

SUPREME COURT.

The Murder Case.

JAN. 28.

THE EVIDENCE CONTINUED.

MARY ANN RYAN (sworn)—Examined by Attorney General—I am a single woman and live down West. I live in the first house on Rochfort street. I was on the sidewalk a little down from the corner the night Kelly was shot. A wagon came up and drove towards Hobkirk's. There were two young men in the wagon. It was a small black horse, single-seated wagon; seat was further front than behind. They were on the middle of the street. It was not very dark. After the wagon drove to Hobkirk's it turned and came back and stood on the middle of the street. Suse Inglis and Rose Chiverie went over to the wagon. I was with them before they went. I went back to where Mary Ellen Byers and Kelly were. Rose Chiverie and Suse Inglis stood up close to the wagon. They remained about half an hour. One of the men in the wagon had a light coat on and a "bucko" cap. The other had dark clothes with a black hat. When they were talking the horse was looking towards St. Peter's Church. The man with the light clothes was then next to me. The one with the dark clothes was next to Peake's. After I was playing a little while at the door a stone was thrown. Kelly then said, "There's a stone flung," and he then took Paddy McCullin by the hand to go where he flung it. He went down as far as the little bridge. The horse then went towards St. Peter's Church and turned, and they fired. After the second shot was fired Kelly said, "Oh, my God, I am shot." The third shot was fired after that. The men in the wagon said "I killed one black son of a bitch and I will kill another." After the first shot was fired they said "I'll give them firing stones." When they drove towards Hobkirk's corner I could not tell which side the fellow who wore the light coat was on. They turned Hobkirk's corner. I afterwards saw Kelly in Billy Byers'. I don't remember seeing Lilly Ryan.

Cross-examined by Mr. Palmer—I did not swear before Dr. Jenkins in this case. I swore before Mr. Fitzgerald. I don't know Dr. Jenkins. I don't know that there is any difference between taking an oath and doctoring. I might have sworn before the doctor. I could not tell who was in the wagon. I could not tell whether James Millner was there or not. I did not see him that night in the wagon. It was after nine when the wagon came along. I think Suse Inglis and Rose Chiverie were talking to the men in the wagon a half hour. Emily Byers said she was hanging on the wagon. She told us that she was, that night at the door.

To Mr. Hodgson—I was examined on the inquest before Mr. Fitzgerald. I live down in the bog. I don't do much down there. I live by washing and scrubbing. I was playing around that night. Me and Mary Ellen Byers, Kelly, my cousin, and William Henry Byers were playing at our own door. I can remember that, but I cannot remember that I was examined before Dr. Jenkins. I was before Mr. Fitzgerald on another case besides this. I had Frank McAtee up. I was sworn that time before Mr. McGowan. I don't know the difference between taking an oath and playing with Paddy McCullin.

Re-examined by Attorney General—I knew Millner before Kelly was shot. I was up before the Magistrate three days. I told my story twice (i. e. about the murder).

LILLY RYAN (sworn)—Examined by Attorney General—My sister was examined last. I was standing at our own door the night Kelly was murdered. Suse Inglis, Rose Chiverie, my sister and Sonny Cusack were standing on the platform. The first time I saw the wagon it was driving towards Hobkirk's. There were two men in the wagon. One had a light coat on and the other had a dark one. One had a hat and the other a "bucko" cap. When they drove to Hobkirk's they turned and came back and stood on the street. When the wagon was going towards Hobkirk's Emily Byers jumped on the back of the wagon, and one of the men put his hand on her head. I did not see Rose Chiverie or Suse Inglis going near the wagon. I saw Dave Inglis passing our place and picking up a stone. When the men in the wagon saw him picking up the stone, they gave the horse a cut and drove up a little piece. They then turned and fired three shots. I did not take any notice of the time which expired between the shots. It was the men in the wagon fired the shots. I went into the house after the shot was fired. It was a low-sized black horse they had and a single-seated wagon. The seat was nearer the front than the back. I don't remember distinctly which of the men had the cap or the hat on.

