

STATE OF WISCONSIN      IN CIRCUIT COURT      FOR VILAS COUNTY  
.....

STATE OF WISCONSIN,

vs.

CHARLES REY,

Defendant.  
.....

289

TRANSCRIPT OF TESTIMONY given and  
proceedings had on the trial of the above  
entitled action, in said Court, trial com-  
mencing January 21, 1926, before Hon. A. H.  
REID, Circuit Judge, presiding, and a jury  
duly empanelled.

APPEARANCES:

Mr. Jonas Radcliffe, District  
Attorney of Vilas County, for the State  
of Wisconsin.

Mr. George E. O'Connor for the  
Defendant.

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Jury empanelled and sworn to try the case.

THE COURT: Gentlemen of the jury: This is a murder case - that is, the charge made against the defendant is murder in the first degree. The law requires that in a case of that kind the jury must stay together from the time they are sworn to try the case until they return their verdict. That means that from now on you will not be allowed to separate and mingle among other people but you must stay together in a body and there will be a bailiff who will be with you. At recess, when we take a recess here, you will use the jury room. When you are taken to meals you will go in a body with the bailiff, and tonight you will be provided with accommodations at the hotel, in a body. Just remember that it is not permitted that jurors in this kind of case circulate about and talk with other people. The law is very jealous of the trial of a criminal - or of a person accused of such crime, and is very particular not to let any influence ~~go~~ to come to the jury excepting just the taking of the evidence and the proceedings that are had in the court room. Bear that in mind so as not to violate any of the requirements of the law. You may swear the bailiffs.

(Sheriff and bailiff sworn to take charge of the jury.)

Opening statement on behalf of the State, by Mr. Radcliffe, as follows:

MR. RADCLIFFE: We expect to be able to show that the defendant in this action on the evening of the 20th day of

December last, while a guest of Michael Duval, and during the progress of some celebration or other that the had over there, card games and music, or other entertainment which seemed to please them, apparently without any provocation shot Mr. Duval either two or three times with a thirty-two revolver; that he had been staying at this house for some two days before. I think we will be able to show that he came to this house from Marshfield with this 32 calibre revolver in his pocket, loaded; that he handled the gun around the house several times before the shooting took place; that he was cautioned by the people in the house to put it away, there was no occasion for the use of a gun there: and on the night of the shooting they were having what they called a penny-ante game and they played a little while. After the game broke up they had an argument about the value of the chips, this defendant and the deceased, which apparently didn't amount to much, but there was some argument over the value of the various chips in this penny-ante game, and after this argument the defendant went upstairs and came down with this gun and without any warning commenced to shoot at Mr. Duval, hitting him two or three times. From these wounds Mr. Duval died later, either Christmas Day or Christmas morning, sometime during the night.

OPENING STATEMENT ON BEHALF OF THE  
DEFENSE, by Mr. O'Connor:

MR. O'CONNOR: May it please the Court and gentlemen of the jury: First I will say that in this case there is a defense of insanity as well as a general defense of not guilty.

As I understand at this time what will be the probable testimony, it will appear that this defendant, Charley Rey, who for the last 10 or 11 or 12 years has been a resident of the city of Marshfield, and the deceased, Michael Duval, were close personal friends, something in the nature of chums, and that that relation between them continued up to the time of the shooting, and so far as the defendant is concerned, that is yet his feeling for the deceased; that the defendant was also very friendly with the entire family of the deceased; that he was there at their home frequently; that there is a large number of children in this family, and when he went to the home on some occasions he brought with him candy for the children and made the different children presents. That some time this fall, or late this summer, Mr. Duval went from Marshfield up to Woodruff and there purchased a place about two miles west of the village, a part of the land running down to a little lake; that on several occasions after going to Woodruff Duval returned to Marshfield to see and visit with the defendant, told him what he had done at Woodruff, about the property he had bought, about the buildings he was putting up, and so on and so forth, very friendly, and invited the defendant to come up and visit them when they moved and stay a few days with them. And on the last trip that Mike Duval made to Marshfield, or at least on the last occasion that he visited with the defendant that Duval's son Raymond, was with him; that Raymond and his father came to the defendant's home or his little place of business. By the way, the defendant has been operating a little grinding shop for grinding scissors and lawn mowers, and things of that kind. They

brought with them to Ray's place several butcher knives, to be ground, because there was going to be some hog killing. And on that occasion, as well as on former occasions, Duval urged Rey to make a visit to them at Woodruff and to bring along with him his little target pistol, and that they would do as they ~~was~~ had around Marshfield, - walk around shoot at targets, and at any game they saw, and they would have a very good time; that there was never at any time in any form, shape or manner any trouble, any dispute, any controversy, any ill will or ill feeling, or anything other than the very best of feeling between the defendant and Duval and Duval's family.

That on December 18th, which was Saturday - no, the 19th, which was Saturday, the defendant started from Marshfield on the Chicago & Northwestern Railway and went to Woodruff, and arrived at Woodruff in the afternoon; that the train that afternoon was a little late; that Duval had told Rey the property he had bought, and where he was building the new home, and described it as the place up next to those little trees and up on that little lake. It seemed that Duval and Rey had driven through the country on a trip some time previously and there had been some remarks made by them about this place. So when Rey got to Woodruff he walked up the railroad track to where the property that Duval had purchased, was located. In that property was an old house on the right hand side of the track, and on the left hand side of the track was the new house right close to the clump of pine and on the little lake. There is a private right of way across the railroad track at that point, where the owner of this property who had lived on the right hand side of the track, that is as you go north or northwesterly, had lived on the right hand side of the track, used to

go across the track and into his field on the back of the lake. And within that field on the back of the lake is where the new home was built. That as Rey came to this old private crossing, turned in to the left going down toward the new home, two of the Duval children, a little boy and a little girl recognized him and ran out to meet him, and hailed him as "Charley", and visited him and glad to see him. The defendant walked on with the children to the new building, and there found Mike Duval, his son Raymond Duval, and a man named Gust Hanson, busy working in the house.

The defendant is a man over 68 years of age. It appears that he has drank considerable all his life. It had been a long, wearisome trip from Marshfield where he ~~ixx~~ left some time early in the morning until he arrived at Woodruff some time about four o'clock, and he was very much worn out. So after visiting for a very short time with Duval and the others, he told Duval that he was played out - tired out - words to that effect, and that he would like awfully well to have a drink. Duval replied "We haven't anything here, but we might find something up at the house. This defendant brought with him from Marshfield - carried with him this pistol or revolver and he carried with him also a calendar which he was bringing up to Mrs. Duval. Outside of that he carried nothing with him whatever. He had no grip with him or package or anything. He went up toward the house with the calendar and the two little children, saw Mrs. Duval. They visited for a little while, and he there received a couple of drinks. Not long after Mike Duval came up and in time Raymond Duval and Gust Hanson. That

there was some more drinks, and they had supper. After supper there were several more drinks taken, and finally the old man tired out, wanted to go to bed, and then showed him a bed where he was to sleep that night with Mike Duval.

When Reu went to bed quite early Mike Duval was sitting in a chair with one of the children in his lap and playing a mouth organ. Rey went to sleep, but had a very bad dream which woke him up - scared him; that he dreamed that the house was haunted; that he didn't feel right - uncomfortable in the place, and that a man had been killed in that house and the body placed in a deep hole in the little lake back of the house. This woke him up and frightened him, and as he remembers it he thought it was some warning to him. Duval came to bed very shortly after he woke up, climbed over Reu, got in behind him on the back side of the bed, and promptly went to sleep. Rey slept very little from that time on, but did doze off occasionally and shortly after daylight got up. Mrs. Duval was up getting breakfast. Mrs. Duval and Rey talked a little. She asked Rey how he slept and how he felt, and he told her that he hadn't slept well and didn't feel very good - something wrong with the place. He didn't like it. He didn't think the place was right. Finally in the talk he expressed it by saying that he thought the house was haunted, and Mrs. Duval replied, "Well, Charley, I have never felt right in this place since we have been here. It never seemed right to me, and I will be glad when we get moved into the new house". There was more or less talk and Rey got a drink or two. Finally in discussion about the place and why he felt the way he did he said to Mrs. Duval he had had a very bad dream, but he refused to tell her what the dream was. He said, "I will



tell you tomorrow morning before I leave. I won't tell you today". Mike Duval then got up and there was more talk about his sleeplessness and his dreaming, and so on, and so forth, and they had another drink or two, and they ate breakfast. After breakfast the defendant suggested to Mike that they go down and see the new place. They went down, the two of them, and went through. This new home is a building 24 by 40 on the outside. It is built of large pine logs peeled and stood on end and hewed flat on the inside. There is a basement that faces the south; above that is the main floor, and above that is the second floor on the house. We have no exact plan or plat of the house, but for the convenience of the court and the jury last Sunday with Mr. Crofoot of Rhinelander, I made a little sketch showing the outline of the floor plan, ground floor as I call it. That is the floor between the second story and the basement, and had Raymond Duval and his mother and sister and others that was there compute and locate as nearly as they could on that plat the position of the different persons that were present at the time of this shooting. I had a different plat prepared and marked it up so that it would be easier to see. The new house stands not far from the bank of the lake, which is quite a long and narrow lake. The house faces generally south. The house has yet been incompleted. On Sunday, December 30th, the entrance into the house was through the basement. There was a stairway from the basement up to the ground floor which came up right under the stairs that is indicated on this sketch and any one going in and out of the house came around through the basement and up the stairs. The stairs indicated here reached to the second story.

On that day the Duval family commenced to move from the old house to the new, and some time during the day there was set up in the new house a heating stove, which is indicated approximately on this sketch. And they brought down some other things but didn't move the cook stove. During the talk with Mrs. Duval, after the defendant got up in the morning, among other things he told Mrs. Duval he would not sleep there again, not at that place, and he would go to Woodruff and sleep, if necessary. When he and Duval got down to the new place, and after looking the new place over, the talk again reverted to his dream and the way he felt, and Duval said it was not necessary for him to go to Woodruff, if he did he would take him down in the car so that he wouldn't have to walk, but he would fix him up a place in the new house for him.

And there the defendant himself, or Duval, suggested that they have a drink, and a pint bottle of moonshine was produced. The defendant claims that all of this liquor that he drank was moonshine. Mike and the defendant drank the greater part of that bottle - that as the bottle was nearly empty, leaving somewhere in the neighborhood of three-quarters of an inch in the bottom of it, that either Raymond or Gust Hanson came to the house and the defendant said there wasn't enough for the whole three and if he had any more they had to have another bottle. And a second bottle was produced and the drinking continued. That some time which is not clear to the defendant, but he thinks that forenoon - he has no - from that point he has no recollection of what occurred until several days later. That commencing some time during Sunday he has no recollection of eating any dinner or supper. He has no recollection of

this music or this card game. He has no recollection of the shooting. When he first was arrested, and for a couple of days after he was in custody apparently he was unable to realize why they were keeping him here in jail - was urging the Sheriff to let him out, and so forth; that until Wednesday after he shooting his mind did not really begin to clear up, but that on Wednesday that on account of his appearance and condition and actions the Sheriff was afraid to trust him with the liberty of the jail and for two or three days kept him closely confined in one of the small cells thinking that he might possibly do himself or some one some injury - in other words, fearful of an attempt at suicide. But on Wednesday morning the defendant was downstairs where the prisoners eat and was sitting on a bench there with the other prisoners present and a man by the name of Sam Thornton walking up and down in front of them; that the conversation between the other prisoners or inmates of the jail had some reference to money. There was some discussion going on about money and Thornton was quite emphatic in expressing his views, whatever they were, walking up and down in front of the defendant, and all at once it struck the defendant that he had some money. And he is a very polite old fellow, and got up and thanked Mr. Thornton. He said, "You just reminded me, I have \$50 in my shoe. I am going in and look." Sam Thornton walked with him from that room into the cell in the cage where the defendant said down and took off his shoe and there was in fact between the stocking and the sole of the foot was two new \$20 bills and a \$10 bill. Thornton saw this. He immediately notified the Sheriff and told the Sheriff to take \$20 down to me, and the Sheriff came down with it. And the Sheriff, Rey and myself

before this had discussed money, and the only money that he claimed he had was in a couple of little pocket books, which at the time he was arrested was somewhere around \$14 or \$15. Until this Wednesday he didn't seem to have any recollection of his \$50. And the Sheriff who turned it over to me said, "He is just coming to". From that time on Rey's mind cleared up until now, as far as I know anything about it, he seems to be quite clear headed and normal, and I have been able the last few days to talk ~~with~~ with him. Mind you, from some time on Sunday, and as he thinks it is in the forenoon, until a long time after this shooting, his mind is a blank. It will appear that when he was brought into Woodruff he rambled along; that when he was first arrested that he denied to Dr. Huber that he had shot Duval; that at different times right after the shooting he denied he shot anybody, and when they insisted he had shot, he said " They must have done something to me. I wouldn't have shot unless in self defense". On one occasion Frank Johnson had him in his restaurant in Woodruff kept after him to make him admit that he had shot Duval, he after it a number of times had been impressed on him, he said, "May be I did. I had a pistor or revolver, and it is gone". Now the testimony is going to be along that line. There are a number of people saw Duval at and after the shooting and there is a number of pepple saw the defendant. Roy and Fred Johnson and Dr. Huber landed there at Duvals at about the same time. All of them at that time talked with Duval and talked with Rey. For certain reasons the Johnsons thought best to rush Rey away from there, and did get him out of the house as soon as they could take him to Woodruff where our Sheriff later found him and took charge of him.

It will appear in the evidence that the deceased, Michael Duval, exclaimed shortly after the shooting, "I am done for", and that he had a realizing sense of his impending death up to the time that he died; he made a number of statements to Dr. Huber and to others, and particularly to John Kelley, the District Attorney of Oneida County as to the relationship between himself and his family and the defendant, and that at all times the relationship between them was the most friendly. Mike Duval could not conceive of any reason why his friend had shot him. There was no reason. And I think it will appear that he said the only thing is that he must have gone crazy. Dr. Huber particularly inquired "Was there any trouble between you about money?" Was there any argument or discussion or row over this card game? Was there any trouble at any time in your past", and so on and so forth, when he was there administering to these men and trying to take care of him, and the man realizing that he was done for, and of course answering truthfully at all times. No, no reason. Always the best of friends.

The testimony will show that this defendant is a stranger in this community, but he has lived for 10 or 11 or 12 years in the city of Marshfield. He is very well known in Marshfield. And when I told him he might be able to get some character witnesses from here he was willing to get any one from there, but we did subpoena and bring here men who have known him; had occasion and opportunities to see him frequently - know what his conduct was - what kind of man he was during his residence in Marshfield; know what his reputation is in the community - and that testimony is going to be very favorable to the defendant.

I don't want to take any more time at this time. I have tried to cover in a general way what occurred and the relationship between the parties as I understand it.

I might say this. It has not been said by either of us - that Rey was acting queer that day. As I understand it now, Rey went upstairs in the evening more than once; that he went upstairs with the Duval boy 11 years old. He went up to show him to bed, or see ~~was~~<sup>how</sup> he was, or something of that sort. This little boy stopped near the top of the stairs on the third step, as he indicated to us, and stood there until Rey set down on the bed. The little boy told me, and probably will so testify, that while he was standing there watching Rey, Rey looked up and saw him and told the little boy - mind you this little child probably is one that he had been giving presents to, one that he had come there to see before Christmas - told this little child to get down there, or get away there, if you don't I will shoot you, or I will put a bullet in you, or words to that effect. That the little boy went downstairs, said nothing to anybody about what Charley had said to him, but for some reason his little brother Gilbert, two years older, was interested in Charley Rey at that time, and he went upstairs to take a look at Charley, and looked at Charley. On one occasion that little boy told me that Charley had said the same thing to him and on another occasion he said no, he hadn't. After that Charley Rey came downstairs. They fix this time of his first going up about eight o'clock. That he was down there for about an hour. That then he went up again, and at that time Gust Hanson went up with him to see that he got up all right.

That on that occasion Rey stayed up there some few minutes. Nobody paid any particular attention to it, and as near as they can figure, it was five minutes or so, may be 10 minutes, but only a short time and then came back, downstairs. Rudolph Nordley was playing a violin. Mike Duval was also playing a violin. Jack Busha was playing a guitar or mandolin. Ray Duval and Chris Hanson, and Cecil Duval and Mrs. Duval and some of the children, were in the room. There is no partition in this room, although there are joists set to make what I designated as bed rooms. That Charley Rey walked around to within some five feet or so, as near as they could place themselves in measuring it out. Five, or five and a half feet, and without a word - mind you where had been no trouble before, according to eye witnesses, - without a word shot toward, and probably at, Mike Duval, his friend. But before he shot Mike Duval looked toward him and saw him having a revolver and exclaimed "Charley" or words in that tone of voice, or something in the way of astonishment, or warning, or something, but immediately afterwards there was two shots fired. Duval rushed at Charley and with the assistance of others took the revolver away from him and shot the remaining three shots in the floor and the door of this heating stove was open, and he threw the empty revolver in the stove. Then, according to the testimony of those witnesses, Duval proceeded to beat up Charley Rey, and Nordley skipped out for Woodruff, and Jack Busha started with his car to get a doctor and Dr. Huber landed there within half an hour of the shooting.

