The Murder Trials of Harry K. Thaw (1907 and 1908) and Dr. Arthur Waite (1916) and The Perplexing Concept of “Constitutional Inferiority”

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Thaw-Nesbit-White Tragedy: Murder Trial of the Century? Had powerful, wealthy individuals well-known in NYC society; had a beautiful woman; and it had sex.

Books about:
- FL Collins: *Glamorous Sinners*, 1932
- M Mooney: *Evelyn Nesbit and Stanford White: Love and Death in the Gilded Age*, 1976
Books by Thaw and Nesbit/Films

Books by principals in the case:

HK Thaw: *The Traitor*, 1926

Films:

Evelyn Nesbit portrayed by Joan Collins

“Ragtime,” 1981
Evelyn Nesbit portrayed by Elizabeth McGovern
Harry Thaw, heir to a $40-million fortune, on the evening of June 25, 1906, shot and killed architect Stanford White during the performance of a Broadway musical on the roof garden of New York’s Madison Square Garden.
White was one of the best known architects in America. Ironically, he was the chief architect for Madison Square Garden; it was considered his masterpiece.
Madison Square Garden, c. 1907

At 322 ft., the Madison Square Garden tower was the second tallest building in NYC.
Revealed to Thaw before their marriage that she had been seduced—actually it was statutory rape—by White in 1901 when she was still 16. White was 47 and married.

She subsequently carried on a cordial relationship with White for several years.

Thaw often went into rages regarding White. Made Nesbit refer to White only as “the Beast.”
Evelyn Nesbit as Gibson’s “Eternal Question”

Nesbit developed a reputation as one of the most beautiful models in America.
Evelyn Nesbit Photo, 1902, age 17

As a gypsy in *The Wild Rose*
Her looks inspired journalist Irving Cobb to write, “She was, I think, the most exquisitely lovely human being I ever looked at.”

Evelyn Nesbit, c. 1905, Age 21
Thaw’s Attorney Plan His Defense

- Thaw examined by forensic psychiatrist Dr. Allan McLane Hamilton in the City Prison (“Tombs”) with a diagnosis of “paranoia.” He believed Thaw had fixed delusions regarding S. White and his attorney. Attorneys planned insanity defense.

- Thaw objected to any notion he was insane and insisted upon a defense using the “unwritten law.”

- He accused his attorneys of being in collusion with the district attorney and influential friends of Stanford White to commit him to an asylum.

- Thaw fired his attorneys and Dr. Hamilton, and hired a new team headed by Delphin Delmas of San Francisco.
Delmas Develops a Strategy

- "Unwritten law" had no legal standing. New York recognized only the strict McNaughtan or "right and wrong" test for legal insanity.

- Delmas' strategy was to show that Thaw suffered from temporary insanity, but was now sane.

- Temporary insanity would allow Delmas to introduce evidence to make the jury sympathetic to Thaw.

- Instead of viewing Thaw as an evil-doer, he would be seen as ridding the world of an evil influence.

- In essence, it was the "unwritten law" wrapped around the defense of temporary insanity.
APA and ANA Presidents for the Defense

- **APA Future Presidents**
  - Charles W. Pilgrim, M.D., elected 1910
  - Charles G. Wagner, M.D., elected 1916
  - William Alanson White, M.D., elected 1924

- **ANA Past and Future Presidents**
  - Graeme M. Hammond, M.D., elected 1898
  - Smith Ely Jelliffe, M.D., elected 1929
In 1913, White and Jelliffe founded the *Psychoanalytic Review*, the first journal in America devoted to the psychoanalytic movement.

Elections of White and Jelliffe as presidents of the APA and ANA in 1924 and 1929 reflected the acceptance of psychoanalysis in mainstream psychiatry and neurology.
APA President for the Prosecution

- Carlos F. MacDonald, M.D., elected in 1913
- Emeritus professor of Mental Diseases and Medical Jurisprudence at Bellevue Hospital Medical College
- Former chairman of the New York State Commission in Lunacy, established 1889 to improve care of state’s mentally ill
Prosecutor Jerome’s “Squadron of Experts”

Austin Flint, M.D., consultant at Manhattan State Hospital for the Insane and professor emeritus at Cornell University
William Hirsch, M.D., former professor at Cornell U. and consultant at Manhattan State Hospital
William Mabon, M.D., superintendent of the Manhattan State Hospital
William B. Pritchard, M.D., of the New York Polyclinic Hospital
Allan Ross Diefendorf, M.D., superintendent of the State Hospital of Middletown, Conn.
Albert Warren Ferris, M.D., of the New York College of Physicians and Surgeons.