Cross-examined by Mr. Palmer—I told about Emily Byers jumping on the back of the wagon when I was before the Grand Jury. I did not like to tell it before Mr. Fitzgerald. It might be against Emily. Myself and Emily were talking about it a week ago. Emily did not tell me to be sure and state that before the Grand Jury. I did not see my sister there that night at all. When the shots were fired I was as near to the wagon as anyone. I did not hear the men in the wagon saying anything. I did not hear them say "I killed one black son of a bitch, and I will kill another." I did not hear them say "I will give you firing stones." It was Dave Inglis fired the stone. Emily Byers told me she knew James Millner.

To Mr. Hodgson—I was up before Dr. Jenkins and also before Mr. Fitzgerald. I was up there swearing. There were two men in the wagon, a big one and a little

one. It was the big one that had on the "bucko" cap. It was the biggest one that had on the light coat, I think. The wagon went straight ahead after the shots were fired, and then turned Dr. Hobkirk's corner. The conversation Emily Byers and I had was in our own house. She told me that she knew Millner, and that she was going to swear against him. She was not examined before.

SUSAN INGLIS SWORN—Examined by the Attorney General—I remember the night when Kelly was shot. I was standing on the bridge by the board fence by myself. Rose Chiverie was standing a short piece from me. Sonny Cusack was standing there. A wagon came from Hobkirk's. In the wagon was a small black horse. The wagon was a high one. There were two men in it. I could not say whether they had whiskers or not. The wagon stopped in the middle of the street. I did not go out to the wagon. It was a good piece from me. I did not see any one going out to them. Rose Chiverie was standing on the platform that runs parallel to the pump. She was talking to the men in the wagon. She talked over a half hour. I did not join in the conversation. To my knowledge I do not know either of the men in the wagon. I don't know who was in the wagon.

Question—Was one a larger man than the other?

Answer—One looked smaller than the other. When the horse was facing towards St. Peter's Church the man with the dark clothes was sitting near to me. He was driving and had a high cap on. I could not see the other man. I did not see a stone thrown or hear one strike against the fence. My brother came along and told me it was time to be in the house. It was after the carriage went towards St. Peter's Church that I saw my brother. After the carriage went to St. Peter's Church it turned around near the gas lamp and drove up. When it got by the old cellar they fired off a shot. Kelly was then nearly across Fitzroy street. He was in the drain next to Maloney's lot. Three shots went off. They went on as they fired. I did not hear Rose Chiverie talking. She must have been talking because she was standing near the wagon. I did not hear the men talking to her. The men in the wagon were young men. There were no stones thrown. My brother was at Hobkirk's corner going home when the wagon was standing before me. The wagon was under the lamp post when my brother was at the corner. When the boy was shot he (my brother) was beyond "Black Sam's" Bridge. He came back when he heard the screams of Kelly. It was twenty minutes after the boy was shot when my brother told me to go into the house. I went to where the boy was lying. My brother was there.

Question—How could your brother get to where he was lying from Black Sam's Bridge as soon as you did?

Answer (after a lengthy hesitation)—I did not go to him as soon as he was shot. I did not talk to the men that night.

Mr. Hodgson objected to the Attorney General treating the witness as a hostile one.

The Court ruled against him doing so, and the examination continued:— My brother told me I was to go in the house.

Question—Did your brother say anything to you about keeping company with young men?

Mr. Hodgson objected to the question, and it was not answered.

Cross-examined by Mr. Palmer—I did not see Mary Ann Ryan then, nor Emily Byers. I did not see Emily Byers hanging on to the back of the wagon. When the men fired the shots from the wagon there was no one on the street but myself, Rose Chiverie and Cusack. If Mary Ann Ryan came here and said that one of the men in the wagon said "I killed one black son of a bitch and I will kill another," and if she said that one of them said "I'll give you firing stones," there is no truth in it. If witnesses said that I and Rose Chiverie were talking to the men in the wagon for twenty minutes or a half hour, they would say what is not true. I am not acquainted with the prisoners. I did not see them before the trial. I could not say that either of the prisoners at the Bar were in the wagon that night.

To Mr. Hodgson—The whole of them (the blacks) down about home found fault with me for not telling more than I did at the other court. Mary and Emily Byers and Lilly Ryan told me that I knew more and ought to tell.

JAN. 29.

The Court opened at 11 o'clock this forenoon. Immediately after the doors were opened a rush was made to the seats, and in less than five minutes every available seat was filled.