(Recess for 10 minutes)

DR. I..E. SHIEK, called on behalf of the  
State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. Radcliffe:

Q Dr. Shiek, you live in Rhinelander?

A Yes sir.

MR. O'CONNOR: We admit the doctor's qualifications.

Q On the morning of December 21st last did you have occasion to treat one Michael Duval at the Sisters Hospital at Rhinelander?

A Yes sir.

Q What was he suffering from?

A Suffering from gun-shot wound.

Q A gun shot wound or more than one? How many times was he shot?

A He was shot twice.

Q Where was he shot, doctor?

A He had one point of entrance between the third and fourth ribs in the chest on the right said, and another gun-shot wound in the abdomen a little below the navel on the left side, probably about an inch and a half below the navel on the left side; and another one alongside of that, probably about a matter of three inches.

THE COURT: Then there were three bullet holes?

A There were three openings.

Q The last two openings you testified to were produced by the same bullet.



A I never testified to that before.

Q I was asking you whether they were.

A Yes. The last two mentioned were the result of one shot, through and through, superficially.

Q Caused no damage to speak of?

A No. It was superficial.

Q Do you know the course of the bullet that went in the chest?

A General direction of that bullet was from the point of entrance I mentioned down to the left kidney region.

Q What would it pass through?

A Pass through the lung, diaphragm, and the tissue surrounding the kidney itself, and kidney.

Q Would that wound ordinarily produce death?

A Yes.

Q Did it produce death in this case?

A Yes.

Q That was the cause of death in this particular case, was it?

A That is what I would say was the cause of death.

Q Due to hemorrhage or shock?

A The grouping of all of those.

BY THE COURT:

Q How long did he live?

A Four days, I believe.

Q Was the bullet extracted?

A No sir.

Q Neither before nor after death?

A No sir.

BY MR. RADCLIFFE:

Q What day did he die?

A I think he died 12:30 p.m. December 24th.

Q It was then on Christmas morning?

A Christmas morning.

Q I think you testified that that gun-shot wound was the cause of death in this particular case.

A I do now.

CROSS EXAMINATION  
By Mr. O'Connor:

Q That was 12:30 a.m. on December 25th?

A The morning of December 25th.

Q Will you stand up and indicate on your body, for the benefit of the jury, where this bullet went in.

A The entrance of that bullet was just about in this region here. (Indicating)

THE COURT: A little above the nipple?

A Just about here. And the general course of the bullet was down in this direction here. The X-ray showed the bullet in the region of the kidney, on the left side.

Q So that it traveled downward and across the body?

A Downward and backward.

Q And the other wound you speak of?

A The point of entrance was just about here. (Indicating) This man was quite a heavy fleshy man, and this bullet just penetrated a short distance below the skin and came out over here, probably a distance of four inches from the point of entrance to the point of exit.

Q Did you take care of Michael Duval from the time you first saw him, up to the time of his death?

A Yes sir.

Q How many times during those four days did you see him?

A Probably two or three times a day.

Q What was his mental condition during the time you saw him? Was he conscious?

A Yes, very much so.

Q Realize what was going on?

A Yes.

Q Did he at that time realize that his condition was precarious and he probably would die as a result of this injury?

A He did.

Q That was in his mind all the time. Did you yourself talk with Rey, or did you when present hear Rey tell about this shooting?

A I never met any man by the name of Rey.

Q Duval, I mean. When you were there attending to Duval did you hear Duval talk about this shooting?

A Yes sir.

Q Did you hear him make any statements as to the relationship between himself and the man who shot him?

A I did.

Q Can you tell the jury and the court briefly the substance if you can't remember the exact words, as to what he said about the man who shot him - as to their relationship.

A He gave me to understand that they were the very best and closest of friends, and it was beyond him to understand why he was shot. And he had that attitude and maintained it through-

out the entire four days that I took care of him. He did not understand why this man shot him, nor any cause for it.

Q Did he say that there wasn't any cause for it, so far as he knew, or express himself along that line?

A He did.

Q. Never had been any trouble between them?

A We claimed not.

Q During those talks did he say anything to you, or in your hearing, as to whether before this shooting Rey exhibited a revolver, on that day?

A No.

Q You didn't hear any of that?

A I didn't hear anything of that.

Q Among other things, did Mr. Duval, in explaining the relationship between himself and Rey, say to you, or in your hearing that Rey had given to him and also to his wife each \$5 for a Christmas present?

A No.

Q You say that during all of this time Mr. Duval realized his condition and approaching death?

A He did.

JOHN BOUSHA, called on behalf of the

State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. Radcliffe:

Q Mr. Bousha, you live in Woodruff?

A Yes sir.

Q On the night of December 20th last, where were you?

A I was in Woodruff and I was also out to the home of Mike Duval.

Q You were out to the home of Mike Duval?

A Yes sir.

Q What were you doing out there?

A Why, he came into town and ~~xxxxxxx~~ invited me out, I imagine about eight, a quarter after eight, in the evening. He said he had a friend there from Marshfield. We were playing the guitar and violin, I and a friend of mine. He said "Bring your instruments along and we will have some music". So I rode out in his car to his home.

Q You didn't have your own car?

A No sir.

Q How long were you out there?

A I imagine about a quarter after eight when we left town. It is only a 10 minute ride. I think about the time that I came for the doctors must have been about 9:30 or so.

Q You were out there about an hour and a half.

A No, I wouldn't say that long. Possibly an hour, an hour and a quarter.

Q What happened while you were out there? Was there a card game going on?

A When we got out there we played a few pieces.

THE COURT: That is music?

A Yes. We had instruments there, violin and guitar. And then somebody suggested we play some penny-ante. So we set down to the dining room table. I think I set down and played 15 or 20 minutes possibly. The son he had 50 cents and he wanted to know if he could get in. We said yes, so he got in the game. So I looked at my chips. I had 15 cents more than I started. I handed them to Mr. Duval and walked over to Mr. Nordly and said, "Let's play some more music". So we started playing

again. A few minutes after that I recollect Mike Duval got up from the table also, and he had a violin. He came over and started playing with us.

Q Was Duval playing at the penny ante?

A Yes.

Q Was Charley Rey also?

A Yes.

Q Playing penny ante?

A Yes.

Q Had the game broke up at the time Mr. Duval went over to start playing too?

A Yes. It broke up after I quit playing.

Q Do you know whether there was any argument over the value of the chips?

A I heard the boy tell me afterwards that-

THE COURT: Only what you yourself heard.

A No, I didn't hear no argument myself. I heard them talking. I was playing. There was no lengthy argument so that I could hear what they were talking about.

Q There was no lengthy argument, so that if there had been any you would have heard it.

A Yes.

Q What happened while you were playing.

A Well, first thing I knew this defendant was down there with a gun and shot two shots at Duval while he was staning there playing the violin.

Q Was he standing up when he was playing, or sitting down?

A Standing up.

Q Where was you, standing up?

A Sktting down.

Q Where was Nordley?

A He was standing up.

Q What happened after he fired the two shots?

A As close as I could see he grabbed the gun out of his hands.

Q Who did?

A Duval. He walked to the stove and pulled the trigger and exploded the rest of the shells in the chamber. I thought there was three. He told me only two - and threw the gun in- to the stove.

Q Where did he fire this gun off?

A Aside of the heating stove.

Q In a coal bucket?

A Into the coal scuttle.

Q Was there any marks on the floor of bullets?

A Never could find any.

Q You don't know where the two bullets were discharged.

A No. They might have been into the fire pot of the stove.

It is a heavy heating stove similar to that in a depot.

Q Coal stove?

A Yes.

Q What did he do with the gun?

A Threw it into the open door - into the fire.

Q Into the stove?

A Yes.

Q What happened then?

A Why, he hit this man.

Q Hit him?

A Yes.

Q Many times?

A He turned around to me after he was shot, and he says, "I am done for", and then he hit this man so that he fell into the corner of the building, and I turned around to his son and said, "We better get into that car and get a doctor". So his son drove the car and I came to Woodruff and called up Dr. Huber and told him to meet us at Johnson's restaurant so that we could direct him to the place. The doctor came in a few minutes, and the boy left his car standing in town and went with the doctor to show him the way out, and I went out with the two Johnsons. Roy Johnson is deputy Sheriff over there. I rode out in his car.

Q How many times did Mr. Duval strike the defendant?

A That I couldn't say.

Q Were you excited about that time?

A Naturally, the first time I ever seen a man murdered. It all happened about a minute.

Q That was your first time at a killing then?

A Yes.

BY THE COURT:

Q Who all were present then at that time? Can you name them?

A The family, and Mr. Nordley, Gust Hanson. That was all there was there at the time.

Q In the family of Duval how many were there?

A There was Mrs. Duval and the daughter Celia, his son Raymond, the little boy. I don't know whether they were right in the room or off in the other room. It is a long room 40



feet long.

Q How many of you were playing music?

A Myself and Mr. Wardley and Duval.

Q Was there any drinking of moonshine or other liquor?

A Not while I was there.

Q Do you know how many there are in this family, of your own knowledge?

A They tell me 11 children. There is 10 at home, and a daughter married in Marshfield. I never seen her.

Q How long had you know Mr. Duval before he died?

A I met him some time last July - the first part of July.

Q When he came to Woodruff?

A Yes.

Q What was his business in Woodruff?

A He was building that summer home there - intended to put up some cottages. He had 126 acres of land he intended to farm, that was originally a farm.

Q A lot of this land cleared?

A Quite a good deal.

Q Did you hear any conversation by this defendant at the time of the shooting, or did you hear him say anything at the time of the shooting or immediately after?

A No, I didn't.

Q He didn't say a word?

A No.

Q There was nothing said by him before he shot or after?

A Not that I heard. He might possibly spoke but I didn't hear him.

Q Did you hear him say anything after you came back with the doctor?

A He set on the floor there, and his face was covered with blood. I can't recollect now just what he did say. I know we picked him up off the floor - the Deputy Sheriff, and took him out.

Q Did you see him in Woodruff shortly after the shooting?

A No sir.

Q You never saw him after that evening until today?

A No sir. I stayed there until about three o'clock in the morning. I think by that time he had left Woodruff.

BY THE COURT:

Q Where did the blood come from that was on his face?

A Apparently like he was bruised on the side of his head.

Q From the blood from Duval?

A I don't know whether it was - the way it looked to me when he hit him he kind of hit him from behind he fell into the corner. Whether he hit him and bruised him I couldn't say. It appeared to me that he hit him from the rear - in the back.

Q Were these logs in this building hewn flat on the inside?

A Yes.

Q Chinked in between?

A Yes.

Q Still an opening. The chinking didn't come out flush with the lot?

A Yes, quite an opening. They were chinked with oakum and rags.

Q The edges of these logs where hewed was inclined to be a little sharp in places?

A Yes.

Q Might cut or bruise a face?

A It is possible all right.

Q Then you didn't hear this defendant make any statement either before or after the shooting?

A No sir.

Q Was he talking at the card table?

A Talked a few words in the routine of the game.

Q Nothing out of the way?

A No.

Q Was there anything peculiar about his actions at the card game?

A Not that I could see.

Q Was he very drunk?

A Didn't appear to be. He talked to me. I was introduced to him. I only said a few words to him. He seemed to be all right - apparently all right.

Q You didn't notice any strange peculiarities about his talk or actions?

A No.

Q And he was not very drunk, you testified too?

A He didn't seem to stagger any. I don't know. He might have had a few drinks.

Q Not drunk enough to stagger?

A I didn't see him stagger any.

CROSS EXAMINATION  
By Mr. O'Connor:

Q Mrs. Bousha, referring to "Exhibit 1". You recall when Mr. Crofoot and myself were at Duval's last Sunday?

A Yes.

Q And you were present when we were taking measurements and

trying to make an outline sketch on this piece of paper?

A Yes.

Q Referring to this "Exhibit 1". There is a figure 1 surrounded by a red ring in line with three others. That is indicated on the side as Mike Duval. Is that about the place Mike was standing?

A Yes.

Q Above that the figure 2, about five feet away, was that where Rey was at the time you saw him at the time he shot?

A That is what I would think.

THE COURT: Was Duval standing or sitting when the shot was fired?

A Standing.

Q And Rey was standing?

A Yes.

Q Number 5 represents yourself. You were sitting on the chair?

A Yes sir.

Q No. '6 represents Celia Duval. She was also sitting on a chair near you. And 7 is Rudolph Nordley, who was standing up?

A Yes.

Q No. 3 is Roman Duval who was sitting near the table. No. 8 Mrs. Mike Duval, who was sitting close to Roman near the table, and No. 4 was Gust Hanson as Gust showed it was at that time. These are supposed to be approximately the positions of the different persons as you and the Duval family remember them?

A Yes sir.

Q Over here is the circle marked "Stove". That is intended to represent the position of the heating stove on the Sunday, December 20th, at the time of the shooting. Was that about

right?

A Yes.

Q And the chimney is as it is indicated here. There is the stairs that goes up into the second floor. Under this was the stairway going down into the basement?

A Yes.

Q There was no partitions inside of this big room at that time?

A No.

Q But there was, as indicated here, some 2 x 4 joists put up where it was intended to close off this room that I have marked bed room?

A Yes.

Q The entrance on that day, to get into this place, was made through the basement, was it, and up through the stairway - under this stairway. This door was not used at that time, and this door was the door from the ground?

A Yes.

Q The door on the south of this room opened out one story from the ground level on that side?

A Yes.

Q This is the measure and the sketch and suggestions of yourself, Ray Duval, Celia Duval and Gust Hanson.

A Yes sir.

Q And I believe also Mrs. Duval as to some particular things at that time, and was made last summer in the Duval home?

(No reply)

EXAMINATION BY THE Court:

Q At the time when you were playing cards at the table, was Rey playing near you?

A One of the boys set between him and me. Originally he was until the boy set down.

Q You were at the same table though?

A Yes, dining room table.

Q Did he address any of those around the table by name?

A I think he spoke to the daughter.

Q Called her by name?

A I don't remember whether he called her - what he did speak to her.

Q Did he recognize who Duval was?

A Apparently did, yes.

Q Was Duval playing?

A Yes sir.

Q Was there any difficulty on his part in knowing who was who around that table, so far as you could see?

A Not that I could see, no sir.

Q Did he play in the ordinary way?

A Apparently, yes. Slow. They were all talking and visiting around - talking who got 5 cents and 10 cents, and anything like that, like they generally do in a game of that kind.

Q Did he refer to himself at any time, so far as you know?

A Not that I remember, no sir.

EXAMINATION BY MR. O'CONNOR:

Q About this card game. You say now that the card game lasted about 15 minutes?

A Well, I won't say that. That is about as I believe, about 15 - 20 minutes.

Q Do you recall talking about the card game to me?

A Yes sir.

Q At that time did you say it was just about five minutes?

A It was longer than that. About 15 minutes.

Q What you said to me at the time you were talking about it before - at the time you and I were talking about it.

A I said a few minutes. I don't remember that I stated any particular time.

Q You don't recall me trying to have you fix the time, and you said about 5 minutes?

A No, I don't recall that. Possibly I did.

Q You were at Duval's house quite a little since the family came?

A That was the second time, I think.

Q That was the second time?

A Second or third time.

Q I understand that Celia and you was keeping company, is that true?

A I hardly think so.

THE COURT: Is that material? I don't think we ought to go into that.

THE WITNESS: I have got a daughter as old as she is.

THE COURT: I don't think we ought to go into that.

EXAMINATION BY MR. RADCLIFFE:

Q You testified you quit before the game broke up, didn't you?

A Yes sir.

Q You didn't play as long as the rest?

A No sir.

EXAMINATION BY MR. O'CONNOR:

Q The testimony was that the game broke up when you quit,

but that Mike Duval didn't start playing the music until a little while after.

A No. They were still playing when I quit. I quit a few minutes before they quit.

RUDOLPH NORDLEY, called on behalf of the

State, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Badcliffe:

Q You live in Woodruff?

A I do now, while I am working there, yes.

Q How long have you lived in and about Woodruff?

A For the last two months.

Q How long have you lived in and around Woodruff?

A About 20 years. I thought you meant the last time since I came back.

Q Where were you on the night of December 20th last?

A In Woodruff.

Q Where were you, did you say?

A I was at Woodruff.

Q Where were you in the evening, after supper, after eight o'clock?

A I was changing clothes. Getting my working clothes ready and changing clothes. Mr. Duval invited me to come up there for a visit and see his new place and bring my violin along.

Q Mr. Duval invited you up to his place?

A Yes sir.

Q And bring your violin along?

A Yes sir.



Q You want?

A I went.

