made and a considerable

portion of the money, amounting to some \$10,000, was paid into the hands of this defendant. The Toms River property was sold, and this defendant came to New York and purchased a house in her own name. She came to New York with her mother and stepfather, Henry E. Bliss. While Mr.

The Court agreed that this defendant could receive at least the annual accumulations, but the Court of Appeals finally decided that this fund could not be touched by this defendant until the death of her mother. "Early in the nineties another idea seemed to possess the defendant. She had prepared and presented to the Legislature an enabling act, allowing the accumulations in the hands of the City Chamberlain to be paid. The Legislature adjourned without passing the bill. She consulted with her attorneys, one of them a most distinguished jurist of this city. The Legislature was again resorted to in 1893, but it seems that the Legislature adjourned that year also without granting the relief she desired.

"In the early part of that year Ferdinand again was brought to the mother's attention. There was a very strong and spirited argument between mother and daughter. The mother kept insisting that she should have no further relations with this man; the daughter insisted that she would continue them. It is only fair to this young man that he didn't seem inclined to be as demonstrative toward this defendant as she was toward him. The more her mother asked her to break off her relations the more set she seemed in her passionate determination.

"In June, 1895, the crisis came, and Mr. Bliss told this defendant to the Colonial Hotel. She is indicted in the name of Mary Alice Almont Fleming. It seems that she took the name of Fleming a short time before the death of her mother. Creditors imperturbed and matters were becoming disagreeable and therefore you have this defendant indicted in that name. But Mr. Bliss and this defendant continued to reside at the Colonial Hotel after that

"The more her mother beseeched, the more hostile this defendant became toward her. She received her mother calling her insolent and exhibiting a spirit which aggravated the situation. One week before Mrs. Bliss died, one daughter left the State and went to New Jersey. At that time Henry Bliss, the son, was away, on his vacation, in Massachusetts. On Friday afternoon Mrs. Bliss, her daughter, Florence, and a gentleman who had called to see them, went to Mount Pleasant and the daughter remained there and on the following day Mrs. Bliss and this gentleman returned to the city. The man went to his business in Chicago. On Wednesday of that fatal week this defendant received her mother in her own rooms in the Colonial Hotel, the mother remaining there until late at night."

"At that time Mr. Bliss told the defendant that she must then and there find other quarters. The situation was a serious one. She had no funds. Her mother was constantly berating her and what was she to do? Ferdinand was about to leave the country. Anxiety was at its height and she was determined upon a fatal course. She knew Henry was away and that Florence was in New Jersey and that her mother was entirely alone at that time.

"On Friday evening Mrs. Bliss, the mother of this defendant, was at her home, No. 397 St. Nicholas avenue, and this defendant knew it. And then it was that she prepared and sent that fatal dose to her mother. Scarcely had Mrs. Bliss eaten the clam chowder when she was taken violently ill. But, gentlemen, it fortunately transpired that she was not long alone. A gentleman arrived, and finding her sick, went immediately to the agent of the building. A doctor was sent for, but it was too late. The injury had been done. Although he returned again in the evening it was only to find that all had failed.

"But for one fortunate word this crime might never have been unmarshaled. But for the timely warning of that mother you might never have been in that jury box. It was not until the next day that this defendant was told that her mother was dead. The authorities were immediately notified and on the following day the dreadful truth became publicly known. Subsequent investigations have verified its truth.

"I am not now going into details further in regard to this matter. These are but faint outlines. The finishing of the picture must be by the evidence, which we shall adduce. There's the crime; there's the motive."

Effect of That Address. During the initial period of the address, as though not quite clear what it was all about, Mrs. Fleming sat staring at Judge and jury, but lulled, it may be, by the monotone of Mr. Miller's voice, little by little into the angle of her features there entered the devout expression of one at prayer. Then that changed. In the pallor of her cheeks the color mounted, her mouth seemed to set and to sneer, and you could feel that were she in a position to reply

Mr. Miller would have had one, then and there.

In the features of her pretty sister there was more placidity. During the address and the arraignment which followed she appeared less inattentive than unmoved, but the strain to maintain that self-possession must have been too great, for when Mr. Miller sat down her cheeks flushed, her eyes filled and for a moment tears fell. But almost at once she seemed to recover herself, she lowered a veil and raised a fan. The flush, though, remained. It was quite becoming.

Frank E. Towle, City Surveyor, the first witness to take the stand, testified briefly and with cheerful official ease regarding the location and disposition of Mrs. Bliss's flat on St. Nicholas avenue, of which a diagram was shown.

Tuebner Tells His Story. Before this evidence was concluded Mr. Brooke expressed intense dissatisfaction with his seat, where, he said, he could neither see nor hear. Mr. McIntyre told him to take another, and presently the second witness, Augustus L. Tuebner, the gentleman who accompanied Mrs. Bliss to Point Pleasant on the week before her death, was called. His testimony, otherwise without interest, was extracted from him by main strength and apparently to his personal discomfort. It was to the effect that he called on Mrs. Bliss on Friday, August 20, at about 5 in the afternoon; that immediately afterward, in consequence of what she told him, he went first in search of the housekeeper, Mrs. Van Norden, and then for Dr. Bullman, the physician in ordinary to the deceased. Dr. Bullman he

fort she corroborated fleetly, with a smile as well, and told how, summoned by Mr. Tuebner, she had found Mrs. Bliss on her knees, vomiting in the bathroom, and how, instructed by Dr. Bullman, she had with her own hands prepared a mustard plaster.