Re-examination of Susan Inglis by the Attorney General.—On the previous evening the Attorney General put the following question: Is all the testimony you gave in the Magistrate's Court correct?

Mr. Hodgson objected to the question. The Court considered the matter and allowed the question to be put.

Answer—It was all the same as I gave here.

EMILY BYERS, SWORN—Examined by Mr. Peters—I am going on 12 years old. I remember the night Kelly was killed. Me, McCullin, Lilly Ryan and my brother George were playing on the street. George is about 7 years old. It was between 9 and 10 o'clock. We were playing on the street, nearer Dr. Hobkirk's than St. Peter's Church. While we were playing there a wagon passed towards Hobkirk's. Two men were in the wagon. I jumped up on the back of the wagon and hung on. While I was hanging the wagon went on. Kelly shouted out, "Em, come away for fear you will get a cut across the face with the whip." I then got off. The wagon turned before it went to Dr. Hobkirk's. I saw Millner in the wagon, sitting on the left hand side. One of them caught me by the head. I saw the fellow's

face. It was Millner. Did not hear him saying anything. Knew Millner when I was staying at Burris'. Burris' is two houses from Millner's. I used to go back and forward to work at Burris' last summer. I used to see Millner in the yard. There is more than one Millner. The one I mean is the one sitting there (points to prisoner.) Millner never spoke to me before that night. I was shaking carpets in the yard when I saw Millner. I never heard him say anything. I know Millner's other brother Walter. The wagon turned. I came back from Hobkirk's, and stopped at Fitzroy Street. I cannot point out the exact spot. I heard a stone thrown. I struck some fence; but I could not tell which it was. I went in the house, and came out in a short time. The wagon then went down and turned by the belfry. When they came back they fired the shots. I ran into the house, and when I was coming out again Kelly was being carried in. I did not see Kelly when they fired the shots.

Cross-examined by Mr. Palmer—I was examined before the Grand Jury. I was talking to Lilly Ryan. It was she sent me before the Grand Jury. I saw two women on the street that night, but I could not tell who they were. I knew James Millner better than Rose Chiverie. I don't know how often I saw Rose Chiverie. She lives with her sister down near the pond. I know Suse Inglis. She lives in Ryan's house. I did not see her there that night. There were two women by the bridge; but I could not tell who they were. I have seen Suse Inglis ever since I can recollect. I know Rose Chiverie ever since she came home. I saw James Millner a good many times. I worked at Burris' nearly two months. I did not go every day. I went every week, sometimes three times a week and sometimes twice. I saw him when I was shaking carpets, and I saw him about twelve or thirteen times. I shook the carpets sometimes on Mondays and sometimes on Wednesdays. We shook the carpets seven times last summer. I saw James Millner nearly every time. He was going through the yard. I saw Walter there sometimes. I saw Walter when he used to go to Mr. Millner's meetings. I did not ask any one in this court when I came in the first day if that was James Millner in the box, nor did I ask any of the witnesses if James Millner was coming into court. I swear I did not. I remember the time Millner and Johnson were taken up for the murder. Mrs. Burris asked me one day if I knew anything about the murder, and I told her not. She was not the judge or a jury, and I was not on my oath, so I told her a lie. I was not going to tell her anything about it. I did not tell Mrs. Burris in her house at the time the inquest was going on that "I did not know James Millner; I wish I did I would swear against him." The reason I did not tell her was I did not want to go to the court. The horse was going slow. When he passed that night he was on a little jig-jog. He was just going pretty fast. Lilly Ryan and Budge McCullin were on the street. I saw two women standing at the corner, but I could not tell who they were. I was in the middle of the street, across from the door. The women were standing by Ryan's corner. Perhaps they could see me. I could see them. I got on to the back of the wagon. I lifted my feet off the ground. My hands were on the back of the wagon. The seat was farther to the front than to the back. I could not tell what sort of springs were in the wagon or where they were. I suppose there were springs. The man that put his hand on my head was sitting on the side of the wagon that was next to my father's house as the horse went towards Hobkirk's. He had dark clothes on and a "bucko" cap. He turned his head around when he caught me by the head. I could not say which of the men was driving. I saw the reins and took it to be the other man. I got off the wagon when Kelly told me. I told Lilly Ryan about this when the Court was going on. She told me a jurymen asked her if she knew anyone was hanging on the back of the wagon, and she told him her cousin was (that was me). That was in the Court the other day. Lilly Ryan did not tell anything about it in the little Court, for all, I told her about it during the time the investigation was going on. I could not tell how long the wagon stopped while they were talking to the women. I don't know who threw the stone. I did not see Dave Inglis there. McCullin was playing with us, and he left us and went over by Ryan's before the stone was thrown. I did not see McCullin throwing the stone. I did not see the women throwing the stone. I did not see Kelly throwing the stone. He might have thrown it, for all I know. I told Lilly Ryan when Kelly was dead about hanging on the back of the wagon.