Q About what time was it when you got up there?

A We left about eight o'clock, or 10 after eight, I judge.

Q What did you do after you got up there?

A We played a few tunes.

Q After that what did you do?

A Why, they played a little game of cards, and I was tuning up the guitar and playing on that a little.

Q You didn't play cards at all?

A No sir.

Q Did you talk with this defendant at any time during that evening?

A No.

Q Were you introduced to him?

A I was.

Q Did you hear him talking to the other people there?

A No, just ordinary talk.

Q Was there anything peculiar about his talk or his actions?

A No.

Q Was he very frunk that night?

A No, he diin't act that way while I was there.

Q He didn't stagger?

A Not that I seen.

Q Were you drinking that night?

A No.

Q Did you see anybody else drinking any moonshine there that night?

A Not while I was there.

Q How long did you stay there?

A I think about around 20 minutes - 15 - something like that.

Q What happened while you were there?

A Why- We was playing, the three of us.

Q Who was that?

A Mr. Duval and Mr. Bousha and myself. This Mr. Rey went to bed and he came back.

Q Went to bed, you say?

A He went upstairs. I don't know whether he went to bed or not. He went upstairs, and he came back. And I wasn't facing him, but first thing I know there was shots fired.

Q You didn't see him when he fired them?

A No sir.

Q You don't know whether he fired them or not.

A Well, I seen Mr. Duval take the gun away from him.

Q How many shots were there fired?

A Well, it sounded like two to me. But some says three.

So I was excited. I couldn't tell.

Q It sounded like two to you?

A Yes.

Q Who did these shots hit, if anybody?

A How?

Q Do you know whether these shots took effect in anybody?

A No, not that I know of.

THE COURT: Was anybody shot - hit - by those bullets?

A Mr. Duval.

Q Did Mr. Duval fall down when he was shot?

A No.

Q What did he do?

A He wrestled the gun away from Mr. Rey.

Q What did he do then?

A He fired the rest of the pullets into the stove - or about

the stove. I didn't see him throw the gun in the stove.

Q Did you see it taken out of the stove?

A No.

Q Did you see any of the fight that occurred after that, or any blows struck?

A Mr. Duval, I guess, struck him.

Q Where did he strike him?

A I think it was on the right hand side here.

Q Where did he fall, this Mr. Rey?

A It seemed to be over toward that corner.

Q That is west. Don't get mixed up.

A Over here.

Q In the southeast corner instead of the southwest corner, was it?

A I meant the place up there.

Q Did his head hit the wall, or don't you know?

A I couldn't say.

Q You didn't see him when he fell. What was the matter, were you pretty excited?

A I was.

Q Did you hear this defendant say anything at the time of the shooting, or after?

A No.

Q Did you see him after the shooting?

A I went to town.

Q Well, he went to town after while too, didn't he? Wasn't he taken to town?

A Yes.

Q Did you see him in town?

A No.

Q You didn't see him after he was in town?

A No.

Q Where did you go after the shooting?

A I went down the track, in case the car was stuck in the snow drift. I went on the track to get the doctor.

Q You didn't hear this defendant talking in the car?

A No. I was sitting away over on the other side.

Q Were you introduced to him?

A Yes, I was when I was first meet him.

Q Was his conversation normal?

A Yes.

Q Nothing strange about his appearance or looks?

A Nothing that I could see or notice.

Q Did you hear any argument between him and anybody there that night?

A No.

Q There was no quarrel or dispute about anything that you heard?

A Not while we was there, no.

Q You didn't play cards there that night?

A No sir.

Q You were playing most of the time?

A Yes.

Q What went on in the card game you don't know anything about?

A I couldn't say.

Q You left there immediately after the shooting?

A Yes.

Q Never saw this defendant in Woodruff after the shooting?

A No. They had him in the other part of the restaurant.

Q You didn't go in where he was?

A No sir.

Q This was on a Sunday night, was it?

A Yes.

(Recess until 2:00 p.m.)

.....

(Court re-convened at 2:00 p.m.)

CROSS EXAMINATION  
By Mr. O'Connor

Q Mr. Nordley, you say that you have lived around Woodruff for about 20 years?

A Yes.

Q You occasionally take a drink, do you not? You drink a little once in a while, don't you?

A Once in a great while, yes.

Q When you get around with your friends in parties, why you take a drink, don't you?

A Not lately.

Q How long since in reference to this shooting affair. You have drank a little at times since, haven't you?

A Only a little beer.

Q Before the shooting affair did you use to drink a little when you were around with the boys?

A I wasn't around before that.

Q Didn't you use to drink at times?

A Yes, at times, yes.

Q But on this particular occasion at this Duval party you didn't drink anything at all; is that it?

A No sir.

ELIZABETH DUVAL, called on behalf of the  
State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. Radcliffe:

Q You are the wife of Michael Duval, are you?

A Yes sir.

Q Where do you live?

A Just a mile out of Woodruff. North of Woodruff - or  
west, rather.

Q In Vilas County?

A Yes sir.

Q When did you move there?

A The 22nd of November.

Q The 22nd of November?

A Yes sir.

Q Where did you come from there?

A From Marshfield.

Q From the city of Marshfield?

A No, we was just about three miles south of Marshfield on  
a farm.

Q In what town?

A Town of Cameron.

Q How long did you live there?

A Not quite three years.

Q What was your business there? Farming?

A Yes sir, farming.

Q Do you know the defendant in this action?

A Yes sir.

Q How long have you known him?

A I believe about five - six years.

Q Where did you come from when you went on this farm?

A We was living on the north side, a mile out - out of Marshfield.

Q How long have you lived in the neighborhood of Marshfield?

A About eight years, that we moved to Marshfield.

Q You knew this man-

A Yes sir. About I knew him pretty near that long ever since we moved to the city.

Q The defendant. You knew this defendant about eight years pretty nearly?

A Something like that. Seven or eight years.

Q Did he frequently visit at your house?

A Yes, he used to come over, not so often, but he came once in a while.

Q Was he considered to be a friend of the family?

A Yes sir. He always came and played with the children.

Q Made himself at home?

A Yes.

Q When did he come to your place at Woodruff?

A That was the 19th of December.

Q On a Saturday?

A On a Saturday, yes sir. Just before supper.

Q What time did he get there about?

A I should judge about five or a little better.

Q In the afternoon?

A Yes sir.

Q Where were you living at that time?

A We were living in the old house. That is on the left hand side.

Q On the north side of the road is this house.

A Yes. I am a little turned around. I guess on the north side.

Q How long did you stay in that house?

A We moved there the 23rd of November and we stayed there until the same day. On a Sunday afternoon we started to move over there, on the 20th of December.

Q On the 20th of December, in the afternoon, you started to occupy the new place?

A Yes, just so that we could get along.

Q You moved some of your stuff over?

A Yes.

Q Did you stay there until the night of the 20th?

A Yes.

Q Were you there the evening of the 20th?

A Yes.

Q Was this defendant there?

A Yes sir.

Q Did he know you the 20th?

A Yes.

Q Did he call you by name?

A Yes. He spoke to me after I came up there. Wished us all kind of luck in our new home.

Q Did he know the children?

A I don't know. You see it was just supper time. I don't know whether he paid much attention to the children or not.

Q You don't know whether he called any of the children by name



or not?

A I don't know. I think he did. I don't know for sure. It was supper time and I was busy getting supper.

Q Do you know whether he talked with your husband or not?

A I think he did.

Q Did he call him by name?

A I am quite sure he did. Of course, I didn't pay much attention.

Q You had supper in the new house that night?

A Yes sir.

Q Who all were there at that house that evening?

A Well, when we first moved there of course there wasn't just the family there, and him. But after supper then Mister went down and got Jack Bousha and this Wordley.

Q Was there anybody else?

A No, not then.

Q Do you know a man by the name of Gust Wagner?

A No.

Q Gust Hanson?

A Gust Hanson. He was working for us all summer.

Q Was he there?

A Yes, he was there.

Q You all had supper in the new house?

A Yes sir.

Q What happened after supper?

A After supper Mister went up town and got those two fellows, and they brought the violin along, and they went and played after they came back, you see. When Mike went to town to get them fellows I went and took the baby and I put the baby to sleep,

and I laid down with the baby. When I laid down with the baby it must have got late before I got up. I just got up a little while before this happened. But I know when he came back from town they took the violins.

Q What were they doing?

A They were playing the violin and the guitar.

Q Was there a card game going on some of the time?

A Yes, a little while. But I wasn't up. I was laying down with the baby when the card game was.

Q You didn't hear anything that took place in the card game?

A No, I didn't. When I did I set down and was reading the newspapers. I didn't pay much attention to the card game at all.

Q While this music was going on did anything unusual happen?

A Why, no. They were happy, and they were playing.

Q Nothing unusual happened.

A Why, no. Not until afterward when this fellow went upstairs and came down.

Q They were playing then?

A Sure, they were playing then too. But this was right away when they came back from down and they were playing. Of course they had a little card game. Of course this fellow went upstairs. They were fighting before that. This fellow was sitting by the table-

MR. RADCLIFFE: Just a moment. Answer the question. Was there anything unusual-

MR. O'CONNOR: I am afraid this witness is testifying to something she heard from others. She was laying down and was not at the card game, and now she is testifying about what was going on before the card game and during the card game.

THE COURT: Now just answer the question, and don't talk about something else.

Q Was there anything unusual happened at any time during the time that these men were playing on the violin?

A No.

Q Nothing unusual happened. Your husband wasn't shot or anything?

A Yes.

Q Is that anything unusual?

A Yes, that was.

Q There was something unusual happened then?

A Yes, that night, surely.

Q Did you see this shooting?

A Yes.

Q Who did the shooting?

A Charley Rey.

Q How many shots did he fire at your husband?

A Two, that is what I heard.

Q Did your husband fall down when he was shot?

A Yes sir.

Q What did he do after he was shot?

A He took the gun away from him, and he went up to the stove and emptied the rest of the shells into the coal pail alongside of the stove. He emptied three shots and then he took the gun and threw it into the stove, and then he went over and give this fellow a licking.

Q How many times did he hit this man, do you know?

A I couldn't say.

Q More than once?

A Yes, I think two or three times. But I couldn't say for

sure just exactly. He was awful excited.

Q Did this man fall down?

A No, I didn't-

Q When he was hit?

A I didn't notice.

Q Were you in the room?

A Well, you see the boy grabbed this fellow, and then he grabbed the gun away from him. When the shooting was going on he grabbed this fellow quick and was holding him up.

Q Your boy grabbed this man?

A Yes, so that Mister could take the gun away from him.

Q When he was hit did he fall down in the corner of that room?

A Yes, he was laying down, I guess, in the corner.

Q In the corner to the left, as you go in the east door of the house?

A Yes. In the southeast corner.

Q You don't know whether he hit his head on the wall or not?

A No, I couldn't say. I wasn't paying much attention. I was all excited.

Q He didn't talk with you that evening?

A No, I didn't get to see him at all.

Q I mean before the shooting.

A A little, yes.

Q Did he call you by name?

A Why, no. I don't know. He didn't say much anyway.

Q Did you hear any trouble there between this defendant and your husband?

A No sir, not at all.

Q Did you see this gun at any time before the time of the shooting?

- A No sir.
- Q You never knew he had a gun until the shooting?
- A No, I didn't.
- Q Did Mr. Duval ever have any trouble with him at Marshfield, or at any other place, that you know of?
- A Not at all that I know of, never.
- Q This man gave you \$5 as a Christmas present?
- A Yes sir.
- Q And some other member of your family gave Mr. Duval \$5?
- A Yes, that is what he said. I didn't see him give it to him.
- THE COURT: When was that?
- A On Christmas Day, or Christmas morning.
- THE COURT: No. On Sunday?
- A Yes, on Sunday. On the 20th.
- THE COURT: That was before this shooting, was it?
- A Yes, just before dinner he gave me.
- Q Did he call you by name at that time?
- A Yes, he called me Mrs.--
- Q Apparently knew who you were?
- A Why, yes.
- Q Was he drinking heavily when he was at the house?
- A I don't know. I didn't see him. He wasn't at the old house at all. They were at the new house all the time. I didn't see him take any.
- Q Was he very drunk on Sunday night?
- A He didn't seem to be, no. He didn't stagger any, I know.
- Q Was he drunk when he came to the house Saturday night?
- A I couldn't say. I couldn't tell whether he was anyway, or not.
- Q If he was, he wasn't so intoxicated that you noticed it?

A No.

Q Was he staggering any Sunday night?

A No, I didn't notice him stagger at all.

Q Would his conversation lead you to believe that he had been drinking?

A No, I don't think so.

Q What did he say when he came to the house first, Saturday night?

A Well, he said "Hello," and shook hands with us. He came in. Of course, like always, made himself at home.

Q Came to make a visit, was that it?

A Yes, over Sunday, yes.

Q Did he say it was his intention to return Monday?

A Yes, he wanted to go back Monday morning.

Q Did you folks have any gun around the house - revolver, I mean. Short gun?

A Yes. But it was not loaded. They never had a gun loaded in the house.

Q Was this gun that killed Mr. Duval one of Mr. Dugal's guns or a gun belonging to this man?

A No, it didn't belong to us.

Q Is the same guns that Mr. Duval owned at home yet?

A What?

Q Were the guns that Mr. Duval owned at home yet at your place?

A Yes.

Q There is no gun been taken out of there?

A No.

CROSS EXAMINATION  
By Mr. O'Connor

Q Mrs. Duval, you were at Rhinelander with your husband up to the time of his death, were you?

A Yes sir.

Q You talked with your husband about the shooting and about Mr. Rey, did you?

A Same, yes.

Q Did your husband at any time, either before or after this shooting, tell you anything that would indicate that there had ever been any trouble or dispute or grudge between himself and Rey?

A No sir, he never did.

Q Isn't it a fact that he always maintained, up to the time he died, that he couldn't understand why Rey shot him, because they had always been and were the best of friends?

A No, he couldn't make out how it happened that he should have done the shooting.

Q Didn't understand how it happened, or why?

A No, couldn't understand how.

Q Didn't he say to you that he must have been crazy?

A I don't know. I don't know that I ever heard him say that.

Q You don't recall your husband saying that?

A No.

Q Did you yourself ever say that?

A Well, I don't know. I don't think so that I said it, because he didn't act like it.

Q Do you recall Mr. Herbert Bouker, our Sheriff, and myself, being at your home on January 2nd?

A I don't know. May be I did. I couldn't say.

Q You remember me being to your house twice?

A Yes.

Q The first time I was there with Mr. Bouker and the last time I was there with Mr. Crofoot?

A Yes.

Q During the time I was there with Mr. Bouker didn't you say among other things that there was no reason for it; that there wasn't any trouble of any kind that day - no dispute - no row, and finally didn't you say, "he must have gone crazy"?

A May be I did say that.

Q That was your idea of Mr. Rey at the time you were talking to me?

A yes.

Q Isn't that the idea and thought that Mr. Duval had after he was shot?

A I couldn't say what his idea was.

Q He didn't say that to you at any time?

A No, he didn't.

Q Did you say you didn't see Mr. Rey do any drinking at any time at your house?

A Well, not in the new house I didn't. In the old house I did. You know I had the bottles there. We always have a little in the house for medicine. And he asked for some, so I give him some. But in the new house I didn't.

Q Going back a step in the old house. When was it you gave Mr. Rey a drink in the old house?

A Shortly after he came there on Saturday evening.

Q Did you give him a drink in there in the old house the next



morning also?

A No, I don't think I did the next morning.

Q Do you remember when Mr. Rey got up Sunday morning?

A Yes.

Q What was the conversation between yourself and Mr. Rey after he got up on Sunday morning?

A I don't remember that. I got up and got breakfast. I don't think we had any conversation much at all.

Q Do you remember whether or not when you first saw Mr. Rey that you asked him how he slept and how he was feeling?

A May be I did. I don't remember whether I did or not.

Q Do you remember Mr. Ray saying to you that he hadn't slept very well; that the place didn't seem to be right?

A No, he didn't say anything in the morning like that, I don't think.

Q You didn't say anything like that?

A No, not in the morning, I don't think.

Q Did he have any talk with you about having a dream, and about the place being haunted?

A No, not to me.

Q Do you recall me talking with you in the presence of your son ~~Ray~~ Raymond and the other members of your family, and Mr. Bouker about this particular matter, on January 2nd? Do you remember that?

A No, I don't.

Q Don't you remember saying to me that he told you he had a terrible dream and that he wouldn't tell you what it was until after he went away the next morning?

A Yes. That was after dinner, not in the morning. He didn't

tell me that. After dinner he said - he said he was kind of suspicious about something.

Q Didn't he complain to you there in the old house that he could not or would not try to sleep there again?

A Oh yes. He said that.

Q Did he say something about going to walk to Woodruff to sleep that night?

A Not to me.

Q You say you always kept a little liquor in the house in case of sickness, is that it?

A Yes sir.

Q How much would you call a little?