The objections of Mr. Brooke here became so effectual that Mrs. Van Norden was not permitted to extend her testimony beyond the mere statement that on the day following Mrs. Fleming appeared "as sorry as any child could be to learn of her mother's death." And after recess, when Mr. Brooke took her in hand, but little further of reportable interest was developed. Mrs. Bliss, she said, occupied the most remote flat in the building. In all there were ten flats, no children and general quiet. Asked whether defendant shed tears at her mother's funeral, she answered that she did not notice. Other questions relative to possible observations on the part of Mrs. Fleming elicited similar replies, but the implications seemed to be that the defendant had not exhibited any excess of grief.

An Expert Janitress. Mrs. Van Norden was then allowed to go and the janitress of the house on St. Nicholas avenue, Mrs. Mary Leonard, a typical upper housemaid, was called.

Her testimony at first was mainly in corroboration of that already given, but presently she stated that, summoned to Mrs. Bliss's apartment on the night of Friday, August 30, she found her partly undressed, unconscious and breathing with difficulty. Whereat she felt her hands, realized that she was dying—a bit of expertism to which Mr. Brooke with reusa

He was with Mrs. Evalina Bliss when she died of poison, administered, an indictment says, by that woman's daughter, Mary Alice Almont Livingston Fleming. Mr. Tuebner told the story of Mrs. Bliss's death from the witness chair in Part II, General Sessions, yesterday.

encountered on a "bike" and sent him spinning to the flat, to which he himself returned, and where, presumably, exhausted by these efforts, he fell asleep, and so remained until aroused by the housekeeper, who asked him to administer medicines which Dr. Bullman had ordered. This he did, but apparently with so little effect that at about 10 that night he went for Dr. Bullman again.

"What condition did you find Mrs. Bliss in when you returned?" asked Mr. Miller. "Dead," answered the witness shortly.

Mr. Brooke Effects an Eclipse. This testimony was punctuated by a variety of objections from Mr. Brooke, the majority of which Mr. McIntyre succeeded in defeating, yet without in any way impairing Mr. Brooke's persistence. After each rebuff he rebounded, alert, more aggressive than before.

When Mr. Tuebner had gone, the stand was taken by Mrs. Elizabeth Van Norden, the housekeeper already mentioned, an elderly person in a flowered bonnet. Respectability was written all over her, and the previous testimony extracted with such ef-

objected—saw an attempt made to give Mrs. Bliss powders and whiskey, and finally, at 11 o'clock, heard the death rattle in her throat and saw her die.

Then, gradually, the evidence began to assume a dramatic aspect. A policeman named Sawyer was told to stand up, and was identified by the janitress as a man who on the second day after Mrs. Bliss's death, had entered the flat and had taken away a pitcher, in which—and at this point Mr. Brooke objected mightily—there was a white substance.

Was It Poison? "It seemed like"—the witness continued, but like what it seemed she was not suffered to tell.

"I saw the pitcher," she added, "in the hands of the nurse, Mrs. Phillips, shortly after Mrs. Bliss died."

"Did you see a nick in it?" asked Mr. McIntyre.

But Mrs. Leonard did not remember about the nick, and she was turned over to Mr. Brooke, who not only declined to cross-examine, but moved that the entire

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MRS. MARY LEONARD, Janitress of the flat house on St. Nicholas avenue, in which Mrs. Bliss died.

Bliss did not always remain in the house, he bore a large share of the expenses. But the house which was purchased did not long remain in their control. A purchase money mortgage was taken and soon the money was demanded and title to the house passed from this defendant.

"The defendant continued to remain with her mother, and also her half-brother and the half-sister who now sits by her side in this court. They continued so to reside together, at one time in Willis avenue and then at No. 235 West One Hundred and Thirty-eighth street. While they lived at this house the defendant became acquainted with two young Germans. One of them named Ferdinand, will play an important part in this case.

"It is not necessary for me to refer in detail to all the evidence to be introduced, but the mother was not favorable to this young man Ferdinand. The defendant seemed to have what may be termed a violent fascination for him. She would meet him clandestinely and would try to deceive her mother, as perhaps she will try to deceive you, for she is a woman of no mean mental caliber."

Mr. Miller is not a graphic orator. He gave nearly all his details a legal document phrasing, and when he departed from that style his language often became involved. His tone was cold, his demeanor solemn.

The Third Child's Birth. "It is fair to say this to you," he said, "that the sister also knew this young man, and, although now there is apparent cordiality, this feeling has not always existed between them. The mother knew what would be the result of this intimacy between the defendant and Ferdinand, and when the latter was about to take his departure for Europe, one morning in 1883, the mother and her younger daughter were at the wharf, and so was this defendant. The mother berated this defendant at that time, but could not separate her and Ferdinand. He returned in May of the same year, and the relations that existed between him and this defendant up to the time of the birth of Mrs. Fleming's third child need not be described.

"You may imagine the feelings of that mother during this period. The family was broken up. Mrs. Bliss and the half-brother and sister of Mrs. Fleming went to live at No. 397 St. Nicholas avenue. A short time thereafter this defendant went to reside about One Hundred and Twenty-first street and Manhattan avenue with her children.

"Still the mother with her motherly love occasionally visited her, although the visits of this defendant to her mother were few and far between. After a while she went to the Colonial Hotel at One Hundred and Twenty-fifth street and Eighth avenue and took rooms with her stepfather, Mr. Bliss, and he paid for them, it is claimed. In the year 1887, when money was so greatly needed in the household, Mary Alice Almont Livingston, under advice of her attorney, conceived the idea that the funds in the hands of the City Chamberlain, which were to remain there until the death of her mother, might become available for use under proper proceedings. The proceedings were begun in the Supreme Court on a demand that the annual accumulations of this fund should be paid to this defendant.



Henry N. Bliss. Brother of Mrs. Fleming, and only son of the woman his sister is accused of poisoning.