To Mr. Hodgson—That was not the first wagon I held on to. That's the only wagon I held on to that night. I used to hang on to carts and trucks. I talked to Lilly Ryan and Mary Brown about this matter.

ROSE CHIVERIE SWORN—Examined by the Attorney General—I have been married. My husband is not alive. I came to this city in June. I lived in the bog, at Mr. Shepherd's. Went away for three weeks after I was examined by Mr. Fitzgerald and Dr. Jenkins. Was on the street the evening Kelly was shot. Was there before the wagon came up for a little while. Suse Inglis was with me. The first time I saw the wagon it was coming from Dr. Hobkirk's. It was a single-seated wagon. Two men were in the wagon. Could not say whether they were old men or young ones. When the wagon came up it stopped just after crossing that little water way running towards the pond. Suse Inglis and myself were not standing far apart. No person went over the wagon. Could not say how far the wagon was from me. When the wagon left where it was standing it moved on towards the lower corner of the church. Cannot say whether Dave Inglis was there when the wagon came up, but he was there a few minutes

before. The men in the wagon spoke to Sonny Cusack, who was coming from the pump. They said "Hello, Sonny." I could not swear what he said. I did not hear them speak to anybody except Cusack. I don't know who was in the wagon. I did not know Millner. If it was Millner was in the wagon, and I saw him before, I would recognize him. I positively do not know who was in the wagon. I saw no stones fired nor heard none. As near as I know, as soon as they turned round they fired the shot. Kelly was then near the old cellar, and when he fell he fell exactly against that old cellar. Three shots were fired. I could not say which hit Kelly. They had fired the three shots before they came to where we were standing. They fired the shots as fast as they could. Kelly said, "Oh! I am shot." I was excited then and ran against the fence. The men might have spoken out I took no notice. Dave Inglis and Suse went over and picked him up. They were the two first there. He fell near the old cellar on the grass. I saw him carried in. There was no one standing with Kelly at the time, that I remember of. He was alone, a little distance from us. I was bright enough to see people distinctly, but the wagon was near enough to the trees to be shaded by them.

Cross-examined by Mr. Hodgson—It was between nine and ten when the wagon came along. I was talking to Suse Inglis—not to them in the wagon. Suse was not talking to the people in the wagon. If any person says that I or Suse was talking to the people in the wagon they state what is not true. If Mary Ellen Byers, Mary Brown, or Mary Ann Ryan said we were, they state what is not true. I did not see any other girls talking to them. If any other girls had to go out to speak to them, I would have seen them. I did not see Emily Byers there, nor I did not see her hanging on to the back of the wagon. If she was on the wagon when it stopped I would certainly see her. She might have been on the wagon before I came up and I got to see her. I don't remember seeing Kelly until I saw him standing at the corner with the rest. I did not hear anyone singing out from the wagon "I'll give them firing stones"; nor did I hear them saying, "I killed one black son of a bitch and I'll kill another." I heard Kelly sing out. I did not hear any of them say, "Howl, you black son of a bitch, howl," although it might be said without me hearing.

To Mr. Palmer—The first time I saw the wagon was coming from Hobkirk's. I noticed one had a cap on and the other had a hat. They were dressed in dark clothes. They stood three or four minutes. If Mary Ann Ryan or any one swears they stood here half an hour they swear false; and anyone swears that myself and Suse Inglis asked to them for twenty minutes swears false. I could not recognize any of the prisoners in the dock as being in the wagon. They were almost to the corner of the Church when the first shot was fired. I could not tell how far Kelly was from the wagon when he was shot. I could give no idea.

