

JUDGE BOIES ADMITS LAUNDRY EVIDENCE

Damaging Testimony Against Minister Kelly Held Admissible by Court After Being Ruled Out for Time.

(Continued from Page One.)

of 1912. These witnesses last week could not fix the date positively as June 10, 1912, the morning following the murder, but the Sidney ticket reports indicate that the only two tickets sold to Carson on a Monday of that month was on Monday, June 10, 1912. Those reports were offered in evidence last week, but the court held the matter in abeyance at the request of Attorney Mitchell of the defense, who said he would prove to the court by citations that private records are not admissible in evidence in criminal cases.

This afternoon Judge Boies adjourned court at 4:15 to give counsel for the defense opportunity to make this point, although the judge announced he had looked up the law and was inclined to rule that the station records are admissible. The point will be disposed of Tuesday morning.

Saw Kelly on Train.
Mr. and Mrs. Simonds testified last week that while on this Sidney-to-Carson trip they observed Kelly on the train; that they knew him, and he was gesticulating, talking loudly and telling of a murder on which he expected to work as detective. The train incident occurred about 7 o'clock in the morning, and, according to the contention of the state, an hour and a half before the Villisca crime had been discovered.

Amos Meyers of Grinnell, Ia., the thirty-eighth and last witness of today, testified he roomed at the home of Kelly in Macedonia.

Referring to a certain conversation mentioned by the prosecution, the witness said: "Kelly told me that last night was the anniversary of the Villisca ax murder; that he had visions and could not sleep. He added that he had been in Villisca the night of the crime."

"Do you remember the date of that conversation?" asked Mitchell.

"I do not."

Confession Expected Today.

At the request of the defense the judge ordered that Mary Longman, stenographer, of Logan, Ia., appear as a witness and bring her notes taken at the time of the recent alleged confessions made by Kelly. It is said Kelly made two confessions at Logan three weeks ago. The first is said to have been made in the presence of Attorney General Haver, Attorney Hess, Sheriff M. D. Meyers and Deputy Sheriff Charles Atkins of Logan and State Agent J. E. Riden; the other in the presence of Meyers, Atkins, Riden and County Attorney Paul Roadifer of Logan.

Haver believes the confession will be offered in evidence Tuesday afternoon. This feature of the trial will arouse much interest, and it is understood, will be contested bitterly by the defense.

GIRL CREATES SENSATION.

A mild sensation was created when Miss Beulah Callaway, 21-year-old telephone operator at Carroll, was summoned. Miss Callaway testified that when Kelly was pastor of the Presbyterian church at Carroll, she went to Kelly's room on the second floor of Dr. Spaulding's home in response to an advertisement in which Kelly sought to form a class in stenography.

Attorney Hess, for the state, asked Miss Callaway to relate in detail her conversation with Kelly.

Attorney Mitchell for the defense interrupted to ask Attorney Hess if he intended to have Miss Callaway relate what she had told the grand jury which indicted Kelly in April.

When Attorney Hess replied in the affirmative, Attorney Mitchell objected. After reading the grand jury records which contained Miss Callaway's testimony at that time, the court ruled the same testimony by Miss Callaway was not permissible evidence in the trial of Kelly for the ax murder.

Asked to Pose Nude.

After the morning session Attorney General Haver of Iowa showed newspaper men the same grand jury records containing Miss Callaway's testimony. In substance the young woman's testimony was: "Rev. Mr. Kelly wanted me to pose for him in the nude so that he could paint my picture. He urged for an hour and showed me pictures and said the Bible had pictures of nude women in it and that there was no harm in it. I told him I would see him the next day, but I did not intend to do so, and I did not."

Mr. and Mrs. Stevens of Carroll said they were members of Kelly's church and they invited him to dinner at their house one day. During their conversations with Kelly they said he told them he did not sleep at the home of Rev. W. J. Ewing of Villisca the night before the ax murder. Mrs. Ewing is alleged to have told others that Kelly did sleep in a room at their home that night.

Said He Committed Murders.

Julius Wald and James Tyler were two of the Sioux Falls witnesses. Wald is deputy sheriff at Sioux Falls and Tyler was Kelly's cellmate when Kelly was confined to the Sioux Falls jail charged with sending obscene matter through the mails.

Wald and Tyler testified that in one of their conversations with Kelly Kelly told each of them that he did commit the ax murder.

All of the testimony of the state witnesses tended to show that Kelly talked constantly of the Villisca ax murder and that it continually was on his mind.

Detweiler in Court.

Detective L. W. Longnecker of Omaha, who worked on the ax murderer, arrived in Red Oak today. Jacob S. Detweiler, Kansas City (Kan.) lawyer, was in the court room this morning. He said Kelly was "only listening."

Detweiler was attorney for William Mansfield, whose name had been brought out several times before the April grand jury which indicted Kelly. Mrs. Kelly, wife of the prisoner, appeared in court in a new blue serge suit, new shoes, new waist and new hat. They were presented to her by women of Red Oak.

