

Los Angeles, California, July 20, 1933.

EVA ADELINE BABER,  
called as a witness, and being first duly sworn, testified as follows:

THE CLERK: State your name, please.

A Eva Adeline Baber.

MR. JUDSON: This particular testimony, if the Court please, is directed to the statement filed with the Probation Officer in this court by Mrs. Shelby, that is the portion to which I shall hereinafter refer.

THE COURT: Very well.

DIRECT EXAMINATION

BY MR. JUDSON:

Q Miss Baber, you know Mr. Henry, do you?

A Yes, I do.

Q You have been employed with him for the past several years as a co-emp of Elvth, Litter & Company?

A Yes.

Q And you have known Mrs. Charlotte Shelby and Margaret Shelby Fillmore a number of years also?

A Yes.

Q Did you see either or both of those parties, Mrs. Shelby or Mrs. Fillmore on or about November 14th or November 15, 1932?

A Yes, I saw both of them.

Q I wish you would state the circumstances leading up to your seeing the parties.

A After Mr. Henry wrote this letter --

Q To what letter do you refer?

A I think the letter dated November the 14th, to Mrs. Shelby, in which he told her he was going to commit suicide, among other things. When I came back to my office after lunch on that particular date, I found a copy of this letter, and I was naturally extremely worried, not knowing what she was going to do, and at 5:00 o'clock I had not heard anything from her that afternoon, and I felt sure that she had received the letter during the afternoon, so I called her up and asked her if she wanted to see me, and she said, yes, that she would send Mrs. Fillmore down to get me. Mrs. Fillmore came down and met me down town in her car, and took me out to the house. She conducted me upstairs to the bedroom where Mrs. Shelby was waiting for me. Mrs. Shelby met me at the door, and she said, "Oh, is it true?" I was crying at the time, and I said, "Yes, I am afraid it is true," so we went in and sat down and talked. She and Margaret were both very kind to me that afternoon, and expressed their sympathy for the terrific strain I had been under, and Mrs. Shelby brought me some aspirin. I had had such a headache, and she said for me to take that and to brace up, and we would talk this thing out together, or work it out together, so I did, and then she said that we ought to have some dinner, and she told me to go into the bathroom and wash my face, so the maid would not know that I had been crying. She said, "We have to keep up appearances, and while I don't think the maid will talk, I would rather she did not know that you had been out here," so we went down to dinner, and she cautioned Margaret to address me as Mrs. Brown, in case anything came out in the newspapers; she did not want anyone to know --

MR. CHAMBER: I cannot hear you.

A Would you like for me to repeat?

MR. CHAMBER: No, go ahead.

A We went down to dinner, and afterwards we came back upstairs and began talking over ways and means of collecting this insurance. She asked me at the time if I thought Mr. Henry had already killed himself, and I said, "No, I don't think so, because I haven't heard anything this afternoon, and he is probably going to wait until dark" and then she asked how he was going to do it, and I said, "I don't know, he never told me that, but I would not be surprised if he connects with freight train

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somewhere", and then when we began discussing the ways and means of paying back this money out of the insurance policies, she said -- I told her that Mr. Henry was going to instruct his wife to give me a power of attorney, so I could act for her, because she **wann't** experier in handling business matters, and that as soon as the money was avails I would buy back for her the bonds due her, and she said, "No, I won't have bonds; I want cash." She said, "No more bonds for me; I insist c having cash." Then we discussed ways and means, and she wanted to kno how long it would take before cash would be available, and I said, "I don't know, but I think it ought not to take longer than a month," and she said, "Mary must not know of this," and she said, "There is a paym due Mary the first of the month, \$700.00, and I don't think I have enc money to pay it," and they talked about that, how they would keep the news of this disaster from Mary, and then I felt so badly, it was then I guess, about a little after 8:00 o'clock, and we had talked and talk and talked, until I was so tired I wanted to go home, and she said, "Wo until the 9:00 o'clock broadcast, and see if there is any news of an accident reported." She had a radio in her bedroom, and I sat there w her until after 9:00 o'clock, and she seemed to be a little disappoint and sort of wondered why there was no report had come over the radio. I presume she expected to hear, as I did to, that there had been an accident, and then after that, Margaret drove me down to the Pacific Electric station, and I caught the car and went home, and the next morning, before I had finished my breakfast, just after I had gotten o of bed, the telephone rang, and it was Mrs. Shelby on the phone; and she said, "Have you heard anything yet?" and I said, "No," and then s hung up the receiver, and there was no more conversation, and immediat I called Mr. Henry's house to see if he was at home, and Mrs. Henry sa yes he was at home, and then I went on to the office, and about noon, I guess, Mr. Henry came in, and he told me he had called her up that morning, early that morning; he had something else to tell her previous to that, and while we were discussing things out there, I said, "Mrs. Shelby, if you will just keep your head, and follow the program that Mr Henry has laid out for you, I am sure that you will recover every cent of your money," and when I left, she said, "Well, we are going to work together in this; I am not going to lose my head," and I promised her I would do everything I could to be of assistance to her. The next day after I went into the office, Mr. Henry told me he had talked to her, and she wanted those insurance policies brought out to her, and he **wanted** me -- she had asked that I bring them out, and I said, "I don't want to go, I don't want to talk to her again," and he said that she insisted that she would not let him bring them out, so I took them out to her, and her attitude that day was entirely different. She was very hostile and she was just cool really, and she told me that she **wann't** a bit surprised when Mr. Henry called her up that morning. She said she knew he wasn't going to do it. She said -- Margaret said, "I had a lot of respect for him when I thought he was going to make good these losses by killing himself," but she said, "I have no more respect left for him now, and I think it is strictly up to him to go through with what he promised to do," and Mrs. Shelby said to me -- I believe it was Margaret said to me, "You know, Miss Baber, this would ruin you if it ever came out in court," and Mrs. Shelby said, "I want to tell you, I am going to fight, and I will spare no one. When I get through with you, nobody will ever employ you again." Then she sat down to go over these insurance policies together, and I handed them to her, and she would read the amounts off and Margaret would take them down, the face amount of the policy, and the date, and whether or not it was carrying a double indemnity clause, and while we were sitting there checking ther up, she said, "These policies aren't any good to me, because they don't have the last receipt for the premium, to show the premiums were paid," and she said, "I must have that." I said, "Well, I think that Mr. Henry must have them; I know the policies are in full force and effect, and I will go back to the office if you want me to and see if I can find them. I think she first suggested that I call Mr. Henry and see if he had then