JOHN HUGHES SWORN—Examined by the Attorney General—I work at McKinnon's cannery. I lived in town over twenty years. I live near Dr. Hobkirk's. I remember the night Kelly was killed. I was going up town and walked along by Mr. Byers'. Two women were sitting on Byers' door. I passed along, and when I got to the next house—Ryan's—I recognized a wagon standing under the willow trees. The wagon tail apparently faced towards Grafton street, and the horse was facing the Governor's pond. When I was about the first sewer the horse started on and then turned. As they turned they fired one shot. As they came on they fired another shot, and when they came opposite me they fired the third shot. When the third shot was fired I heard a voice sing out, "My God, I'm shot." I went right on my way. I was rather frightened and did not go to see who was shot. When they passed on I thought I heard a voice which I thought came from the wagon saying "There is one gone," or something like that.

Cross-examined by Mr. Hodgson—I did not see anyone hanging on the back of the wagon. That all took place before I came along. I could not say who was in the wagon. It was a bright moonlight night. I know Millner. I could not say he was in the wagon. I did not hear nor see stones thrown. I did not hear "Take that, you black son of a bitch," nor "Howl, you black son of a bitch, howl" from the wagon. I could not say from what side of the wagon the shot was fired, nor I could not tell which of the men was driving. It was about half-past nine when the shots were fired.

To Mr. Palmer—After the third shot was fired I saw Dave Inglis coming running. His boot took the sidewalk, and he fell. I said, "My Lord, Dave, can't you catch them fellows in the wagon?" Kelly was about the same distance from the wagon as I was. We were the nearest. Dave Inglis was the person that came running after the shots were fired. I know Mary Ann Brown. I don't know whether it was her that was sitting at the door when I passed. Did not recognize her nor Mary Ellen Byers. Did not see Mary Ann Ryan, Lilly Ryan, nor Emily Byers, and I passed along just as the shots were fired. I had good opportunity of hearing what the people in the wagon said. Did not hear them say at the third shot, "I killed one black son of a bitch, and I will kill another," nor "Howl, you black son of a bitch, howl."

To the Court—I did not see Suse Inglis or Rose Chiverie there that evening. When I came along the wagon appeared to be standing at St. Peter's Church. The horse seemed to be fidgety, and when I first saw it the horse's head was apparently turned towards the pond and the tail of the wagon towards Fitzroy street. When they turned around they were pretty close to the platform on the south side.

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CHARLOTTETOWN CEMETERY COMPANY.

THE Annual Meeting of the above Co., will be held at the office of the Marine Insurance Co., corner Great George and Lower Water Streets, on Tuesday, the 4th day of Feb'y next, at 4 o'clock in the afternoon. By order, F. W. HALES, Sec'y. Ch'town, Jan. 25, 1879.

MAIL NOTICE.

MAILS will be closed daily at this Office, (Sundays excepted) at 8 o'clock, p. m., and forwarded via Cape Traverse, to all places abroad.

The British Mail for Canadian Packet sailing from Halifax on Saturdays, will close here at 8 o'clock, p. m., every Wednesday; and for the fortnightly packet sailing from Halifax on the first and third Tuesday in February, it will close here on the previous Friday evening at 8 o'clock p. m.

Mails for all places West of Charlottetown and Summerside receiving Mails by Railway train or Postal Car, will close here at 7 o'clock a. m., daily.

Mails for Georgetown and Souris East and all places on the route to those points, will close daily at 2.25 p. m.

Post Office closes at 8 o'clock, p. m. A. A. MACDONALD, Postmaster. Post Office, Ch'town, 21st Jan'y. 1879. Im

Executors' Notice.

THE undersigned Executors of the Estate of Ralph Brecken Peake, late of Charlottetown, in the Province of Prince Edward Island, merchant, deceased, hereby notify all persons indebted to the said Estate to make immediate payment to them; and all persons having any claims against the said Estate are hereby required to render the same to the undersigned, duly attested, within one year from date. Dated this twenty-first day of January, A. D. 1879. EDWARD J. HODGSON, GEORGE W. DEBLOIS, THOS. HANDRAHAN, Executors. Jan. 21, 1879. r g 3m

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J. QUIRK has removed his shop to new building, two doors to the right. Ch'town, Dec. 26.—h pres Im