A Half a pint, or a pint.

Q You think that was all the moonshine there was around your house on Saturday and Sunday, December 19th and 20th?

A I don't know. I couldn't say. I didn't see any around. I couldn't say.

Q You say you didn't see any one drinking anything on Sunday except the drinking you saw at the old house?

A Yes sir.

Q You see no one take anything to drink at the new house?

A No sir, I didn't see any one.

Q What time did you yourself go down to the new house?

A Around five o'clock. Just in time to get supper.

Q How long have you known Gust Hanson?

A A year or so, I guess.

Q What was he doing for you?

A He was helping Mister at the building. Working at the building.

Q Has he been at your place since your husband moved up

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from Marshfield?

A Yes.

Q He is over there now, isn't he?

A Yes.

Q He is staying there now. What is he working at around there for you now?

A He was just getting wood ready and just staying there to wait for this trial now.

Q What did you say Mr. Duval's business was in Marshfield?

A He was farming.

Q When he was living on the north side of the city?

A Yes. We had a farm, and then of course he was on the road too, selling certain things, you know.

Q We used to be in the saloon business at Marshfield at one time too?

A Yes, but that was before it went dry. A long time ago.

Q Isn't it a fact that he was in the liquor game even after it went dry?

A Not that I know of.

Q Isn't it a fact that the officers searched your home on one or more occasions when you lived in or close to Marshfield?

A Yes, they did once.

Q And they were searching for intoxicating liquor, weren't they?

A I suppose they were.

Q Do you remember when the Eagles convention was in Marshfield?

A Yes.

MR. RADCLIFFE: I object to that.

Objection sustained. Exception.

Q

MR. O'CONNOR: I am going into this on this line alone, and for the purpose-

MR. RADCLIFFE: He might have had a distillery over there at Marshfield, but that has nothing to do with this.

MR. O'CONNOR: The evidence of the state's witnesses ~~was~~ so far has been there has been no drinking at all at this place except as Mrs. Duval says that there was a drink or two at the old home. But at the new home there was no drinking, and that this party that was there attended by several men that there wasn't any drinking; that Rey was apparently perfectly sober. I intend to try and show that Mr. Duval was in the moonshine game, if you please, at Marshfield, and went from Marshfield to Woodruff to engage in the same business, and at the time that he died he had it on hand, and it is to be supposed if he had it there others that was there had it there.

THE COURT: I think you will have to confine your investigation to the time he was at Woodruff.

Exception.

Q After moving to Woodruff what was your business? What did your husband do?

A He was going to farm it and to put up cottages. Summer resort.

Q He was going to do that?

A Yes.

Q But he didn't do any farming this last year.

A No. He didn't get there in time.

Q The building that was put up was this new building?

A Yes sir.

Q How did he make a living during the time he was there at

Woodruff?

A Well, he had a little money, I suppose, from the farm. And he had cows on the farm. I took in money on the stuff I sold.

Q Did you sell a farm when you went to-

A No, we were just on a rented farm.

Q Did your husband do any work or earn any money while he was around Woodruff?

A I know he was busy building all the while.

Q He was only spending money.

A Yes.

Q Do you recall Mr. Rey on his visits to your home near ~~March-~~  
~~field~~ <sup>March-</sup> bringing presents and candy to the children when he used to come out.

A Yes, bring candy once in a while, and give them a little money.

Q Give them money?

A Give them pennies, yes.

Q Did he bring with him from Marshfield on December 19th, a calendar for you?

A Yes.

Q And gave it to you, did he?

A Yes sir.

Q You say he gave you \$5. Did he say what that was for when he gave that to you?

A Yes, he said for a Christmas present.

Q The fact is he told you it was to buy presents for the children.

A No, he said "Here is your Christmas present", he said.

Q How long have you known Rey?

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A About seven years, I guess.

Q Haven't you lived in or near Marshfield for a period commencing longer than seven years ago?

A No, seven or eight years ago, something like that.

Q During all the time you have known Rey did you ever see him exhibit any anger or know him doing anything cross or ugly or violent, until this time?

A No, I didn't.

Q Isn't it a fact that always, up to this shooting, that as you saw Mr. Rey he was a very, kindly, quiet, peaceable man and a great lover of children?

A Yes.

Q Do you know whether or not your husband and Mr. Rey were what we call chummy?

A Well, I couldn't say. I guess they were.

Q Very friendly.

A They were friends, yes.

Q Do you remember or know of your husband and Mr. Rey taking walks away out around Marshfield, and taking their pistols and revolvers with them?

A Never.

Q Don't remember that?

A Never that I know of.

Q Do you remember of ~~them~~<sup>them</sup> ever shooting at targets?

A Never.

Q Do you know of your husband and Mr. Rey ever going on any fishing or hunting trips?

A They were fishing, yes.

Q Any hunting trips?

A Not that I know of, no.

- Q Mr. Duval used to drink a little at times?
- A Yes, but I never saw him drunk.
- Q And your son Raymond also drinks a little at times?
- A Yes, I suppose he does.
- Q Do you yourself ever drink anything intoxicating?
- A No, I don't care much for it.

DR. R. A. OLDFIELD, called on behalf of the  
State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. Radcliffe:

- Q Dr. Oldfield, you are a resident of Eagle River?
- A I am.
- MR. O'CONNOR: Qualifications admitted.
- Q You are practicing medicine in the village of Eagle River?
- A I am.
- Q And about some time after the 20th of last month did you have occasion to administer to this man in any capacity?
- A On request of the defendant.

THE COURT: Which man?

MR. RADCLIFFE: The defendant.

THE WITNESS: On request of the Sheriff I visited Mr. Charles Rey at 9:00 o'clock, December 21st, at the county jail.

- Q What did you find he was ailing of?
- A He had contusions of both eyes, more pronounced on the right. The right was very severe. The whole face was ~~not~~ swollen. There was a hemorrhage involving the ocular con-

conjunctiva - that is, the lining of the orbit. And he had three linear abrasions about an inch and a quarter long, parallel, over the right temporal eminence - frontal eminence. He had general swelling over the right side of his face; he had a tender area over the right malar bone.

Q Where is that ?

A The zygomatic prominence.

THE COURT: Just under the eye?

A On the right side. Hemorrhage discoloration down into the neck. There was no evidence of fracture of the jaw, but I recommended an X-ray. I suspected fracture of the malar bone, and found it by X-ray on the morning of the 23rd, showing a fracture of the zygoma.

THE COURT: Is that plate under the eye?

A Yes.

Q The cheek-bone?

A Yes.

Q Would the injuries you found there tend to stun Charles Rey for a time?

A Yes sir.

Q Would it be liable to effect his memory?

A Yes sir.

Q Liable to effect his mind for a time, would it?

A I believe so, yes sir.

Q Did he show any signs of acute alcoholism?

A No sir. That is, that I could elicit.

Q His trouble was chiefly the bruises on his face and head, were they?

A Well, he showed some confusion and amnesia. He knew who



he was. He knew his age. He gave me that. But the events immediately preceding, during, and subsequent to the occasion he didn't seem to be well oriented on.

Q Could that be produced - that condition be produced by the injury that he received to his face?

A Yes sir. Known as concussion.

Q Have you any knowledge how this injury was produced? In other words, could it be produced by a fist?

A Not on the right side. It could be multiple blows. The contused left eye was probably produced by a fist.

Q The right side more apt to have been produced by coming in contact with something substantial?

A By vibratory motion of some flat, hard surface.

Q Falling against anything would hardly produce it.

A And not account for the abrasions. I would say it was done by the hands, or something of that nature.

Q It could not have been done by sliding down the edge of a hewn log, or anything of that kind?

A I wouldn't say so, no.

Q At the time you examined him you got his name?

A He said he was Charles Rey and was 68 years old.

Q Did he say where he came from?

A I didn't ask him that question.

Q Didn't ask him any other questions?

A No sir.

CROSS EXAMINATION  
By Mr. O'Connor

Q Some time while you were caring for Mr. Rey you weighed him, did you not?

A No sir.

Q I have a memorandum given me by Mr. Rey, on December 30th, in which he said that you weighed him?

A Yes, he was in December 30th. But I do not remember weighing him. If I did it was just like I did many patients that come in and want to be weighed, for curiosity.

Q You haven't any recollection of actually weighing him?

A No.

CELIA DUVAL, called on behalf of the  
State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. Radcliffe:

Q You are the daughter of Michael Duval?

A Yes sir.

Q Where are you living now?

A About two miles out of Woodruff.

Q You heard the testimony that has been given up to now, haven't you?

A Yes.

Q Were you at this new house on the night of December 30th, Sunday night?

A Yes sir.

Q Was there a card game going on in your house?

A Just a little. They just started, that is all. They didn't see no fun in it so they quit.

Q Who were all there?

A Rudolph Nordley, Jack Bousha, My dad, Charley Rey, myself, mother, and brother, and the little ones and Gust.

Hanson.

Q What were the men doing?

A They were plying violin for a while, and they they quit and played penny-ante.

Q Did they finally quit penny ante and go playing again?

A Yes.

Q Did you notice Mr. Rey that evening?

A Yes.

Q Was he talking to you?

A Yes.

Q Did he call you by name?

A Yes.

Q Knew who you were?

A Yes.

Q What did Mr. Rey do after the card game broke up?

A Then he said he wanted to go to bed. So Gust Hanson took the lamp and was going upstairs. Took him upstairs. And then Gust Hanson came down right away, and he stayed up there a few minutes and then he came down again. And then the last all I heard was he shot.

Q He shot then with the gun?

A Yes.

THE COURT: Do you know why the card game stopped?

A Well, they didn't have no - they seemed so that there was no fun in it, the way they said.

Q Did you see the shooting?

A Yes sir.

Q Who did the shooting?

A Charley Rey.

was talking to Gust Hanson then, lying on the floor.

Q He was still lying on the floor?

A Yes.

Q How long have you known Mr. Rey?

A Well, about five years.

Q What did he say when he came to the house?

A "How do you do". He shook hands with me and my mother.

Q Knew you?

A Yes.

Q Did he say he was going to stay?

A Yes, he said he came on a visit to Monday morning.

Q Going to stay until Monday morning?

A Yes.

Q Did he tell you anything about a dream that he had in the old house?

A No, he didn't say anything to me about it.

Q Did you hear him say anything about it?

A No, all I heard ~~him~~ he said he was suspicious about something in the house.

Q Didn't tell you what it was?

A No.

Q Was he drinking when he came into the house?

A I think mother got him one drink.

Q Was he drunk at any time while he was there?

A No. Not that I know of.

Q You would have known it if he had been?

A Yes.

Q Did he stagger?

A No.

Q Talk like a drunken man?

was talking to Gust Hanson then, lying on the floor.

Q He was still lying on the floor?

A Yes.

Q How long have you known Mr. Rey?

A Well, about five years.

Q What did he say when he came to the house?

A "How do you do". He shook hands with me and my mother.

Q Knew you?

A Yes.

Q Did he say he was going to stay?

A Yes, he said he came on a visit to Monday morning.

Q Going to stay until Monday morning?

A Yes.

Q Did he tell you anything about a dream that he had in the old house?

A No, he didn't say anything to me about it.

Q Did you hear him say anything about it?

A No, all I heard ~~him~~ he said he was suspicious about something in the house.

Q Didn't tell you what it was?

A No.

Q Was he drinking when he came into the house?

A I think mother got him one drink.

Q Was he drunk at any time while he was there?

A No. Not that I know of.

Q You would have known it if he had been?

A Yes.

Q Did he stagger?

A No.

Q Talk like a drunken man?

A No.

Q Act like one?

A No.

Q Apparently knew you all the time up to the time of the shooting, did he?

A Yes.

CROSS EXAMINATION  
By Mr. O'Connor

Q Were you around the home all that evening?

A Around the new house?

Q Yes.

A Yes.

Q Do you recall Mr. Rey going upstairs with your little brother Pius?

A Yes.

Q About what time of day was it when Mr. Rey and Pius went upstairs?

A That was around seven o'clock, or half past seven.

Q About how long was Mr. Rey upstairs at that time?

A About ten minutes.

Q Was this before your father went to Woodruff?

A No. That was while he was at Woodruff.

Q Well, now, if it appears that your father was to Woodruff about eight or 8:30, then you are mistaken as to the time that Mr. Rey went upstairs, aren't you?

A Well, that was while my dad was gone. He went up town right after supper.

Q Who was at your home after supper and before your father and Mr. Nordley and Mr. Bousha came back from Woodruff?

A Just Gust Hanson and Charley Rey and the family.

Q What were you doing at the time that your father was away to Woodruff?

A Well, we washed dishes and went down to the old house, and we brought some of the stuff up then yet.

Q Did you think that all the time that Mr. Rey was at your house from Saturday afternoon until the time of the shooting Sunday night, that Mr. Rey was sober?

A Well, I didn't notice that he was drunk at all.

Q Do you know whether or not he drank anything during that time?

A No, I didn't see him, only just when he came.

Q Do you mean by that that he had a drink when he came?

A Yes, just one drink.

Q Will you look at that little sketch marked "Exhibit 1" and see if that is about the positions of the different people whose names appear at the upper right hand corner, at or about the time of the shooting?

A Yes, that was about it.

Q Do you recall Mr. Rey coming to your home when you lived in or near Marshfield?

A Yes.

Q Was he there quite often?

A He came in about twice a month, or something like that.

Q Did he on some of those occasions bring you or your brothers and sisters, presents?

A Yes, candy.

Q Do you remember him giving you children balls, at different times - rubber ball and a baseball?

A Yes, one base ball that I know of.

Q Also a rubber ball on another occasion?

- A Well, I don't know. I don't remember.
- Q You and your brothers and sisters always liked Charley Rey?
- A Yes.
- Q He always seemed to be a very nice kind man, didn't he?
- A Yes, he always did.
- Q Never saw him cross?
- A No, I never did.
- Q How old are you, Celia?
- A 16.

PIUS DUVAL, called on behalf of the  
State, being duly sworn, testified as follows:

~~DIRECT-EXAMINATION~~  
~~By-Mr-Radeliffe~~

EXAMINATION BY THE COURT:

- Q Do you understand what was said to you just now?
- A No.
- Q You don't understand that. Don't you know what that means?
- A No.
- Q Were you ever in a court room before?
- A No.
- Q How old are you?
- A 11.
- Q Have you been to school some?
- A Yes.
- Q How much? How many years have you gone to school?



A About five years.

Q You never held up your hand and said you would tell the truth, the whole truth, and nothing but the truth before this did you?

A No.

Q You don't understand what that means?

A No.

Q That means you are taking an oath that you will tell on the stand the truth. Do you know what truth is?

A Yes.

Q Do you know what a lie is?

A Yes.

Q You are swearing now to tell the truth, and nothing but the truth. You understand that?

A Yes.

Q You understand too you might be punished if you lied after you took that oath, do you?

(No reply)

DIRECT EXAMINATION

By Mr. Radcliffe:

Q Do you know Mr. Rey?

A Yes.

Q How long have you known Mr. Rey?

A Two years.

Q About how long?

A Two years.

Q Did you know when he came to your place on Saturday?

A Yes.

Q The 19th of December?

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A Yes.

Q Did he know you?

A Yes.

Q Call you by name?

A Sometimes.

Q Did he on Sunday call you by name?

A Yes.

Q Were you talking to him upstairs in the house Sunday - this Sunday that he was there? Did you go upstairs when he went upstairs to bed?

A Yes.

Q What did he say to you at that time?

A He said you should get down or I will give you a bullet.

Q He said to get down from upstairs or he would give you a bullet?

A Yes.

Q Did you go?

A Yes.

Q Did he call you by name at that time?

A No.

Q Or just say "You go"?

A He didn't call by my name.

Q Not at that time.

A No.

Q Had he during the day?

A Not all the time. Sometimes.

Q Was Mr. Rey drinking at this time very much?

A No.

Q Did you know that he had been drinking at all?

A No.

Q Walked all right, did he?

A Yes.

Q Talked all right?

A Yes.

Q When was it that you and he went upstairs?

A When my dad went to town.

Q On Sunday night?

A Yes.

BY THE COURT:

Q How did he come to say that to you - say something about a bullet?

A I don't know.

Q Did you do anything to make him mad then?

A No.

Q Did he seem to be mad?

A No.

CROSS EXAMINATION

By Mr. O'Connor

Q How did you happen to go upstairs with Mr. Rey at that time?

A I went up to show him the lantern.

Q Was the lantern burning upstairs, was it?

A Yes.

Q You went up to show Mr. Rey the lantern?

A Yes.

Q How far upstairs did you go?

A I went up the third step from the top.

Q That is where you showed me that day. What did Mr. Rey do when he got upstairs?

A He sat on the bed.

Q As you got to the head of the stairs - I will put a little mark here. At this little cross here on the third step from the top, that is where you stopped, is it?

A Yes.

Q Where was the bed that Mr. Rey went to? Over here, wasn't it? (Indicating)

A Right there.