All testified that Thaw was able to determine right from wrong and knew the nature of his act when he shot White.
Dr. Charles Wagner, head of State Hospital, Binghamton NY, had examined Thaw 6 times in prison.

When pushed for a diagnosis, said Thaw exhibited “some symptoms” of dementia praecox and “some” of manic-depression.

This was first time “dementia praecox” appeared in NYT (3/20/1907, p.2.)
“Brain Storm”

- Dr. Britton Evans, of the New Jersey State Asylum, testified for the defense.
- He described Thaw as having “a severe brain storm.”
- Described “brain storm” as “an explosive condition of the mind in which the will power is weakened and the reason dethroned.”
- Humorists remarked that alienists were now “cerebral meteorologists”; workers late for jobs reported being delayed by “brain storms.” Bars started serving “Brain Storm Cocktails.”
- A composer of piano rags wrote “Brain-Storm Rag.”
Brain-Storm Rag, 1907
George Gould, M.D. (1848-1922)
An Ohio Connection!

- *OED* credits George Gould’s *An Illustrated Dictionary of Medicine, Biology and Allied Sciences* (1894) as first reference to “brain storm” in print: “a succession of sudden and severe phenomenon, due to some cerebral disturbance (2nd ed. p.233)”

George Gould, author of the 1894 medical dictionary, received an A.B. from Ohio Wesleyan U. in 1873

He was the proprietor of a bookstore in Chillicothe, Ohio, for several years

Obtained an M.D. from Jefferson Medical College in 1888

Settled in Philadelphia, specializing in ophthalmology

Formed the Association of Medical Librarians and served as its first president (MB Wannarka: Bull Hist Med 42:265-71, 1968)
Closing Argument for Defense

Delmas portrayed Thaw as protector of his home and wife. Proposed own diagnosis: *dementia Americana* "species of insanity which makes every home sacred ...and whoever stains the virtue [of a man’s wife,] has forfeited the protection of human law.”
Closing Argument for Prosecution
William Travers Jerome

Jerome pushed for murder in first degree.

Every act by Thaw was one “of sanity.”

Cautioned, “If the only thing that stands between a citizen and his enemy is a brain storm, then...every man had better pack a gun and have the first brain storm.”
Thaw’s First Trial Ends

- Thaw’s trial ended on April 12, 1907, with a deadlocked jury.
- Trial had lasted over 11 weeks.
- Thaw was retained by the county until retried 9 months later.
During Thaw’s trial, Dr. Hamilton, the first alienist to exam Thaw was interviewed by the NYT (3/31/07, p.SM5). Hamilton discussed CI. Although no mention was made of Thaw, the symptoms he described were very similar to those of Thaw, as brought out in his trial: fits of rage, instability, immorality. As adults, CI prone to develop dementia praecox and/or paranoid delusions. This may have been the first time “constitutional inferiority” appeared in print in the NYT.
Follow-up

- Thaw’s second trial opened on Jan. 6, 1908, with a different defense team. Was a streamlined version of the first. No claim of *temporary* insanity.

- Counsel agreed to limit number of experts to three for each side.

- Drs. Evans, Wagner and Jelliffe agreed on a diagnosis: manic-depressive form of insanity.

- Jerome never called his witnesses and the trial closed on Feb. 1, 1908, with an NGRI verdict. Thaw transported to State Asylum for the Criminal Insane at Matteawan, where he remained for 7 years.
Thaw’s 1912 Sanity Hearing and Constitutional Inferiority

- At Thaw’s sanity hearing in July 1912, Adolf Meyer identified as Thaw’s “principal alienist.” Meyer was chair of the dept. of psychiatry at Johns Hopkins U.; and one of the most influential psychiatrists of the 20th century.

- Meyer gave Thaw’s dx. as constitutional inferiority.

- W.A. White declined to comment on this diagnosis, saying it was not in use at his hospital (the Government Hospital for the Insane). (NYT 7/11/1912, p.5)
Thaw 1913 Sheet Music

- Thaw Sheet Music, 1913, “Why Don’t They Set Him Free.”

- After a number of sanity hearings released in 1915.

