

ON TRIAL.

I made the Who to? One of the You did? I said, Did... AMERICAN. PUBLISHED WEEKLY BY THE AMERICAN PUBLISHING COMPANY. TELEPHONE 211. Rooms 412-13-14 Sheely Block.

court as Dick Berlin, overlook the other she saw them turn south on Ninth street. Later in the day she followed the crowd to where Mayor Miller's body was found, and recognized him as being the man whom she had seen on the steps in front of the house where she lived.

Immediately after the removal of the body Chief Detective Hayes took the case in charge and, unless reports are false, put Messrs. Savage and Dempsey (both Romanists) at work up it. They satisfied themselves that it was suicide. The following morning the daily press gave a graphic account of the suicide.

We were not satisfied with the published reports. We did not think it was suicide. There was no sufficient reason given as to why he would wish to take his own life. He was prosperous, happy and had a host of friends. Everything to live for—nothing in the world to inspire thoughts of self-destruction. The testimony of physicians as to powder marks on his head conflicted; the course of the bullet was wrong; the wording of the note found upon his person was not that of a suicide; the revolver laid but six inches from the fatal wound; his hat was right side up near his head—not blown away as a straw hat would be by a puff of powder—not off to the right side. These, together with circumstances necessary to carry out the theory of suicide which were missing, caused us to regard it as a case of murder. And so, believing as we did, we took up the task of proving that it was murder and not suicide which robbed Mrs. Miller of a husband.

Competent detectives were employed, and when they found a woman who said she had seen a shot fired in the vicinity of where the mayor was found, they took her before Mayor Miller, who had been retained by Mrs. Miller, upon the suggestion of friends, and allowed him to question her. He listened to her story and concluded that she was telling the truth. She was then taken to South Omaha, by Deputy Sheriff Thompson, where she positively identified Charley Hayes as the man who fired the shot.

The 25th of November, she went before the assistant county attorney, Mr. Donovan (a Romanist) and made an affidavit as to what she knew. He did not want to take the responsibility of beginning so important a case and stayed Mrs. Miller's attorneys off until Mr. Mahoney (a Romanist) the county attorney, returned home. He examined the case, approved the complaint of Mrs. Miller, caused the arrest of Berlin (Romanist) and Hayes (Romanist) and then stated—according to an interview in the daily papers—that if the witnesses would swear to what they said they would, he had a good case.

A few days afterward the case came on before Judge Berka. Miss Allen, the witness on whom the friends of Mayor Miller had counted as the most important witness for the state, took the stand and testified. Her testimony was given in a straightforward manner, and all who heard it believed she told the truth. The following day for three hours and twenty-five minutes she was subjected to the most rigid cross-examination we ever listened to, but she never deviated from her first statement.

Up to that hour very little fault could have been found with Mr. Mahoney's manner of conducting the case, but immediately thereafter there was a charge. He introduced Berlin's partner as a witness for the state, and also George Deaver, the brother-in-law of Hayes, and while the witnesses of the state were excluded from the court room, those for the defense mingled with the crowd, listened to the evidence, and then came on the stand and testified.

In short the defendants were aided in every possible way while at the same time the interests of the state were, apparently, neglected. Witnesses were not called who could throw light upon the case. Mrs. Hime was not asked whether any one had offered her money if she would leave the city and not testify. She was asked whether any one had talked to her about leaving the city, and she answered in the affirmative. Who would be interested in getting her out of town—who but the friends of the defendants? Why should the friends of innocent men want witnesses to absent themselves?

Therefore, when, on Wednesday evening Mahoney arose and asked the court to dismiss the prisoners, and stated that he would not "hang a dog on such testimony," it only fulfilled the prophecy of certain prominent members of the A. P. A. who had been close observers of what was going on. That Clara Allen testified to what she believed to be the truth we firmly believe, and unfortunately it is that there is no other person who saw the shot fired who has the courage to come forward and tell the truth. They should have done so for two reasons. First, to have cleared Hayes and Berlin if they were innocent; and second, to have convicted them if they were guilty.