Q In here some place?

A Yes.

Q How did Mr. Rey go to get to that bed? The bed was right opposite the stairs. How did Mr. Rey come to get to that bed?

A On this side.

Q On this side, and walked around here. Did he get in the bed, or sit down on the bed, or what did he do when he got to the bed?

A He set down.

Q On the edge of the bed?

A Yes.

Q On which side of the bed?

A East side.

Q So that as he sat on the bed he was facing east, and you were to the left at the head of the stairs?

A Yes.

Q How long did you stand up there?

A About five minutes.

Q And during that five minutes what was Mr. Rey doing?

A Sitting down on the bed.

Q Just sitting there?

A Yes.

Q Did he look toward you before the time he looked over and saw you and told you to go away?

A Yes, he looked toward me.

Q At that time?

A Yes.

Q Before he told you to get down there or I will give you a bullet had he looked over and seen you standing there?

A yes.

Q Why were you waiting for so long a time?

A Holding a light.

Q Did you have the lantern with you?

A Yes.

Q So you mean when you said you went upstairs with Mr. Rey to show him the light, you went to carry the light to show him to bed, is that it?

A yes.

Q After Mr. Rey said this to you what did you do next?

A I went downstairs.

Q Did you leave the lantern upstairs or downstairs?

A Setting upstairs on the floor.

Q You left the lantern setting on the floor upstairs?

A Yes.

Q Didn't you think it was queer that Mr. Rey would talk that way to you?

A Yes.

Q Had he ever talked like that when you heard him before?

A No.

Q When you came downstairs who did you tell about that?

A Nobody.

Q You didn't tell any one?

A No.

Q Do you remember your brother Gilbert going upstairs after you had been up there?

A Yes, he went afterwards.

Q How long after you went upstairs before Gilbert went upstairs?

A About 10 minutes.

Q Did you have any talk with Gilbert before he went upstairs?

A No.

Q Before Mr. Rey said "Go down there or I'll give you a bullet" had he said anything to you, going upstairs, or after he got upstairs, before he said that?

A No.

Q In going upstairs who went ahead - you or Mr. Rey?

A Mr. Rey.

Q You followed him with the lantern. Were you one of the children that met Mr. Rey between the railroad track and the new house?

A No.

Q You say you are 11 years old and have known Mr. Rey about two years. You are guessing about the two years, aren't you?

A Yes.

Q You remember seeing Mr. Rey for a long time before you moved away from Marshfield, don't you?

A Yes.

Q You used to see him come over to your house a good deal, didn't you?

A Yes.

Q Were you one of the boys that he gave this baseball or

rubber ball to?

A No.

Q Which one was that?

A My little brother, seven years old.

Q Smaller than you?

A Yes.

Q Are you one of the boys that he used to give candy to at times?

A Yes.

Q How did you like Mr. Rey when you used to see him around Marshfield?

A Liked him all right.

Q He was a nice man, wasn't he?

A Yes.

Q Very nice to the children?

A Yes.

Q Always pleasant?

A Yes.

GILBERT DUVAL, called on behalf of  
the State, being duly sworn, testified as follows:

EXAMINATION BY THE COURT:

Q How old are you, Gilbert?

A 13.

Q Did you understand what this lady said to you over there?

A Yes.

Q What did you understand that to be?

A To tell the truth.

Q Did you understand you had taken an oath to tell the truth?

A Yes.

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THE COURT: You may go ahead.

DIRECT EXAMINATION

By Mr. Radcliffe:

Q Gilbert, do you know Mr. Rey?

A Yes sir.

Q How long have you known him?

A About three years.

Q Did you see him the 17th of December, when he came to your house on a Saturday afternoon?

A Yes.

Q Did he know you?

A Yes.

Q Call you by name?

A Yes.

Q Did he know you Sunday?

A Yes.

Q Call you by name?

A Yes.

Q Knew you Sunday evening, did he?

A Yes.

Q Did you have any conversation with him Sunday evening?

A No.

Q You didn't talk with him at all Sunday after supper?

A No.

Q Were you upstairs when he was upstairs?

A I went up after my brother came down.

Q What did you go upstairs for?

A I was going to see if he was all right. To see if he went to bed.

Q Did Mr. Rey talk to you then?

A No.



Q Didn't say anything to you. Was he in bed?

A He was sitting on the bed.

Q And you went downstairs again?

A Yes.

Q There wasn't anything said between you and Mr. Rey at that time?

A No.

CROSS EXAMINATION  
By Mr. O'Connor

Q Did anybody ask you to go up and see if Mr. Rey was in bed?

A No.

Q You just did that yourself?

A Yes.

Q Do you remember me being at your home with Mr. Bouker, the Sheriff?

A Yes.

Q And talking with me at that time?

A Yes.

Q About going upstairs with Mr. Rey? Now at that time you told me that when you went up went up near the top of the stairs and were looking at Mr. Rey, that after while he turned and told you to go down or he would shoot you. Was that a mistake?

A Yes.

Q That was not right?

A No.

Q So Mr. Rey didn't say anything to you at that time?

A No.

Q Is that right?

A Yes.

Q You just simply went up to see if Mr. Rey was all right and to see if he was in bed?

A Yes.

Q How long did you stand up there watching Mr. Rey?

A I just went up there and came down again, in two minutes.

Q At that time Mr. Rey was sitting on the edge of the bed?

A Yes.

Q Do you remember how long it was after you came downstairs that Mr. Rey came downstairs?

A About 15 minutes after.

Q Did you talk to Mr. Rey when he came downstairs?

A No.

Q What time did you go to bed that night, do you remember?

A About eight o'clock.

Q And did you talk to Mr. Rey at any time after you came downstairs and before you went to bed?

A No.

Q Did you notice your brother Plus talking to him?

A No.

Q Or any of the other children?

A I guess my sister was.

Q Which sister?

A Cecilia.

Q You were in bed at the time your father was shot.

A Yes.

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DR. GALE W. HUBER, called on behalf of the  
State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
by Mr. Radcliffe:

Q Dr. Huber, you live in Minocqua, don't you?

A Yes sir.

Q You are practicing medicine in Minocqua, and surgery?

A Yes sir.

MR. O'CONNOR: Qualifications admitted.

Q On the night of November -- December 20th last, were you called to the residence of one Michael Duval?

A Yes sir.

Q What did you find when you got there?

A I was called by telephone, they not having any phone, to come to Woodruff and they would show me the way out there. I got there and they told me - I think the son of the man rode out with me in the car. He said that his father was shot. I got upstairs and it was quite a large room in a newly constructed building. I asked "There is the man". In one corner I saw a man on the floor. I thought probably that was the man that was shot. He said, "No, he is over here in bed". I went over to the bed-side of the man that was shot. The man said, "They got me. I am shot". I looked at him and found three penetrating wounds; one on the right side between the second - I think it was the second and third rib and above the nipple, and two wounds about - the first one was about two inches to the left and

about an inch and a half below the umbilicus. The other one was about four inches to the left of the umbilicus. The man was in complete shock;- rapid, weak pulse; palor.

THE COURT: The particular condition is not important. I think there will be no dispute about these shots causing death. You don't need to go into this particular description.

Q Did you have any occasion that evening to examine the defendant here, Charles Rey?

A Yes.

Q Did you talk with him in any way?

A Yes sir.

Q Did he seem to know people around there?

A He knew what his name was.

Q Did he know where he was staying?

A I didn't ask him that.

Q He didn't mention Duval's people?

A Why, yes, he knew Duvals. He knew it was Duvals.

Q He mentioned some of the Duvals to you at the time, did he?

A Yes sir.

Q Did you examine into his physical condition at all?

A I looked at the man because I was the first one there and I didn't think Mr. Duval would live very long, the condition he was in; and therefore I asked "Where is the man that done the shooting?" And they told me "This is the man here", pointing to Mr. Rey. He was sitting on the corner on the floor. So I wanted to find out and I had them bring Mr. Rey up and asked Mr. Duval - I asked Mr. Duval if this was the man that done the shooting. He said it was. I asked Mr. Duval what his name was. He said

"Charles Rey". Where did he live? He said, "Marshfield, Wisconsin". "How long have you known him?" I think he told me 13 years. Then I asked him if they had any trouble. He said "No". "Any trouble over financial matters, or any physical fight, or any trouble with the family?" He said absolutely they were ~~was~~ very good friends. I found Mr. Rey - well Dr. Oldfield described him.

Q Did he realize that you were there, doctor, or didn't he know that?

A Yes, I told him.

Q Did he ask you whether you were a doctor or not?

A No, he didn't ask me.

Q Did you notice anything peculiar about his mental condition at the time? Did he act intoxicated or as though he was out of his head?

A He did.

Q What were his symptoms?

A Well, in the first place his mind seemed a little unbalanced. His recollection was poor. He didn't seem to know what had happened, because I asked him if he shot the man. He said he didn't.

Q He said he didn't shoot him?

A Yes. His orientation was poor as to where he was. His memory was somewhat impaired. He reminded me of a man who had been drinking.

Q Could it have been produced by the condition of his head?

A It could be.

Q He was sufficiently hurt in the side of the head that it could have produced this mental state, could it?

A Yes sir.

Q What made you think he had been drinking?  
A I could smell it on him - his breath - the odor.  
Q It was moonshine odor, was it?  
A Smelled to me like that.  
Q There is hardly any mistaking the smell, is there?  
A Not very much.  
Q And the combination of moonshine and hitting his head - his head being pounded or hit against the building, could have produced his mental condition at that time?  
A Yes sir.

CROSS EXAMINATION  
By Mr. O'Connor

Q What would you say as to him having a realizing sense of what had occurred, and the seriousness of it?  
A When I first got there I don't think that Mr. Rey realized what had happened.  
Q I think you just testified that he denied that he was the one that shot Duval, when you first talked to him about it?  
A Yes sir.  
Q You talked to him later in the evening, didn't you, at Johnson's restaurant?  
A Yes sir.  
Q And that that time, I believe, after others had talked with him, when you questioned him, there was some idea in his mind was there, as to Duval?  
A There was.  
Q What was it he said at that time in Johnson's restaurant

as to this affair when he was told he had shot Duval?

A On the way down to the hospital - this must have been, I should say two hours, may be two and a half hours afterwards, I stopped into the restaurant, and Mr. Rey was sitting on a chair there. And he got up and came toward me. I didn't go way to him. And he asked me how Mr. Duval was. And I said he was quite serious. He said he would like to see him. I said he was quite serious. He said, "I would like to shake hands with him and tell him he is my best friend.

Q When you first got to Duvals and saw what condition Mr. Duval was in, what did you do to care for him?

A As I have already stated, after examination I found him in a state of ~~sheek~~ shock. I immediately asked for some hot water bottles - something hot. Not having anything there we finally got, I think, 10 or 12 bricks, which we heated upon the stove, wrapped up in paper, and put them about him, and more covers -

THE COURT: I don't think we should go into that.

Q This is the thing I am interested in. Did you at that time give him a drink of anything in the way of intoxicating liquor?

A Yes sir.

Q Where did you get that?

A I asked for it.

Q Who gave it to you?

A I don't recollect exactly the person that brought it up to me. I said, "Have you got any intoxicating liquor here?" They said they had. I said "I need some. I want to make a hot drink." And they brought me up some liquor.

Q What kind of liquor was it?

A I am ~~not~~ no judge of liquor. I should judge it was moonshine.

Q What did they bring that to you in?

A In a beer glass.

Q About how much was there in the beer glass, would you say?

A I would say there must have been eight ounces.

Q Half a pint, that would be?

A Yes.

Q Do you recall whether that was Mrs. Duval, or the daughter, or one of the children?

A I do not recall who went and got the liquor or brought it up to me.

Q Do you recall talking to me about this shortly after, on the day of Duval's burial - I think that was December 29th - there in Minocqua? In the pool hall?

A I recall talking to you, yes.

Q Do you recall that at that ~~time~~ time you told me that the person who brought to you this moonshine was this girl?

A I think it was the girl. Mrs. Duval was on the bed with her husband.

Q At the time that Duval was talking to you, when you saw him at the house, after the shooting, did he realize that he had received his death wound and would die?

A I impressed that fact on him.

Q After having impressed that on him did he say to you that he and Rey had always been the best of friends, and that Rey had given to him, and also to his wife, \$5 apiece for Christ-



mas presents?

A Yes sir.

Q Did he say that he didn't know, or couldn't think of any reason, or any cause, why Rey had shot him?

A Yes sir.

Q In fact he was very much astonished, wasn't he?

A Yes.

Q He said he had known Rey for about 13 or 15 years?

A Yes.

Q And they had always been and were the ~~best~~ best of friends?

A Yes sir.

Q Did he tell you that there had been any dispute over money or over the card game?

A Yes sir.

Q And that there was no grudge of any kind between them?

A Yes sir.

Q And that there was no business matters of dispute between them?

A Yes sir.

Q What impression was made on your mind by the condition, manner, action, expressions, and conversations you observed and heard of Mr. Rey, as to his mental condition?

A Impression on my mind?

Q Yes.

A The impression on my mind was a partial amnesia. there which could be due either to ingestion of too much moonshine or due to concussion as the result of the pounding he had upon the right side of his face.

Q Also to both?

A Yes sir.

Q At that time what would you say as to Rey having a realizing sense of what had occurred, and of the seriousness of it, and of his liability to punishment. Did he, or did he not?

A The realization?

Q Yes.

A It was impaired.

Q No, did Mr. Rey at that time that you saw him have a realizing sense?

A Right at that time?

Q Yes. Of what had occurred, and of the seriousness of it, and the probable consequence to him?

A Not fully.

Q Isn't it a fact that he didn't seem to realize anything at all excepting as you kept questioning him and pounding it into him, and bringing his attention to the matter?

A He didn't seem to realize what had happened before or immediately after the shooting.

RE DIRECT EXAMINATION  
By Mr. Radcliffe

Q Were you there before the shooting, Doctor?

A Well, I asked him some questions regarding what happened before this occurred. They were all telling me what happened there.

Q You didn't see him before the shooting.

A No sir.

Q You have no knowledge of your own what his mental condition was up to the time you saw him?

A I have none.

Q The only thing that you would know about his mental condition is what he told you about it-

A By questioning him there right after the shooting.

Q He partially, at least, understood what he did, didn't he?

A The only partial realization was when I asked him his name, and where he lived, how old he was; but as far as shooting the man, he denied shooting him.

Q Did he admit it later on in the night?

A He admitted it later when we were in Woodruff.

Q He admitted the shooting there?

A Yes.

Q And said he had shot him?

A In self defense.

RE CROSS EXAMINATION  
By Mr. O'Connor

Q In Woodruff didn't Rey say this: "They tell me I shot a man. If I shot any one I did it in self defense. They must have done something to me to make me shoot him."

Isn't that what he said?

A He didn't say that to me.

Q You wasn't present when he said what I quoted?

A No sir.

EXAMINATION BY MR. RADCLIFFE:

Q Isn't this about the substance of what he said, that he shot the man to save his own life, or words to that effect?

A No, he said in self defense.

THE COURT: Dr. Studley, is there any question you would like to ask Dr. Huber?

DR. STUDLEY: No.

THE COURT: Dr. Huber, directing your attention to the time when you saw Mr. Rey at the restaurant, at Woodruff, when you had started on the way to the hospital. Just tell us what occurred when you came in and saw Rey in the restaurant. What occurred between you and him.

A He was sitting in a chair in the rear part of the restaurant. I didn't walk away up to him. I was practically the distance I am from you. And he got up out of the chair and walked this way. I was standing about that distance away. He came up and I asked him if he shot Mr. Rey. He said that he did, in self defense. Then he asked me "How is Mike?" I said, "He is quite serious". He said, "I would like to speak to him." I said "His condition is too bad". He said "I would like to shake hands with him and tell him I am his best friend."

(Recess for 10 minutes)

EXAMINATION BY MR. RADCLIFFE:

Q We have heard this word "amnesia" mentioned several times, and I, and no doubt the jury, would like to know what that word means.

A The meaning of the medical term, "amnesia" is loss of memory.

And I stated that Mr. Rey had a partial amnesia there and due to a dazed condition the result of either drinking or symptoms of concussion from the injury he had to his face.

Q Did you notice any evidence of insanity?

A No, I didn't notice any evidence of insanity.

Q Either at the time you saw him at the house or at the restaurant?

A No.

Q His condition was partial loss of memory, due, as you say, to either drink or shock or both?

A Or both.

RAYMOND DUVAL, called on behalf of

the State, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. Radcliffe:

Q You are a son of Michael Duval?

A Yes sir.

Q You have heard the testimony that has been given here?

A Yes sir.

Q Were you at this house called the new house on Sunday evening, December 20th?

A Yes sir.

Q How long have you known Mr. Rey?

A Several years.

Q Has he been a friend of the family?

A Yes sir.

Q Called on you at various times in Marshfield?

A Yes sir.

Q When you lived there?

A Yes.

Q When did he come to your house?