Says Not a Murderer.

W. O. McQueen, Sioux Falls, was the first witness called by the state this morning.

He was deputy United States marshal in January, 1914, when he knew Kelly, who was in the Sioux Falls jail a month.

"I went into Kelly's office at Win-

ner, S. D., and told him he would have to go with me. He objected, saying he was a subject of Great Britain. He told me he had severe headaches," said the witness when examined by Attorney Hess.

"What did he say about not killing anybody?"
"Said he was not a murderer. In 1915 I saw him at the Sioux Falls jail, of which I had charge. I asked Kelly what he meant about killing people. He said people had been killed at Villisca and I told him he shouldn't be telling those things. He said if the mystery ever was solved he would be the man to solve it. During April of 1915 he said at the Sioux Falls jail he was the man who did the killing."

Cross-examination by Judge Mitchell for the defense did not add materially to the direct examination. The witness said Kelly was preaching and doing public stenography at Winner, S. D.

Julius Wald, deputy sheriff of Sioux Falls, examined by Hess: "State to the jury the first conversation you had with Kelly."

Wondered How Found Out.

"It was along in February, 1914, when he asked me what they wanted him for. He said he did the Villisca murder, but wondered how they found out. He spoke of a shirt and said he had nose bleeding and had tried to wash it out."

Mitchell: "Will you repeat the first conversation you gave in reply to Mr. Hess' question?"

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"He asked me what them people from Iowa wanted."

"Did you say to Kelly: They think you killed those people?"

"I did."

"You knew that was not the truth, didn't you?"

"It was what I heard."

"What made you say to Kelly, 'They think you killed them?'"

"Because they thought so."

"Who were they?"

"Sheriff O. E. Jackson and County Attorney W. C. Radcliff (of Montgomery county)."

"Were they there?"

"Yes."

"What did you say about the nose bleed?"

"I asked him about the blood on the shirt and he said it was blood from the nose of a man who studied a whole lot."

Said He Killed All.

James Tyler testified he was in the cell with Kelly at Sioux Falls during 1915 and had a conversation with Kelly relative to ax murders.

"Did you speak to Kelly about the Villisca murder?" asked Hess.

"The second day I was there, April 18, 1915, Kelly told me he knew all about the murder; was the first man in the house when the crime was discovered; said he stayed at the minister's house and could not sleep. He arose at 1:30 a. m. and went out into the street and heard a noise, and went into the Moore home and found the people all dead."

"What did he say in a latter conversation?"

"He said he killed the Moore family and would like to kill Jerry Carlton and other United States officials. I told him he knew too much and would get into trouble."

O. G. Olmstead, city attorney of Winner, S. D., told this story in reply to questions by Attorney General Haver:

"I first met Kelly during the latter part of 1913, or early part of 1914, when he called at my office and said people of his congregation severely criticizing him because he was rooming at the home of F. W. Thomas, a saloon keeper."

"He said he was not a minister in reality, but was a pretty good detective and said he was working on the Villisca murder case and wanted to work on the Bible case in Winner."

"He said he was a Burns detective and had lived in a small town near Villisca at the time of the murder and had received a letter from the Burns agency at Omaha telling him to go to Villisca and investigate the murder; that he was the first person at the house, and found the ax back of the house and expected to go to Omaha the following week to arrest the murderer."

"He said the murderer either took or sent a bloody shirt to Council Bluffs and it was returned to the man who committed the murder and he knew who the man was."

Cross examined by Mitchell:

"Are you the city attorney of the metropolitan city of Winner?"

"I am city attorney of Winner."

Kelly Was Preacher.

"When did you first see Kelly?"

"When he came to my office."

"What was Kelly doing then?"

"Pastor of the Methodist church."

"Did you advise Kelly to change his rooming place?"

"No, I told him he was staying at a respectable place."

Cross examination did not material-

ly change the direct examination. Marguerite Struck, Sioux City school teacher resided at Carroll, Ia., and at the latter part of 1912 attended Kelly's church.

Her story follows:

"Kelly came to our home—I think it was in February, 1913, and in presence of my mother, sister and brother said he was in Villisca on the night of the murder; that he sat across the aisle from Joe Moore and his wife at the children's day exercises of the Presbyterian church and had observed the Stillinger sisters in the pulpit, where they were part of an arch in the program."

Kelly's Sleepless Night.

"He said Moore was a large man and told of the sleepless night at the Ewing home and said he went onto the balcony between 1 and 2 a. m."

"He said he heard a noise, a crunching sound, as if he had been in an arch."

"He said while the murderer was at work two people passed the house and the murderer probably went on the back porch until the passersby went away."

Miss Struck identified Kelly in the court room.