Miss Allen certainly could have had no interest in seeing Hayes or Berlin convicted of this crime, except to see justice done. There was no reward offered by the state, county or any individual, to our knowledge, for the conviction of the murderers, therefore, one could not charge her with trying to swear away two innocent lives in the hope of securing a few paltry dollars. It will take positive proof to convince us that Miss Allen would wilfully, intentionally or deliberately swear to a lie when two lives were jeopardized by her testimony.

Either Dick Berlin and Charley Hayes murdered Charles P. Miller, or there are two men in this community who did who dressed as they dressed at the time and who were in general appearance their counterparts. We have our own opinion and shall keep right on working to unravel the mystery. Those people who read Clara Allen's testimony and believe she saw a man in light clothes fire a shot, and desire us to push this case are requested to contribute. We propose to investigate.

Yes, sir. Is it a front room? No, sir. Is it a back room? Yes, sir. Why did you go into the front room, what lead you into the front room? I was not in the front room upstairs. You didn't go into the front room up stairs at all? No, sir. After you went into your room you dressed? Yes, sir. Can you see out on the street from your room? No, sir. Then after you had dressed you went down stairs again? Yes, sir. Was it yet one o'clock when you went down? Yes, sir. It was one o'clock? It was after one o'clock. Now you say you saw a man fire a pistol? Yes, sir. Had you been up stairs before or after that shot was fired? No. When you came down where did you meet Miss Scott? I didn't come down. I hadn't gone up when I heard the shot. You didn't see Miss Scott until after you went up stairs, did you? No, I heard the shot, and after a bit, I went up stairs and dressed. And come down? Yes, sir. You say you heard the one o'clock whistle blow? Yes, sir. Where were you when you heard that whistle blow? In my room dressing. From the time when these men left until you were in your room dressing, had you seen Miss Scott? No, sir. Then you hadn't seen Miss Scott until you came down stairs and after you had dressed? No, sir. Was she in the house or on the veranda? She was down stairs, clear down on the sidewalk when I seen her. When these men left, where did Miss Scott go? She went down in her room to dress. She didn't come out on the porch? No, sir. She was not on the porch with you afterwards? No, sir. Until you went out on the street? No, sir. And went to Judge Brandies Court? Yes, sir. Then the first time you saw Miss Scott after these men left was after you had gone to your room and had dressed and come down, and come and met her on the porch? Yes, sir, I met her down stairs on the walk. She was not on the porch? She didn't have to go on the porch, she went on the sidewalk from down in the basement. Was her room in the basement? Yes, sir. Then there are three floors, basement floor, parlor floor and upper floor? Yes, sir. Do you know whether she went to the basement immediately after the went? Yes, sir. She went down to the basement? She went to the basement before I came in. When you came down stairs you came down to the basement to meet her? Yes, sir. And when you came out on the street to go to the Court you came out of a side door, or a front door? Front door. Which is on a level, or nearly a level with the sidewalk, is it not? Yes, sir. When you met Miss Scott, you told her who Berlin was, didn't you? No, sir. Did you tell her that you knew Mayor Miller? No, sir. You didn't tell her anything about that? No, sir. Did you tell her that you had seen a man fire a shot? No, sir. Did you speak to her about seeing a shot fired? No, sir. You said nothing to her about it at all? No, sir. And you did not say to her then that one of these men had gone across the street, and you had seen him fire a shot? No, sir, I did not. Did you say to her any time on that day? No, sir. Then you never told her that you knew Berlin, and you never told her that you knew this other man? No, sir. And you did know that this other man was the Mayor of South Omaha? Yes, sir. Were these men intoxicated or had they been drinking?