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and I called the office and he wasn't in, and then I told her I would go back to the office and see if I could locate them, and she said to bring them out to her, and I said, "Couldn't I send them out by a messenger?" and she said, "No, I don't want any messenger to bring them tonight." I went back and I couldn't find any receipts. Mr. Henry apparently had destroyed all of his papers, and when I told Mr. Henry I had left the policies out there, he was very much upset about it, and said that I shouldn't have done that, but she did not let me take them, and I couldn't very well snatch them up and take them back, and as a matter of fact, it did not occur to me that it was important to do so. I called her up and told her I could not find any of the receipts, and she said, "Never mind, it isn't necessary." Then Mr. Henry found I had left them, he asked me to call and ask if I could come and get the policies, and I did, and she said, no, that she did not want me to come out. That was in the afternoon, and later on in the evening I went out to the Pacific Electric Station. She told me not to come to the house, and I called her again and asked if I couldn't come up and either get the policies or get a receipt for them. I said, "I will be held responsible for them," and she said, "Miss Baber, you must not come near the house; I have guests here, and you must not be seen around here," and I said, "Do you know, Mrs. Shelby, the first thing, if there is an accident, the first thing the insurance company will want to know is where the policies are, and if they are in your hands, they might raise some question about whether or not there was a genuine accident, or something might come up that would reveal that," and she said, "If anything happens, I will take them straight on to Mrs. Henry," and that was all.

Q Now, you started to say that Mrs. Shelby told you that she talked to Mr. Henry on the telephone that morning; did you give all of that conversation?

A When I went out there in the afternoon, she said, "I knew he wasn't going through with it." She said, "He hasn't got the nerve." She said, "I wasn't a bit surprised when he called me up this afternoon, and I told him that I would just give him until 2:00 o'clock tomorrow afternoon to go through with that letter, or I will walk into the office and call Mr. Babcock and Mr. Gudwalader and lay my cards all on the table."

Q I would like to ask you, Miss Baber, if at any time during the conversation you had with Mrs. Shelby or with Mrs. Margaret Shelby Fillmore, at the time you have testified about, whether or not you said to Mrs. Shelby or to Mrs. Fillmore, "Just follow Mr. Henry's instructions. Mr. Henry says it will be either his death or your death?" Did you ever make that statement to Mrs. Shelby?

A No.

Q Or to Mrs. Margaret Shelby Fillmore?

A No.

Q Did you ever make the statement to either of those persons that you were living in adultery with Mr. Henry at that time?

A I certainly did not.

Q Or that you ever had had any improper relations with him at any time?

A Absolutely not.

Q You are positive you never made any such statement as that?

A Certainly.

Q As a matter of fact, have you ever had any improper relations with Mr. Henry?

A No, I have not.

THE COURT: I don't think that is an issue in this matter, one way or the other.

MR. JUDSON: I don't think so; only it followed up from the other questions. That is all, Miss Baber.

MR. FORESTER: No questions, Your Honor.

THE COURT: Well, it is within about three or four minutes of the regular adjournment time, so I don't suppose we had better start in now with another witness. I will put the matter over until tomorrow morning at 10:00 o'clock.