H. C. Stevens, former merchant and sheriff at Carroll, Ia., was a member of the Kelly church at Carroll.

Examined by Haver, he said:

"One Sunday during spring or early summer of 1913 I asked Kelly home to dinner. Kelly said detectives were accusing him of the murder because he had not occupied his bed at the Ewing home on the night of the crime. He told me he did not occupy his bed because he had to leave on early morning train and thought there would be no use in retiring."

Mildred Struck of Sioux City offered in substance same testimony as her sister, Marguerite, the only material variance being that she heard Kelly say that the murderer entered the front door of the Moore house and that at the Presbyterian church he observed a strange dark man sitting behind Moore."

Mrs. H. C. Stevens, Carroll, Ia., attended Kelly's church and corroborated substantially the testimony of her husband.

Tries to Explain Shirt.

Dr. C. W. Spaulding, Carroll, Ia., said he first met Kelly at Christmas time, 1912, and had many conversations.

Any conversation did Kelly speak of the bloody shirt?" asked Haver.

"He said soon after the murder he took a shirt to a Council Bluffs laundry; he said he spilled liquid on the shirt and the girl in the laundry thought it was suspicious. She reported it and caused him trouble. He said he ordered the shirt returned to his home town."

Mrs. C. E. Mallott, undertaker, Carroll, Ia., attended Kelly's church. "I asked Kelly," said the witness, "why he hid behind the trees of his front yard during the early evening and he said he was afraid somebody would do him bodily injury."

Haver asked: "What did he say about the Villisca ax murder?"

"He said he was afraid they would connect him with murder."

Experience at Sutton.

Dr. H. H. Shultz, Sutton, Neb., testified he met Kelly for the first time in October, 1915, at his office. The witness said Kelly told him he was at the house where the murder was committed and left on an early morning train.

Mitchell: "What would you say as to his conduct?"

"Very nervous and excitable."

"Did you notice any dilation of the iris?"

"Not at that time."

"Anything said about detectives bothering him?"

"He said he had been suspected of the murder and that detectives had been after him."

"Did he say what detectives?"

"He mentioned the Burns agency."

"How long was Kelly in Sutton?"

"About a year and a half."

"Was you a member of his congregation?"

"I was."

Dr. S. K. Strate, Sutton, Neb., who attended Kelly's church, was examined by Attorney Faville:

Said Was in Moore House.

"Did he ever speak to you of the time the murder was committed?"

"He said about 1 or 1:30 a. m. He said he was one of the first in the house after the crime committed."

"What did he say about where the man who committed the murder went?"

"He said he went to the river and washed."

"What did he say about getting out of the house where he stayed in Villisca that night?"

"He said he could not have committed the murder, because he would have aroused the occupants."

Previous statements and testimony have shown that when Kelly was assigned his room in Rev. Mr. Ewing's home, he was alone, as the Ewing family slept in a tent in the yard that night and Mrs. Ewing so stated to a representative of The Bee.

Dr. Strate was cross-questioned by Mitchell:

"Did he consult you as a physician?"

"He did."

"Did you not understand Kelly had paranoia?" (Objection sustained.)

Would Explain Ax Marks.

"Did not you and Kelly go to see Judge Epperson at Clay Center and did not Kelly refer to ax marks in the ceiling?"

"Kelly said he could not have done it, because the ax hit the ceiling and he could not have hit the ceiling."

"Ever have any trouble?"

"He threatened to sue me."

During the testimony of Rev. O. C. Garden, pastor of the Presbyterian church at Shelby, Ia., Judge Boies warned the crowd that laughter must

be suppressed. "This is a serious occasion," said the judge, "and the bailiff will expel those who laugh."

The witness unwittingly gave a humorous turn to a reference of Moore being a stranger to Kelly.

Attorney Faville questioned: "Did you have a conversation with Kelly regarding the ax murder?"

"Yes," replied Garden, "on a train between Harlan and Carroll; he said he went to the Ewing home at Villisca after church. Kelly said he was nervous and had a headache; he saw a nice bed, but did not want to disturb it, as he had to make an early train, so he went out and walked out most of the time."

Attorney Mitchell: "Didn't he say he never saw the Moore family?"

"He said he saw them in church that night."

"Didn't Kelly tell you he was charged with being a religious fanatic?"

"He said that."

Horace J. Houghton, probation officer, Sioux City, said he met Kelly at the city hall, March 10, 1915.

"Did you ever talk to Kelly about the ax murder? Was any reference made to a bloody shirt?"

"He said he cut himself shaving and sent a shirt to a Council Bluffs laun-

dry. He told me he did not leave the minister's house at Villisca, where he stayed the night of the murder."

"What did he say about detectives about Buell of Omaha—charging him with leaving a shirt in a Council Bluffs laundry?" asked Attorney Mitchell.

"I think he mentioned a shirt. He told me he could not have done it, because he was not strong enough to have done that kind of a crime."

PHOTOPLAYS.

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THE GIRL WITH OUT A SOUL

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Wald and Tyler testified that in one of their conversations with Kelly Kelly told each of them that he did commit the ax murder.