No, sir. Did you notice that Mayor Miller had been drinking? No, sir; he did not act as though he had been drinking, but he was stupid and drowsy looking. Did you see him walk away from the house? He went down the stairs, I saw him walk away from the stairs. Did either of these men take hold of him? No, sir. They didn't find it necessary to help him apparently? No, sir. Did he stagger or anything when he walked? I don't think he did. Did he walk perfectly upright? No, he acted weak, and wanted to sit down, sleepy like. And they seemed to have some little controversy in front of Belle Brandon's? Yes, sir. You are familiar with the surroundings there? Yes, sir. You afterwards learned that a man had been shot? Yes, sir. Where were you when you first learned that? Standing in the back yard. From whom did you learn that? From the patrol driver. Who was the patrol driver? I could not say his name. I would know him if I could see him. Did you tell him that you had seen a man fire a shot? No, sir. You then went and saw this man where he was lying? Yes, sir. You recognized him as the man who had been at your house between twelve and one? Yes, sir. And knew who it was? Yes, sir. And knew it was the mayor of South Omaha? Yes, sir. Who went with you down there? I could not say, Miss Scott was the closest to me. Did she say anything to you about the man? She said, "Great goodness, Clara, its the same man that was in the house." Didn't you then tell her that you had seen a man fire a shot? No, sir. Didn't you then ask her if she had heard a shot fired? No, sir. Didn't she say that she had heard a shot fired? No, sir; not then, we didn't speak about the shot that was heard then. You didn't speak about hearing the shot fired? No, sir. Did you tell her then that you knew one of the men that was with Miller when he was at the house? I said I had seen him—I said I had seen one of them and he belonged in South Omaha. Did you tell her what his name was? No, sir. You didn't tell her that you knew his name was Dick? No, sir. Or that you knew he was a sporting man? No, sir. Or that he was a gambler? No, sir. Did you tell her that he lived in South Omaha? Yes, sir. Did she say she had seen him before or knew him? I don't think she did. You saw the body of Mayor Miller before it was removed? Yes, sir. And there were a great number of people around there—it was lying in the weeds was it? Yes, sir. In a hollow? Yes, sir. Kind of a basin? On a little hill like. It was not all the way down in the basin. North of where his body was lying, there is a large building? Yes, sir. It is the Deering building? Yes, sir. West of where his body was lying is a high bank? Yes, sir. Some thirty feet high? Yes, sir. And on top of that bank and overlooking it are three houses, are there not? Yes, sir. Do you know how close to this west bank these three houses are? No, sir. They are very close to it, aren't they? No, sir. They are not very close? No, sir. Would you say they were as far as ten feet away from that bank? I could not say, I have never been up there. South of where his body lay, there is another high bank? Yes, sir. But not quite so high as the one west? No, sir. Then this bank south of him sloped off so that down where his body lay the bank was only about two feet?

I think it is. This bank that was south of him extended right around onto Eighth street off Dodge? Yes, sir. So you could walk around that bank? Yes, sir. And wasn't there an abrupt descent from this bank on the west side when you came out on the lot line of Dodge street? Yes, sir. Of several feet? Yes, sir. Then you would come along on Dodge street east, and come right around onto Eighth street? Yes, sir. And keep going down almost all the way until you came to a point on Eighth street opposite to where the body lay? Yes, sir. Did you notice that there was a post that had been cut off close to where his body lay? Yes, sir. How high was that? About that high (indicating). Six or eight inches? Yes, sir. What direction from that post was his body lying? West, if I am not mistaken. Would you say that it was directly west? From where his body was? Yes? No, I would not say as to that, I remember seeing the post, but I could not say just exactly. You could not say whether it was further south from the post or farther north? No, I could not state. How far would you say it was from the post? I could not say as to that either. Did you see these men when they came out of Brandon's? I could not say that they went in there, I didn't see them. Where was you standing when you next saw them after you saw them in front of Belle Brandon's? I was sitting on the porch. And hadn't you yet gone upstairs? No, sir. Where were they when you next saw them? Mr. Hayes was standing on the hillside. Which bank was he standing on? On the one facing the east. That would be on the west bank? Yes, sir. Next to the little houses? Yes, sir. And that was the highest bank? Yes, sir. How far from the south line would you say he was standing? I could not say just exactly as to that. Up on top of that bank, there were no weeds were there? There were some weeds but not tall like they were in the basin. He was standing on that west bank was he? Yes, sir. Wasn't he standing on the south bank? No, sir. Wasn't he standing on the east bank? No, sir. He was standing then on the west bank near those three houses? Yes, sir. How close to one of those three houses was he? He was standing near the house nearest the bank. What kind of weeds were there on top of that bank? I suppose sunflowers the same as below, I could not say. Did you notice how high they were? They were not very high. At the point at which he was standing, how much higher would you say you were than he was? I could not say as to that. Which would you say was the higher, the point where he was standing or the point where you were standing? I could not say as to that. Have you been there recently? No, sir. Have you looked at that place since yesterday? No, sir. Now how far—you know what I mean when I say the lot line, don't you? Yes, sir. That is, understand, the line between the pavement or sidewalk and the lot where the fence is ordinarily? Yes, sir. Do you know about where that line would be there on that west bank, don't you? Yes, sir. Was he south of that lot line, Mr. Hayes? He was north of it. How far from the house was he, did you say? He was down there more to that tree. Was he up on top of the bank? No, sir; I would not say that he was on top of the bank, he was down on the side of the bank. How far then north of Dodge street was he? I could not say hardly as to that. About how far would you say? I could not hardly tell the distance. Was he as far north of Dodge as the front of the house? Yes, sir. He was farther than the front of the house was he?