  Arrested two years later for severely whipping a young man and committed for another seven years. Released in 1924.
Harry K. Thaw, 1928, Age 57

- Died of a heart attack in Miami on Feb. 21, 1947, at age 76
In 1913 Evelyn Thaw returned to show business in a dance act with a partner, Jack Clifford. When Thaw was released from Matteawan in 1915, they promptly divorced and she married Clifford. They separated after several years.

Gradually popularity faded. Stories appeared regarding suicide attempts and drug addiction.
Evelyn Nesbit, 1954
Age 70

In 1954, she received $50,000, as a consultant to film “Girl in the Red Velvet Swing.”

She moved to California where she studied world religions and taught sculpturing.

She died in a Santa Monica nursing home on Jan. 17, 1967, at age 82.
Girl in the Red Velvet Swing, 1955, w. Joan Collins and Ray Milland
Trial of Arthur W. Waite, D.D.S.—the “Playboy Murderer”

- On May 27, 1916, in NYC, Dr. Waite found guilty for the murder of his father-in-law, lumber millionaire John Peck, by poisoning. He also confessed to murdering his mother-in-law 2 months earlier with poison. Both murders occurred less than 6 months after he married their daughter.

- Waite’s murder trial lasted only 6 days. The jury returned its verdict in less than 90 minutes. He died by electrocution on May 24, 1917.

- During Waite’s testimony, he admitted to a life of deceit, lying and stealing. Superficially charming, well-versed in music, art and literature—and a city tennis champion—women were readily attracted to him, trusted him and willingly gave him money.
Waite’s Background

- Born 1889 and raised in Grand Rapids, Mich. Parents were poor farmers.
- Dated Clara Peck in h.s., daughter of millionaire.
- Received dental degree from U. of Mich., but later stated he passed exams by stealing test papers.
- Went to U. of Glasgow, where he forged post-graduate certificate.
- Became dentist for mining company in South Africa, but was accused of stealing money from company.
- His in-laws provided couple with a luxury apartment in NYC.
Set up dental practice in NYC., and joined tennis club. Became Manhattan amateur tennis champion.

Showed interest in women tennis players and tried to identify the wealthiest.

Began relationship with young aspiring opera singer, who was married to an older, wealthy man.

They rented a weekly room at Plaza Hotel (which she paid). She believed he had influential friends in Europe who could help her career. He developed schemes to get money from her. Later he admitted to plans of poisoning her.

Many friends thought he was an M.D. and a surgeon; or a wealthy Wall Street investor.
Murder Plans

- Waite had access to bacteriology labs at hospitals, and isolated cultures of typhoid, diphtheria, influenza and TB.
- During mother-in-law’s visit to NYC, shortly after his marriage, he spread bacteria on her food, gave her a nasal spray filled with bacteria, and injected bacteria in her mouth during a dental procedure.
- Mother-in-law died in January 1916 of a “sudden illness” thought to be kidney failure. Body was cremated.
- Grieving father-in-law invited to live with couple in March. Various bacteria applications were unsuccessful. Waite then poisoned him with arsenic, chloroformed and suffocated him. Died on March 12, 1916.
However, before father-in-law could be cremated, a suspicious distant cousin of Waite’s wife sent anonymous telegram to family to have body checked for poison; and arsenic was discovered.

Waite readily confessed to both murders, saying an “Egyptian deity” had taken control of his body.

He later recanted this story and admitted to killings, believing that a jury would not believe that someone in their right mind could do what he had done.
A dapper Dr. Waite after arrest
Expert Testimony

- For Defense – two experts testified he was morally depraved and had “moral idiocy,” but that his mind was unsound and did not know nature of the act when he murdered.

  Morris J. Karpas, M.D., Clinic Chief of NY Neurological Inst.
  Testified Waite lacked a rational motive for the murders because he already was living in comfortable circumstances.

  Allen Ross Diefendorf, M.D., Middletown, Conn. Asylum
  Testified was lacking in moral sense, had no sorrow or guilt, was “amazingly egotistical,” but had an “insane knowledge” of the act, and therefore not legally responsible.
For the prosecution, three experts testified he knew right from wrong when he murdered his father-in-law.

Smith Ely Jelliffe, M.D.
Testified he knew right from wrong; had moral sense, “but chose not to be guided by it.”

Judge informed jury that “moral idiocy” is not insanity (in the legal sense).