A On December 19th, in the afternoon.

Q Was he sober when he came?

A Yes sir.

Q Knew all of the members of the family?

A Yes.

Q Slept Saturday night in the old house?

A Yes sir.

Q Did you notice anything peculiar about him at that time?

A No sir.

Q Saturday night did you notice anything peculiar about him?

A No sir.

Q Did he make any remark Sunday morning that would cause you to think that there was anything wrong with him?

A He was talking about that chimney there - that there should be another hole up further to get more draft, the only thing I heard.

Q Did he know you, and call you by name?

A Yes sir.

Q Sunday?

A Sunday, yes sir.

Q Were you talking with him Sunday evening?

A Sunday evening, yes.

Q After you had had your supper?

A After I had my supper I went up town with my father.

Q When you came back from town what did you do?

A Played a little game of cards.

Q Did he know you then?

A Yes sir.

Q Called you by name?

A Yes sir.

Q What were you playing?

A Penny ante.

Q How long did you play?

A I was in the game till the end, about 20 minutes.

Q They only played all told, about 20 minutes?

A About 20 minutes.

Q How did the game happen to break up?

A Well, Jack Bousha got up first. He didn't like to play, and he started with his guitar. And then we didn't play no more then neither. About five minutes afterwards we all quit. My father took his violin and started in playing.

Q Was there any misunderstanding about the game?

A No sir.

Q Was there any misunderstanding about the value of the chips?

A Well, either chips was a penny.

Q How?

A Chips were a penny. He was going to makè it a dollar.

THE COURT: Who?

A Charles Réy.

THE COURT: I diin't understand that. He was going to what?

A He was going to call those chips a dollar.

Q Was there much of an argument about it?

A No sir. Nothing at all.

Q He said the chips should be a iollar instead of a penny?

A Yes.

Q The argument was soon settled?

A Yes.

Q And in fact it didn't amount to much.

A No, it didn't amount to nothing at all.

Q What did Mr. Rey do after the game broke up?

A He set there a little while on the chair by the table, and then he walked upstairs. Gust showed him the light.

Q How?

A Gust took the light up with him. He set on the bed there may be five minutes - five or six minutes, and down he came.

Q Are you sure it wasn't one of your brothers that took the light up?

A Not then, before that.

MR. O'CONNOR: I understand from this testimony that Rey went upstairs with Gust. You are testifying to what Rey did upstairs. You didn't see that.

A I did when I came home. I went upstairs myself.

MR. O'CONNOR: Not at the time Gust took him up.

A No sir.

THE COURT: He hasn't testified to anything that was done upstairs.

EXAMINATION RESUMED

B' Mr. Radcliffe:

Q Did you go upstairs while Mr. Rey was up there?

A When I came home from town, yes.

Q He was still upstairs?

A Yes.

Q How long after you came home from town did he come down?

A I went right upstairs after I came home, and I told him about these people coming to see him, and he came right down may be 10 minutes or so.



Q That was when the card game took place?

A Yes. They played a while before though.

Q Before you came home?

A Played fiddle. Violin, after they came home. They didn't play cards right away.

Q They did some playing before they started the card game, is that it?

A Yes.

Q And then the card game broke up?

A Yes.

Q And they played some more?

A Yes.

Q After the card game broke up what did Mr. Rey do?

A Set there a little while and then he wanted to go upstairs. Gust showed him a light upstairs.

Q How long did he stay?

A Upstairs?

Q Yes.

A About 5 minutes.

Q And then he came down?

A Yes.

Q What happened after he came down?

A He done the shooting.

Q What did ~~he~~<sup>you</sup> do when he was shooting?

A I grabbed him after the second shot.

Q How did you grab him?

A Kind of around the back, like that, and held his arm.

Q What next was done there?

A Then my father took the gun away from him and shot in the coal pail. I didn't see him throw the gun in the stove, but afterwards they picked the gun out of the stove.

Q Did you see the gun when it was taken out of the stove?

A Yes.

Q Who took it out of the stove?

A I think one of the Johnsons did.

Q What happened after that?

A Then he went over and hit him.

THE COURT: That is, your father hit Rey?

A Yes.

Q How many times?

A Three times, I think.

Q Did Rey fall in the corner?

A He fell down, yes.

Q Did he hit him when he was down?

A No.

Q Was Mr. Rey drunk at that time?

A I didn't notice it on him. Didn't notice anything.

Q Had he been drinking?

A Not that I know of.

Q You would have known something about it if he had been drinking to excess, wouldn't you?

A I didn't see any of it.

Q Did you go after the doctor?

A Yes.

Q Did you see Mr. Rey after that time?

A When I came back with the doctor?

Q Yes.

A Yes.

Q Did he know you at that time?

A He didn't say nothing to me.

Q Did you see him in town?

A No, I didn't.

Q When was the next time you saw him after that?

A I haven't seen him since. This is the first time here now.

CROSS EXAMINATION  
By Mr. O'Connor

Q Ray, you say you didn't see Mr. Rey doing any drinking when he was at your home, on Saturday or Sunday?

A No, I didn't.

Q Did you do any drinking yourself?

A No, I didn't.

Q You do occasionally take a drink, don't you?

A Yes, once in a while.

Q Sometimes drink quite a little, don't you?

A Oh yes.

Q Yet on this occasion when Mr. Rey was there to visit you, and on the Sunday evening when your friends came out from town to have the music, you say that you didn't drink anything?

A No sir.

Q And Rey didn't drink anything?

A I didn't see him drink any.

Q You didn't see anybody else drink any. Is that it?

A No, I didn't. We had a couple of bottles of home brew; that is all we had.

Q So you did drink some home-brew?

A Yes.

Q From the time that Rey came to your house on Saturday, did he stay around there with the family until this shooting?

A I remember he came over to the new place first-

Q I know. But he stayed with you people there at the two places from the time he came until the shooting?

A Yes sir.

Q And the only time that you were away during that time was when you and your father went to Woodruff?

A I went up town Saturday night too.

Q And then you and your father went away Sunday night for a little while?

A Yes.

Q To Woodruff and back?

A Yes sir.

Q Was that the only time that your father was away from there while Rey was there during those two days?

A Yes sir.

Q Could you smell moonshine on Mr. Rey at any time while he was there?

A No, I didn't.

Q You say you have known Rey for how many years?

A Several years.

Q You have known him ever since you moved to Marshfield, didn't you?

A Just about.

Q And your father said he knew him 12 or 15 years. Do you know whether he knew him before he moved to Marshfield?

A I think he did.

Q Had your father been in Marshfield before the family?

A Yes, he hauled cheese to town every other day.

Q You say you think Mr. Rey was sober?

A Yes sir.

Q You had seen him on a number of other occasions, hadn't you? On a number of other occasions than Sunday night?

A Yes.

Q Do you want the jury to believe that to you Mr. Rey appeared at the time of this shooting as he had on those other occasions when you saw him?

A He was sober then, I know that.

Q Answer the question please.

A I didn't get what you said.

(Last question read)

A No.

Q What was the difference in Ray's appearance at the time of the shooting and on the other occasions when you saw him?

A There was no difference that I could see.

Q I thought you just answered that you didn't want the jury to understand that.

A I didn't understand right.

Q You think that Rey appeared to be just the same - just as sober, and the same kind of fellow, at the time of the shooting and immediately preceding the shooting, that he had whenever you had seen him before that?

A Yes sir.

Q Always looked and acted as he did at that time?

A Always the same as I knew him.

Q Did you ever see Mr. Rey take a drink?

A Yes.

Q Did you ever see him full?

A No, I haven't.

Q About how much home-brew was it you drank that night?

A We had a bottle apiece.

Q Each of you, you mean?

A Yes, had one bottle.

Q When did you drink that?

A During the card game.

Q At the time that Sheriff Bouker and myself was at your home on January 2nd, do you recall you and your mother talking to me about this shooting, and about Rey?

A Yes.

Q At that time didn't you say to me, in the presence of Sheriff Bouker, that Charley Rey acted queer, and talked queer all that afternoon?

A Why, he did there once, talking about that chimney. That is the only time I heard him.

Q Your answer was that you did, is that it?

A Yes.

Q And then when I asked you what was it he did, and what was it he said that made you think that he was acting and talking queer, then didn't you reply, pointing to this chimney, which is three stories long, from the basement up to the roof, "Why, he wanted my father to tear that chimney down and build a little chimney over here and put a little hole in it here?"

A Yes; sir.

Q Didn't you at that time to my further questions say, "Well, he talked queer all the time". Isn't that a fact? When the Sheriff was there?

A Might have said it. I don't remember.

Q Didn't you at the time that I was talking to your mother, when she said that Rey must have gone crazy, didn't you also say-

A Yes.

Q That he must have gone crazy?

A Yes.

Q So that at that time you thought that the reason that Rey had shot your father was because Rey had gone crazy?

A That is what I thought.

Q You knew what the family relations were to Rey, and that was talked of, wasn't it?

A Yes.

Q Of course they had always been so strictly pleasant and no known cause for this terrible thing to have happened, you and your mother explained it only because you thought he must have gone crazy. Is that so?

A Yes sir.

Q Did you hear your mother on this same occasion when Mr. Bouker was there, in talking with me say that Charley acted queer all that day?

THE COURT: That would be hearsay, wouldn't it? That you might use in impeachment of her. I think you asked her about that. I don't think this would be competent.

Exception.

GUST HANSON, called on behalf of the  
State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. Radcliffe:

Q Mr. Hanson, you were working for Mr. Duval the 20th of  
last December?

A Yes sir.

Q How long had you worked for him?

A Four months and a half.

Q Did you come from Marshfield with Mr. Duval?

A Yes.

Q What were you doing?

A Doing carpenter work. Helping him on the building.

Q Building the new house?

A Yes.

Q How long have you known Mr. Duval?

A About two years, something like that.

Q Do you know the defendant?

A Yes.

Q How long have you known him?

A Something like that.

Q Something about the same length of time?

A Yes.

Q Did you see him when he came to Duval's, Saturday night?

A Yes.

Q Did you notice anything peculiar about his actions?



A No, I didn't.

Q Or his looks?

A No.

Q Did he appear the same as he had always appeared to you?

A Yes.

Q Did you see him on Sunday, the next day?

A Yes.

Q All day?

A Not all day.

Q You saw him several times during the day?

A Yes.

Q Was there anything unusual about his actions or appearance or talk?

A No.

Q Appeared the same to you as he had always appeared, had he?

A Yes.

Q Was he drunk during that time?

A No, I didn't see nothing on him.

Q Were you there in the evening?

A Yes.

Q Before the shooting took place?

A Yes.

Q Did he know you?

A I didn't talk to him in the evening.

Q When was the last time you talked with him?

A Before supper.

Q Did he know you at that time?

A Yes.

Q Call you by name?

A

A No, he didn't call me by name, but we talked together.

Q Were you talking about Marshfield?

A Was talking about the building. We didn't talk much there.

Q Did he tell you he was afraid to sleep in the old house?

A No.

Q Tell you that there was anything wrong with the chimney?

A No.

Q Did you hear him tell anybody there was?

A No.

Q Did you ever hear him and Mr. Duval have any altercation, or words, or dispute?

A No, I never did.

Q Everything was always friendly between them?

A Yes.

Q Did he say in your presence why he shot Mr. Duval?

A No, he didn't.

Q Did you talk with him after the shooting?

A After the shooting?

Q Did you talk with Mr. Rey after the shooting?

A Yes, I did.

Q What did he say about it?

A He said I hit him there. He pointed up there in his face. He said, "You hit me there".

Q Was that all of the conversation you had?

A Yes, that was all.

Q Did you see him when he came downstairs with the gun?

A Yes.

Q Did you see the gun in his hand?

A No.

Q Where was the gun? In his pocket?

A I guess it was in his pocket. I was behind when he walked by me. I didn't see the gun at all.

Q You saw him shot though?

A Yes.

Q How many shots were fired?

A Two shots.

CROSS EXAMINATION  
By Mr. O'Connor

Q Were you away from Duval's house after supper on Saturday evening?

A Saturday evening?

Q Yes.

A From the old house?

Q Yes.

A Yes.

Q Downtown, were you?

A No, we was moving furniture down to the new house.

Q No, on Saturday.

A On Saturday?

Q Yes.

A Oh yes. Yes, I was down to the new house a while.

Q Did you go away from Duval's Saturday evening after supper?

A No.

Q Stayed there after supper and all night, did you?

A Yes.

Q Then what time was it you went away from Duval's house on Sunday?

A I didn't go away Sunday either.

Q I understood you to say you wasn't there all the time on Sunday.

A Not in the new house. We was~~x~~ moving the furiture from the old house down.

Q So you were between the two places on Sunday too?

A Yes.

Q You are a man who takes a drink once in a while, aren't you?

A Yes.

Q Sometimes take several drinks, don't you?

A Sometimes.

Q Sometimes get pretty well lit up?

A Oh no.

Q Let,s have the facts.

A No.

Q Have you reformed since you came from Marshfield?

A Yes.

Q Do you remember seeing me on the day that Mr. Duval was buried, in John Bousha's place?

A No.

Q Don't you remember me being in John Bousha's soft drink place there in Woodruff after Duval's funeral and talking with yourself and Raymond Duval?

A Yes.

Q You were pretty well "organized" at that time, weren't you?

A No, not at that time. I can remember you all right. You was talking to Raymond. You didn't talk much to me.

Q Well, I talked to you first?

A Yes.

Q And then Ray came.

A Yes.

Q You want us to believe that on Saturday and Sunday you, a man who drinks to some extent, didn't have anything to drink, or that no one else had anything to drink around Duval's house on that Saturday afternoon or Saturday night or Sunday, or Sunday night; is that so?

A No, I didn't see any. I was working all day. I didn't pay no attention to what they was doing.

Q Why, if Rey was sober and all right, was it necessary for you to go upstairs with him to show him around?

A Well, he wanted a light up there.

Q The light was up there, wasn't it?

A Not when I took it up. I took it up myself. It was standing on the floor upstairs. We didn't have much light in the house then.

Q Why couldn't he take it himself?

A I suppose he could, but I showed him the room. He didn't know where the bed was.

Q There wasn't but one room there. The whole upstairs was in one room.

A Yes.

Q You had been up there before that evening?

A Yes.

Q Still you thought it was necessary for you to go and see that he got up there all right?

A Yes.

Q Yet you say he was perfectly sober and all right?

A yes.

Q What is your work at Duvals at this time?

A Well, we was laying the floor there. Laid the floor there.

C No, right now. What is your work around there.

A Right now we didn't do anything. Waiting for this trial.

EXAMINATION BY THE COURT:

Q Did you see Rey when he came downstairs just before the shooting? Were you looking in his direction?

A I was looking the other direction.

Q How soon did you see him after he came downstairs?

A I seen him when he passed me. I was standing about five feet from where Mike was playing the fiddle.

Q He passed by you?

A He passed by me.

Q Yiu saw him then?

A Yes.

Q After that did you see him?

A Yes.

Q Did you see him right at the time of the shooting?

A Yes.

Q Did you see his face?

A No.

Q What part of him did you see?

A I see his back.

Q When he passed by you just before the shooting did you see anything strange about his face?

A No, I didn't look at his face.

Q Couldn't tell whether he was pale or not?

A No.

Q Did you see him right after the shooting?

A Yes.

Q How did he look then?

A Right after the shooting?

Q Yes.

A He had blood on his face. I didn't pay much attention to it.

Q You didn't notice until after he had been bruised up.

A No. I seen Mike hit him a couple of times there.

Q Didn't you see Rau just before Duval hit him?

A Yes.

Q How did he look then?

A Well, I didn't see his face. I seen his back only.

CROSS EXAMINATION RESUMED

By Mr. O'Connor:

Q You know, do you not, that the first time that Ray went upstairs after supper was the time that little Pius Duval went up with him, don't you?

A No, I don't.

Q Didn't you tell me that over there last Sunday?

A No, I didn't tell you that. I didn't see them go up. I didn't see the kids go up at all.

Q Let's think about it. I was in the Duval home Sunday with Charley Crofoot, the undersheriff from Rhineland?

A Yes.

Q And you told us then about taking Ray upstairs the last time he went up before the shooting occurred, didn't you?

A Well, what they was talking. I didn't see it. I didn't see the kids take him up there.

Q Didn't you tell me when Charley Crofoot and myself was in

Duval's house last Sunday, that you were the one that took Charley Rey upstairs the last time he went upstairs?

A Yes.

Q And just before he came down and did the shooting?

A Yes.

Q Then didn't you say that the other time when Pius took him up was early?

A No, I didn't.

Q Didn't you tell us that Pius Duval went up with Charley Rey and stayed up there for a few minutes, and then came down, and that Charley Rey was upstairs for about five minutes that time?

A No?

Q And then came down and stayed around for about an hour, when you took him up. Didn't you tell Mr. Crofoot and myself that?

A No.

Q Right there where all the family was present?

A No.