Yes, he was back of the house. He was back, opposite the house? Yes, sir. Right east of the house? Yes, sir. Then how near to the center of that house would you say? I could not hardly say as to that. What would be your best judgment now? I could not hardly say. Did you notice which way he was looking? Yes, sir. Which way was he looking? East. And your house, the house where you were living was east of where you were standing? South east. Further east is what I mean? Yes, sir. Then there was a house right north of you where Belle Brandon lived? Yes, sir. There was a house right south of you wasn't there? Yes, sir. Who lived there? Some ladies Miss Brandon had rooming there. Miss Brandon occupied that house and had it leased? Yes, sir. On the south side of Dodge street what was there, there were a number of houses on the south side of Dodge street? There are only three. Where they occupied at that time? I think so. Were these houses on the north side of Dodge occupied at that time? Some of them were not. Were any of them occupied at that time, do you know? Yes, sir. The upper part of his body was standing up over this bank, assuming this to be the top of the bank, the upper part was over the bank? I could see just around about here on him (indicating her hips). Could you see whether his body was high enough to be over the bank? About this much of it was over the bank (indicating his head). He could turn and look from Dodge street and west and south of him? Yes, sir. So he was not entirely under the bank? No, sir. Then you could see him down about to here (indicating the bottom of his pockets)? Not quite so far, he was standing looking towards the east. He was looking down? He was looking down that way. How long did he stand there? He may have stood there a minute and maybe longer, I could not say. Did he look around towards you? No, he didn't seem to raise his head off of what he was looking at. Not out of this basin, did he? No, sir. And he didn't turn and look towards you? No, sir. Did he turn and look back of him? No, sir. He didn't turn and look south of him? No, sir. Did he turn and look to the north of him? No, sir. His attention seemed to be directed intently to the bottom of this basin? Yes, sir. He stood there about a minute? Yes, sir. Didn't you yesterday testify that he stood there about five minutes, Miss Allan? No, sir. After he stood there about a minute, what did he then do? He shot. Did you see the revolver in his hand before he pulled it out of his pocket? No, I don't think I would see it before he pulled it out. You saw him pull it out? Yes, sir. Did you notice which pocket he had it in? Yes, sir. Which pocket? Right hip pocket. He hid it down by his side? No, sir. What did he do? He took it out of his pocket and stood there a few minutes. And held it right that way for a minute, you would think? Yes, just about a minute, it seemed to me. Could you see whether he closed his eye or not? No, sir; I hardly think I could that far. He seemed to be looking along over the barrel of the revolver? He seemed to be taking aim. After he had stood there for a minute looking down in that pocket? Yes, sir. And that was just before he shot? That was a few minutes before the whistle blew. And you didn't think he was standing there?