Jury deliberated less than 90 minutes before returning verdict of first-degree murder.

Waite accepted verdict calmly, with a smile. Commented the jury took longer than he expected.
Constitutional Inferiority in Waite Case

Several days after trial, an anonymous letter in NYT appeared “by a well-known psychiatrist.” Heading was:


Letter identified 3 kinds of CI: 1) Intellectual (mental retardation); 2) Emotional (excitable, impulsive, unstable) 3) Moral (without conscience.)

Letter strikingly similar to article by Dr. Morris Karpas in JAMA Dec. 16, 1916, titled “Constitutional Inferiority.”

- Identified 3 types of CI: 1) Intellectual
  2) Emotional
  3) Volitional – in which all impulses (egotistical, immoral, sexual) are yielded to; and characterized by a lack of moral sense.

Dr. Karpas, died in France in July 1918 during WWI. He had been clinic chief of NY Neurological Institute, and a member of the NY Psychoanalytic Society.
Constitutional Inferiority (CI): Changing Concepts

Adolf Meyer generally acknowledged as first to use term. Earliest reference in his collected papers (E. Winters) in 1903.

Refers to CI as an “arrested development” in adolescence, due to “disease or mismanagement of early childhood.”

In 1905, Meyer proposed CI as a “group of psychoses [term meant mental disorders]...arising from peculiar make-up” and development defects, which were not included in his other classifications of psychoses, such as those due to discernible organic factors, or complex etiologies, such as manic-depressive illness and dementia praecox.
In 1907, William Alanson White (in *Outlines of Psychiatry*), discussing “anomalies of character [with] ineffective types of adjustment,” described persons with CI as “never quite able to successfully cope with conditions.” Called them the “failures of life.” Same definition continued in his 1935 ed. of *Outlines.*

However, White distinguished CI from criminality and “moral imbecility.”

Other references to CI include the NYT interview (3/31/07), with A. M. Hamilton, who described CI as what today would be termed a mixed personality disorder; and
(cont.) the NYT letter and JAMA article by Dr. Karpas identifying 3 classes of CI (intellectual, emotional, moral/volitional).

- Early 1920’s term “Constitutional Psychopathic Inferiority” was introduced. Term “psychopathic inferiority” taken from German psychiatrist Julius Koch in 1888.
- Did not lessen confusion. In a 1926 *JAMA article* (5/26/26), JH Huddleson of NYC identified 6 classes of CPI: criminalism; emotional instability; inadequate personality; paranoid personality; pathologic lying; and sexual psychopathy.
- Several of these terms incorporated almost verbatim in DSM I (1952) under “personality disorders.”
In 1939, another term “psychopathic state” began to be used (derived from lectures David Henderson, Prof. of Psychiatry, U. Edinburgh), which gradually became equated with criminal behavior and lack of a moral code.

Many recommended eliminating *constitutional*, because majority did not have identifiable physical characteristics; and term, implying a hereditary condition, was misleading when applied in the courtroom.
DSM I (1952) identified “personality disorders,” which included “sociopathic personality disturbance, antisocial reaction” (said to include *constitutional psychopathic state* and *psychopathic personality*). Others were inadequate, schizoid, cyclothymic, paranoid, and emotionally unstable personality.
Subsequent DSMs list “antisocial personality disorder” through DSM IV-TR (2000).

DSM V (due May 2013) will apparently have “antisocial/psychopathic” personality disorder along with 5 others: avoidant, borderline, obsessive-compulsive, schizotypal and narcissistic personality.
Summary

- Constitutional inferiority, especially in the early 1900s, had a variety of meanings, of which today’s antisocial personality disorder was just one.
- Beginning in the late 1920’s through 1940s, CI was gradually replaced with “constitutional psychopathic inferiority” and “constitutional psychopathic state,” and their meaning became more consistent with today’s antisocial personality disorder.
- “Celebrity trials”—including those of HK Thaw and AW Waite—increased public’s awareness of psychiatric disorders, such as CI and dementia praecox. This continues today.
Additional Comments

- Many experts today recommend avoiding psychiatric diagnosis in the courtroom because it leads to quibbling by experts, is often misunderstood by laypersons, and contributes little information relevant to mental responsibility.
- Whenever the insanity plea is raised, psychiatry itself goes on trial.
- Psychiatric diagnosis was--and remains--an inexact science that is constantly undergoing change.

Thanks for your attention

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