Q How many times did Charley Rey go upstairs that evening, to your knowledge?

A I don't know. According to what they said-

Q No, according to what you yourself saw.

A I saw him only once.

Q That is the time you went up?

A Yes.

Q You were around there all the time, though?

A No, not all the time. We straightened the furniture around - getting the furniture out of the cellar.

Q You had to go into this-



ground floor room by going up through the cellar, didn't you?

A Yes.

Q Did you think that Mr. Rey acted this time immediately before the shooting just the same, and looked just the same, as he had always looked and acted when you were around where he was?

A Always the same to me.

Q You knew him some two or three years, you say?

A Yes.

Q Have you ever seen him when he was drinking?

A No.

Q Did you ever know him to be in any trouble of any kind?

A No.

Q Did you ever hear him use a cross word to any one?

A No.

Q My memorandum shows that you told me last Sunday in Duval's house when Mr. Crofoot was present, "I went up with him to see that he made it all right, because he might fall down". Did you say that?

A Yes.

HERBERT BOUKER, called on behalf of the  
State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. Racliffe:

Q Have you ever been to this Duval house where the shooting  
took place?

A Yes sir.

Q Is that in Vilas County?

A Yes sir.

CROSS EXAMINATION  
By Mr. O'Sonnor

Q Mr. Bouker, you are the Sheriff of Vilas County?

A Yes sir.

Q And on the night of Sunday, December 20th, you went with  
Howard Clmsted to Woodruff, on the call of the Rhinelander,  
or Oneida County officers, did you?

A Yes sir.

THE COURT: You are going on to another subject. If  
there is any one else you want to get through with you better  
call the others.

STATE RESTS.

.....

FRED JOHNSON, called on behalf of the  
Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. O'Connor:

Q Mr. Johnson, you live in Woodruff?

A Yes sir.

Q You are in the garage and restaurant business, are you, there?

A Yes sir.

Q Mrs. Johnson, your wife, is the Postmistress?

A Yes sir.

Q Are you an officer?

A No, I am not. Only when it comes so that I can help any  
of the boys-

Q I didn't know whether you were a constable there, or Deputy  
Sheriff?

A No.

Q You have a telephone there in your restaurant?

A Yes sir. And a garage also.

Q You heard on the night of Sunday, December 20th, of the  
shooting of Mike Duval, did you?

A I did.

Q Who told you about that, if you remember?

A Well, I wouldn't say for sure. I think it was Jack Bousha.

Q Did you and your brother Roy drive out to Duvals?

A We did.

Q When you got to Duvals what did you find? Who did you

find there?

A In the house?

Q Yes.

A Well, there was Mr. Duval, Dr. Huber, Gust Hansen. I wouldn't say for sure, but I think Hanson was there at the time; and the Duval family.

Q Mrs. Duval and the rest of the children?

A Yes. The Duval family.

Q Do you know how long before you reached Duvals that Dr. Huber had reached there?

A It was a very few minutes.

Q They just got in shortly ahead of you.

A Yes, just shortly ahead.

Q Where was Mike Duval at the time you got there?

A At the time I came into the building he was on the bed, laying to the left of the basement stairway as we went up. Would be to the left. At the head of the basement stairs.

Q And where was Charley Rey?

A He was in the corner on the right hand turning away from the basement stairs, in the right hand opposite corner of the room.

Q That would be the southeast corner?

A Yes.

Q There is a door going into that house on the east side near the north end or wall?

A That I couldn't say.

Q You went up through the basement?

A And came out.

Q And turned around to the right?

A Yes.

Q When you were facing toward the lake when you got up and turned around?

A Yes.

Q The lake is generally a southerly direction from the house.

A Yes.

Q Would this be in the southeasterly corner or northwesterly corner?

A Southeast, wouldn't it?

Q You say he was on the floor?

A He was. Set with his left foot under him in that position.

(Indicating)

Q Back up against the wall?

A Back up against the wall, in the corner.

Q What was his appearance at that time as to being bruised up or bloody?

A He was all bloody. And there was blood on the floor.

Q You say your brother Roy was with you?

A Yes sir.

Q I understood you and your brother Roy picked him up?

A We did.

Q Did you say anything to him before you picked him up?

A I says, "Come on and get up". I took hold of his right arm and Roy took hold of his left arm. He was facing us.

Q Did he say anything to you at that time.

A He said when we first took hold of him, he says, "Don't hit me, I am an old man".

Q Did you stand him up?

A I did. That is we did.

Q And then what did you do with him?

A Well, I went through his pockets like and ~~it~~ took some two

two little pocket books with some silver in. One of them contained about \$6 and the other one something like \$5, or something like that. I forget just exactly what there was in it. And a pocket knife and a bunch of keys.

Q Little matters.

A Little stuff, that was all.

Q Was it at that time you found on his person a bottle of moonshine?

A Yes sir. Not at that time right there, no. Later on.

Q The time you are talking about, was that the time that Rey was taken over to where Duval was and questioned by Dr. Huber?

A Yes, right at the time, yes.

Q Did you, or your brother Roy in your hearing, question Rey? As to this shooting, there in the house?

A We did not.

Q What did you do?

A Got him out of there, and got him into a car, and took him to town.

Q Going to the later time. When was it you found on Rey's person this bottle of moonshine?

A When he was in the car as he slid off the back seat. As I reached my hand under. He was in a Ford sedan. As he slid down in the back seat that way the bottle dropped there. That is, I suppose it came off his person because I didn't see the bottle before.

Q Whose car was that?

A Chelsea Treat's, the mail man's car, that brought Dr. Huber over there.

Q What was in this bottle?

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A I suppose it was moonshine. I never tasted it.

Q It looked like moon?

A Yes.

Q What did you do with it?

A I set it in the garage; intended to go back after it and get it. When I went back to get it it was gone.

Q Did you try to do any talking to Rey while riding into Woodruff?

A No.

Q Who was sitting in the seat with Rey?

A No one.

Q He was in the back seat alone?

A He was in the back seat and I sat on the top of the seat, in a Ford sedan, facing Mr. Rey. Mr. Chelsea Treat drove the car to town.

Q While you were sitting in that position did you hear this bottle drop?

A When he slipped off the seat was the first I heard the bottle and got hold of the bottle.

Q When was the first time that you talked to Charley Rey?

A At Duval's home.

Q I mean after taking him away from Duval's home.

A Well, at the restaurant there is the first time I tried to talk to him at all.

Q That was at your restaurant?

A Yes sir.

Q And at that time what did you say to him?

A Well, I asked him, I believe, the first thing was who he was. I tried to find out what his name was, or who he was,

and he told me that his name was Rey - Charley Rey. And questions of different angles of that kind is what I tried to find out from him.

Q Did you talk to him at all about this shooting?

A I asked him if he shot this man, and he said "No".

Q Isn't it a fact that there were others around, and you people kept pounding that way at this man and told him that he had shot Duval, and things of that kind, after you got him in the restaurant?

A He wanted to know afterwards - he wanted to know if he had shot anybody. He asked that question himself. I don't know whether I myself said "Yes". He wanted to know who. I told him Duval. He said, "Mike Duval"? I said yes. He says, "I hope he don't die". And followed along that line. In fact I don't know just word for word.

Q Did you stay with Rey after you brought him into the restaurant, or was your brother Roy in charge of him?

A I stayed with Rey there except for a few minutes that I was in the other part.

Q Isn't it a fact that for quite a little time no one could make Rey understand that he had shot any one?

A Yes, and keep him in that idea.

Q When you did make him understand, then is when he began asking these questions?

A Why, yes. He asked the same question. And then in a few minutes he probably tell you a different story altogether.

Q He didn't seem to be very clear in his statements, is that it? Contradictory?

A Yes.



Q First one way and then the other?

A Yes sir.

Q How long were you in the presence of Ray that evening? How long did you have Ray around where you were?

A Well, I should say pretty close to four hours.

Q And during all of that time there was more or less talking to Ray and talking by Ray, was there not?

A Yes there was.

Q Referring to that time there in your restaurant when you and Ray were together. What impression was made upon your mind by the condition, and the actions, and manner and expressions of and the conversation you had with or observed Ray having?

MR. PADCLIFFE: I object to that.

Objection overruled. Exception.

A It was just a study with me. I didn't get it myself really clear.

(Last question and answer read)

EXAMINATION BY THE COURT:

Q What impression did all of these things make upon your mind in regard to his mental condition?

A Well, I would say that the man was at that time radical; off his base; a little slip of the trolley, or something that way. I don't know just how to put it.

Q He was not normal, you mean?

A The only way I could put it, he wasn't all there.

Q That means the same as not being normal - not being quite the same as natural.

A No, he wasn't the same as natural. Of course, I never met

the man before in my life until I met him in that place.

Q At that time was he suffering from bruises on his head?

A Yes.

Q Considerably bruised on his face, was he?

A On the right side. On the right side of his face. The right eye was swollen shut, if I ain't mistaken.

Q Had he been washed by that time?

A No. All blood on his hands and on his face and on his head and on his shirt.

EXAMINATION BY MR. O'CONNOR:

Q Was there any odor of whiskey or moonshine about Rey at this time - any smell of it?

A No, I couldn't say that there was really any smell of moonshine on him, for there was so much - well, he was in such condition that you couldn't tell just exactly what it was, to tell the truth about it.

Q Do you remember on one occasion that evening saying to Rey, "Yes, you shot Duval", and Rey replying, feeling in his pocket, "May be I did. I had a revolver and it is gone now"?

A I do.

Q That occurred, did it?

A Yes sir. That is how he came to ask me for his vest.

Q Did you hear Duval when he was talking to Dr. Huber, in which he was telling Huber he could not account for the shooting, and so forth?

A No, I did not.

Q While you were in charge of Rey that night, and when you had told him on another occasion than the one I shortly ago referred to that he had shot Duval, did Rey reply, "That

can't be. We are the best of friends. I gave him and his wife each \$5 for Christmas presents."

A Yes sir.

RE

CROSS EXAMINATION  
By Mr. Radcliffe

Q Did you see Mr. Rey before the shooting?

A I did not.

Q You didn't see him before he had the black eye?

A I did not. I never seen the man in my life until I went there and found him in the corner of the building.

Q Did you see this bottle drop out of his pocket?

A I couldn't swear to that. The car was in the dark, and I told you I heard the bottle fall. It could have been possible it could have been on the seat, or could have been in his pocket, or been some place. I would really say it was evident that he had it in his pocket.

Q You think he had it in his pocket.

A I think. I didn't see it.

MR. O'CONNOR: You heard it fall.

A I heard it fall.

ROY JOHNSON, called on behalf of

the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'CONNOR:

Q You are a brother of Fred Johnson who just testified?

A Yes sir.

Q You heard Fred's testimony, did you?

A Yes sir.

Q At the time that you and Fred got out to Duval's home the night of the shooting what was the condition there, and who did you see? Tell it in your own way, as briefly as you can.

A Well the-

Q Saw Duval on the bed?

A Yes.

Q Rey was somewhere else.

A He was in the corner of the building.

Q At the time that you and Fred picked Rey up, as Fred testified to, what if anything was said by Rey to either of you, as you recall it?

A Well, I just helped my brother to pick him off the floor.

THE COURT: Don't go into details. What did Rey say when you picked him up?

A He said, "Don't hit me".

Q Do you recall <sup>him</sup>/saying anything else at that time?

A Well, we picked him up, and he says, "Don't be rough".

Q After you picked him up?

A Yes.

Q Did you have any talk with Rey in the Duval home?

A No, I didn't.

Q As I understand it, you went back to Woodruff in one car, and Fred and Rey and somebody else in another.

A I got Mr. Rey and my brother in one car, getting them out of the building as quick as possible, because I didn't know but what there might be more trouble.

Q Then the two cars went to Woodruff?

A Yes.

Q After you got to Woodruff you saw Rey there in the restaurant, did you?

A Yes sir.

Q During the time that Rey was there in the restaurant for several hours, how much of the time were you around the restaurant where Rey was?

A Not very much.

Q In and out of there different times, I suppose?

A Yes.

Q You were there when the Sheriff came and got him finally, were you?

A Well, no, I wasn't either.

Q You saw Rey's condition?

A Yes sir.

Q And heard his talk, what he had with you, and what he had with others, and the mutterings going on when no one was talking to him, did you?

A Yes sir.

Q You have been living in Woodruff how long?

A I couldn't tell you just the number of years.

Q A good many years?

A Yes.

Q At one time you were a policeman, either over there or some where else, were you not?

A Well, I was a policeman in Minocqua about five years.

Q You have had a good deal to do with drunken men.

A Quite a little.

Q Seen a good many of them batted around?

A Yes sir.

Q Having in mind Rey's appearance as you observed it and dur-

the time after you got to the restaurant and before the Sheriff arrived, what impression was made upon your mind by the condition, action, manner and expressions of Mr. Rey, and by the conversation you had with Mr. Rey, or you observed others having, as to his mental condition?

A You want me to explain that?

Q No, I just want to know what impression it made on you as to his mental condition. Make it short.

A Well-

Q What is that favorite word that they use over there?

THE COURT: We might not understand that. I want him to talk English.

A A little off. Or in other words-

THE COURT: Mentally he was a little off?

A Yes.

Q On the start, and until there was a good deal of talk, did Rey seem to have any idea of what had occurred?

A I couldn't make him believe what had occurred.

Q Were you there when Fred had told him about him shooting Duval, when he searched himself?

A No.

Q Were you there at the time that he denied to Fred, or to any one else, that you have might heard, that he had shot ~~Rey~~ <sup>Duval</sup> and declaring they were the best of friends and giving to Mr. and Mrs. Duval money?

A Yes sir.

Q you heard that?

A Yes sir.

Q Roy, isn't it a fact that all of such talk as that was after Rey had been there in the restaurant quite a long time?

A Yes.

Q And after you and others had been pounding into him the fact that he had shot Rey? *Duval?*

A Yes sir.

Q During that time do you remember when you got Rey to talking that he said, "If I did shoot anybody it must have been in self defense"?

THE COURT: That is very leading, Mr. O'Connor. I will let him answer that, but I don't want you to go on leading.

A He told me that if he shot anybody he must have shot them in self defense.

Q What would you say was the fact as to whether or not Rey was drunk and had been drinking at the time that you saw him?

A I couldn't say as to that. He was in such a condition that I couldn't tell.

CROSS EXAMINATION  
By Mr. Radcliffe

Q Did you see Rey before the shooting?

A I never saw the man till the night when we picked him up there.

Q When you saw him he had a black eye and a bruised face.

A Yes sir.

Q This was after the shooting?

A Yes sir.

Q You saw him out at Duval's house.

A That is when they called me to come out there.

Q Did he know his name in the restaurant?

A Why, he give us his name.

Q Did you hear him say in the restaurant that he was of German-American descent?

A No.

Q Did you hear him say where he came from?  
A He told us his home was at Marshfield.  
Q He was apparently all right in the restaurant?  
A No.  
Q Acted as though he was drunk?  
A He didn't act as though he was drunk, but he didn't act as though his mind was right. Everything was a blank to him.  
Q Some things he was clear on. He was clear on his age, wasn't he?  
A I don't know.  
Q You didn't hear him state what his age was?  
A No.  
Q Do you know whether he stated what his age was in there that night?  
A I didn't hear.  
Q You heard him say what his name was?  
A That is all. I asked him his name, and he give me Charley Rey.

MICHAEL GRIFFIN, called on behalf

of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. O'Connor:

Q Mr. Griffin, your home is in Marshfield?  
A Yes sir.  
Q How long have you lived there?  
A About 45 years.  
Q You are now the Chief of Police of that city?  
A Yes sir.



Q How long have you been Chief of Police?

A About ten years.

Q The last ten years?

A Yes.

Q You are a married man of family?

A Yes sir.

Q You knew Michael Duval, did you?

A Yes sir.

Q You know Charles Rey?

A Yes sir.

Q About how long have you known Charles Rey?

A About seven years.

Q Do you know the kind of a man he is?

A Yes sir.

Q Do you know what his reputation is in the city of Marshfield as being an honest and truthful man?

A Yes sir.

Q What is that reputation?

THE COURT: Wait. That is not the proper question here. You can't bolster up his testimony. You can show that after his evidence has been attacked. There has been no attack on Mr. Rey's truth and veracity thus far. If it is a question of truth and veracity you can't use this testimony now.

Q Do you know what his reputation is as to being a peaceable, quiet, law-abiding citizen?

A Yes sir.

Q What is that reputation?

A Always found him quiet.

Q What is the reputation in the community? What do the people say about him?

A Good.

Q He was a quiet, peaceable man?

A Quiet, peaceable man.

Q Did you frequently see Charley Rey?

A Yes sir.

Q During the time that you have been Chief of Police and been living there?

A Yes sir.

Q Do you know how he stands there with the children?

A Stands very good. Always very kind and good to children. Always see a lot of children around and he would be talking to them.

Q The children all know Charley, do they?

A Yes sir.

Q Is it also true that a great proportion of the children of the city of Marshfield also know old Charley Rey?

A Yes sir, they do. And they all have a kindly feeling toward him.

THE COURT: You are trespassing now. You are going too far.

BY THE COURT:

Q What is Ray's business over there?

A The last year or two years he has been sharpening knives, and shears, and he has also the last year or so added a rigging that sharpens lawn mowers. He sharpens almost any kind of tool you have;- butcher knives and saws.

Q He has a little shop?

A He has a little shop on Central Avenue/

Q Has he any family?

A No sir.

Q Living alone?

A Yes sir.

Q Before he had this shop what else did he do?

A We worked for the city of Marshfield on the street;- sweep-  
ing streets.

JOSEPH GOLDBACH, called on behalf of  
the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. O'Connor:

Q Mr. Goldback, you live in Marshfield, do you?

A Yes sir.

Q You are the present Mayor of the city of Marshfield?

A Yes sir.

Q And this is your second term, is it?

A Yes sir.

Q How long have you know this defendant, Charley Rey?

A About 5 - 6 years.

Q And did you know him when he was working for the city?

A Well, I knew him before - a year or two before, when I  
seen him on the street. But I became more acquainted with  
him after the worked for the city, because then I came more  
in contact with him.

Q Do you know what Charley Rey's reputation is in the city  
of Marshfield as to his being a quiet, peaceable law-abiding

citizen?

A Well, Mr. Charley Rey was always known to be a very peaceable and quiet, and he also had a lot of children around with him. Somehow the children took a liking to him. And he was through the city I must say all those who know Mr. Rey have always had a kind feeling toward him. I myself have had.

THE COURT: What we want to know is simply how he stands,, as to being peaceable and law-abiding. That is the only thing of value here.

MARTIN ADLER, called on behalf of the

Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. O'Connor:

Q Mr. Adler, you live in the city of Marshfield?

A Yes sir.

Q You are now the Street Commissioner of that city?

A Yes sir.

Q How long have you been Street Commissioner?

A Probably ten years.

Q Are you acquainted with Charley Rey?

A Yes sir.

Q How long have you known Charley Rey?

A Nine years.

Q Do you know the reputation of Charley Rey in the city of Marshfield for being a peaceable and quiet law abiding citizen?

A I do.

Q What is that reputation?

A Good.

F..J. DECKERT, called on behalf of the  
Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. O'Connor:

Q Mr. Deckert, you now live in Marshfield?

A Yes sir.

Q And have for how many years?

A About 48 years. In that time I was seven years here, and  
back there again 32 years.

Q At one time you lived here at Eagle River, did you?

A Yes sir.

Q You were appointed by Governor Peck as Register of Deeds of  
Vilas County when it was created?

A Yes sir.

Q You were elected to that office the next year?

A No sir.

Q And then after that you went to Marshfield?

A Yes sir.

Q What is your business in Marshfield?

A Real estate and insurance.

Q Are you acquainted with this defendant, Charley Rey?

A Yes sir.

Q How close to you live to where his place of business is, or  
your place of business to his place of business?

A About 20 feet.

Q You see him frequently?

A Every day.

Q You are very well acquainted in that city?

A Yes.

Q Do you know what Charley Rey's reputation is in the city of Marshfield for being a quiet, peaceable, law-abiding citizen?

A Good.

HUGO MILLS, called on behalf of the  
Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. O'Connor:

Q Mr. Mills, you live in the city of Marshfield?

A Yes sir.

Q How long have you lived there?

A 5 - 6 years.

Q How long have you known this defendant, Charley Rey?

A About nine years.

Q What is your business in the city of Marshfield?

A I had a taxi and Ford rental.

Q You have now sold it?

A Yes.

Q Are you pretty well acquainted in that city?

A Yes sir.

Q Do you know the reputation of Charles Rey in the city of Marshfield as to being a quiet, peaceable, law-abiding citizen?

A Yes sir.

Q What is that reputation.

A He is a very peaceful, quiet sort of a gentleman.

JOHN W. KELLEY, called on behalf

of the Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION

By Mr. O'Connor:

Q You are the District Attorney of Oneida County, are you?

A Yes sir.

Q And you saw and talked with Mike Duval when he was there in the Sisters' Hospital?

A I did.

Q And had a talk with him, and received something in the way of a statement from him, which was intended as an ante-mortem statement made in anticipation of death?

A I had a talk with him and reduced a part of his statement to writing, and had him sign it, yes.

Q Later there was further talk, as I understand it, that didn't appear in that statement?

A That same day.

Q Can you briefly tell the court and jury what those statements were that were made by Mike Duval, as to how and why the shooting occurred, so far as he knew?

A I have a written signed statement with me.

Q That is only a part of it, you say.

THE COURT: You may refer to it, if you wish.

A I told Mr. Duval that he was in danger of dying, and that I wanted to get a statement from him regarding the facts of this shooting. And he told me that he realized that he was in danger of dying. He said, "Charles Rey came to my home

in Vilas County about one mile west from Woodruff, on December 18, 1925, in the afternoon. He visited there a while. Rey gave me one five dollar bill and one five dollar bill to my wife, for a Christmas present. Charles Rey had been drinking some. Charles Rey, Jack Bousha, Ray Duval and myself were playing cards. After finishing playing cards Charles Rey went upstairs and came down in a few minutes. Just after that I looked over and saw Charles Rey with a revolver in his hand and the muzzle of the revolver was pointed at me. Almost immediately Charles Rey shot me three times in the body with the revolver. I had had no quarrel with Charles Rey at any time and had known him for about 12 or 15 years." In addition to that he told me that after he had been shot by Charles Rey that he went over to where Rey was standing and pounded him with his fists, and that his son Raymond Duval helped take the revolver away from Rey; that Mike Duval fired the remaining cartridges that were in the revolver into the floor and threw the revolver into the stove. I asked him why he had beat up Mr. Rey. He said, "I was afraid he was going to get me".

Q Did he say to you during those talks or statements that he and Rey had always been the best of friends?

A He did.

Q And that there had never been any trouble between them?

A He said he knew of no quarrel that they had ever had.

Q And he knew of no reason why Rey had shot him?

A He did not.

Q Did Duval at the time you were talking to him, express any hard feelings or ill-will toward the defendant?



A He made this statement to me - that they had been friends a long time, and there was no reason why he should have shot him. .

MR. O'CONNOR: I would like to have Mr. Kelley leave that statement here.

THE COURT: It should be identified.

(Marked "Exhibit 2")

HANS RODD, called on behalf of the State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. O'Connor:

Q Mr. Rodd, you are the Sheriff of Oneida County?

A I am.

Q How long have you been in the Sheriff's office?

A Five years, going on six.

Q You mean you yourself have been Sheriff that long.

A Yes.

Q You have also been Undersheriff and deputy.

A Yes.

Q Altogether how many years experience have you had in that office?

A 10 years.

Q You went to Woodruff on the night of December 20th, in response to a notice that there had been a shooting affray up near there, didn't you?

A I did.

Q Who went with you?

A Mr. Crofoot, the Undersheriff. And Mr. LIVESEY of the Badger Motor Company.

Q When you got to Woodruff what did you find?

A Found Charley Rey in Johnson's restaurant. He was the man that had done the shooting.

Q I suppose following your usual practice you talked with Rey and tried to find out as much as you could about this affair, did you?

A I did.

Q Make it as brief as you can and tell us what you found out, beginning from the time you got to where Rey was.

THE COURT: I assume what you want to get at is his impression of ~~his~~<sup>the</sup> mental condition of Rey, isn't it? Rey's statements would be self serving, if they are intended to be in his favor.

Q You talked with Rey, did you?

A I did.

Q You heard Rey talking to others?

A I did.

Q Referring to that time in Johnson's restaurant, where you and others were with Rey, I will ask you what impression was made upon your mind by the condition, actions, manner, and expressions of Charles Rey, in conversations which you had, or others had with Rey, which you observed as to his mental condition?

A I would say that he was somewhat unbalanced mentally.

Q In talking with Rey did you ask him as to what kind of a weapon was used?

A Yes.

Q Can you relate that talk?

A Well, I asked him where he got the rifle. He said, "I had no rifle." "What was it then, revolver?" He said, "Yes, a small revolver". I asked him where he got it. He said he brought it with him from Marshfield. I asked him if he brought it for the purpose of shooting Mike Duval. He says, "No". He said he brought it with the purpose of hunting with Duval - deer, - and he changed that to wolves and anything he could find to shoot at.

Q Did he at that time to show his friendliness to Duval tell you about these Christmas presents?

A He did.

Q Did you ask Rey anything about drinking?

A I did.

Q What was his reply?

A He said he had been drinking.

Q Did he have the appearance of having been drinking?

A He did.

Q As you talked with Rey did he seem to have a realizing sense of what he had done and how serious it was?

A He did not.

CROSS EXAMINATION  
By Mr. Radcliffe

Q You didn't see him before the shooting?

A I did not.

Q His head was all bruised up at the time you saw him?

A Yes.

Q He told you that he brought the gun from Marshfield?

A Yes sir.

Q Told you what his name was?

A Yes.

Q Told you that he didn't kill him with a rifle?

A Yes.

Q That he killed him with a small gun - a revolver.

A He said he had a revolver.

Q Did he say he killed him with it?

A No.

Q I thought you just testified you asked him if he killed Duval with it.

A I asked him where he got the rifle. He said he had no rifle. I asked him, "What was it, a revolver?" He said, "Yes, a small revolver".

Q What did he say he had done with that small revolver?

A I asked him what the trouble was. He said, "They accuse me of killing a man." I said, "Didn't you?" He says, "I don't remember if I did". I says, "I understand you did". He says, "If I did I am sure I did it in self defense".

Q What was this conversation in regard to the small revolver? What did he say he did with the small revolver?

A He said he brought it for the purpose of hunting.

Q Knew that he had brought a revolver from Marshfield?

A Yes sir.

Q Knew his name at the time you was talking with him?

A Yes.

CHARLES CROFOOT, called on behalf of  
the State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. O'Connor:

Q You are the present Undersheriff of Oneida County?

A Yes sir.

Q How many years have you been connected with the Sheriff's  
office in Oneida County?

A 13 years the 3rd of January.

Q You went to Woodruff with Hans Rodd and this Mr. Livesey?

A I did.

Q Is there anything that Mr. Rodd has not testified to that  
you can tell us about this affair as you saw it there in Wood-  
ruff?

A No.

Q You talked some with the defendant, did you?

A Very little.

Q But you were present when others were talking to him, and  
heard the talk?

A I was present all the time that Sheriff Rodd was talking  
with him.

Q You heard the conversation that Rey was carrying on with  
others?

A I did.

Q Having that in mind, I want to ask you what impression it  
made on your mind by the condition, actions, manner, expressions  
of the defendant Rey, and the conversations you had, or you  
observed others having with Rey, as to his mental condition?

A Well, I wouldn't say that he was normal, the way he answered the questions.

Q You have seen a good many drunken man, haven't you?

A I have.

Q What would you say as to Mr. Rey being under the influence of liquor?

A Well, I couldn't say as to that. My impression first was that he was coming out of a drunken stupor and didn't realize what he had done.

CROSS EXAMINATION  
By Mr. Radcliffe

Q His condition mentally could have been caused by a blow on the head, fo you think?

THE COURT: He is not a medical expert.

THE COURT: At the time you saw him he was pretty badly bruised up on the head and face?

A He was.

THE COURT: And hadn't yet been washed up.

A No, he wasn't washed up. All blood, and his face all out of shape.

THE COURT: Didn't that make it rather difficult to see just how he was?

A Yes, but he seemed to be dazed. He didn't realize what he had done.

WILLIS LIVESEY, called on behalf of the  
Defense, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. O'Connor:

Q Mr. Livesey, what is your business?

A At present I am in the garage business.

Q Manager of the Badger Garage there at Rhineland?

A Yes sir.

Q You are a married man and lived in Rhineland a long time?

A No, I have been around Rhineland since July.

Q You went up with Mr. Rodd and Mr. Crofoot?

A Yes. I have been acquainted in Rhineland for about 12  
or 14 years.

Q As I understand it you were in Johnson's restaurant from  
the time you and Mr. Rodd and Crofoot got to Woodruff until  
you left Woodruff?

A I was the first one that went in, between Mr. Rodd and Mr.  
Crofoot.

Q At that time Rey was in there?

A Yes sir.

Q And stayed in there all the time you were in that restaurant?

A He was there all the time.

Q About how long were you there?

A I expect about 30 to 40 minutes, possibly 45.

Q At that time did you have any talks with this defendant?

A Yes sir.

Q Did you make it a point to observe his condition closely?

A Yes sir.

Q Can you tell us whether or not there was any evidence of moonshine or whiskey?

A I would say that he had been awfully drunk just prior to that.

Q Could you smell it on him?

A That is what made me think so. There was evidence that he had been sick and thrown up, and the smell was such, he started to get up and - do you want me to go ahead? He started to get up and came toward me and talked with me. He asked me if I was his lawyer. I asked him to sit down, because the smell of his breath was something terrible. Then he sat down again and asked for a cigar.

Q You say that his clothing had indicated that he had thrown up?

A That is the way it looked to me.

Q Having in mind the time you were there in Johnson's restaurant with this man, what impression was made upon your mind by the condition, actions, manners and expressions of the defendant and of your conversation with him, and the conversations you heard him having with others, as to his mental condition?

A Well, I wouldn't say he was just right; off quite a ways.

Q Did he act like a rational, normal man?

A No, he did not.

CROSS EXAMINATION  
By Mr. Radcliffe

Q Did you notice any bruises on his face?

A Yes sir.

Q Any swelling?

A A lot of it.

Q Was his right eye closed?



A His right eye was closed shut.

Q Wasn't there blood all over him?

A Quite a considerable lot of blood.

Q On his clothing?

A I didn't notice on his clothing. Blood on both hands. Blood on the side of his face. I didn't notice any on his clothes.

Q You say that there was evidence of his having vomited on himself?

A Yes.

Q Where was that?

A Down in front of his clothes here.

Q You didn't see him before the shooting, did you?

A I never saw him before in my life.

Q All that you saw of him was in Johnson's restaurant?

A Was in Johnson's restaurant. In the back end of the soft drink parlor next to Johnson's restaurant.

Q It wasn't in the restaurant?

A He was in the back end of the soft drink parlor. You go into Johnson's restaurant and go into the right hand door at the back end of this soft drink parlor.

Q Did he get any drinks in Johnson's place?

A No. The cigar was all he got in this soft drink parlor.

HANS RODD, recalled on behalf of

the Defense, testified as follows:

EXAMINATION BY MR. O'CONNOR:

Q Mr. Rodd, while you were in Johnson's restaurant with Mr. Rey did he express to you any wish to see Mike Duval?

A Yes, he did.

Q What did he say to you? What reason did he give for wanting to see him?

A Well, while I was trying to find out from him if he came up to settle a grudge or something, he said to me, "You go and see Duval and he will tell you that I am all right. We have always been good friends", and they are the best of ~~frxixix~~ friends. Something to that effect.

Q Were the words, "Duval will clear me", used?

A No, I can't-

RE CROSS EXAMINATION  
By Mr. Radcliffe

Q That is a part of the same state of facts that Mr. Kelley testified to - that they were good friends?

A Yes sir.

Q Always had been. That was the gist of his conversation, wasn't it?

A Yes.

Q Was there anything peculiar about that that made you think he was off?

A No.

Q That was the truth, wasn't it, as near as you found out.

since?

A Yes.

Q By him and Duval both?

A Yes.

Q What about that conversation that would make you think he was off?

A The minutes I stopped asking him questions he started talking about something else. He started to talk about his two wives - that he had two wives - a lot of trouble - but I am not kidding,- I am paying the bills. Talked about everything to nobody in particular - to everybody.

Q Very apt to be telling the truth?

A That might be. He acted to me like a man in a drunken stupor.

(Recess taken until 9:00 a.m.)

.....

(Court convened at 9:00 a.m., January 22, 1926.)

CHARLES REY, called on his own behalf, being duly sworn, testified as follows:

DIRECT EXAMINATION.

By Mr. O'Connor:

Q Mr. Rey, you are the defendant in this action, are you?

A Yes sir.

Q Where is your home?

A Marshfield, Wisconsin.

Q How old are you?

A 68 and past.

Q Where were you born?  
A In the city of Detroit.  
Q What nationality are you?  
A German.  
Q Father and mother both born in Germany?  
A Yes sir.  
Q How much did you go to school during your life time?  
A About one year, sir.  
Q You can read a little?  
A Read a little; write a little.  
Q How long did you live in the state of Michigan?  
A How long?  
Q Yes; until you were how old?  
A Until I came over here.  
Q I understand that you lived in Michigan until about the time of the Chicago Worlds Fair?  
A Yes sir.  
Q And was in Chicago for a while?  
A Yes sir.  
Q Working there?  
A 18-19 months.  
Q And then went back to Michigan?  
A Yes sir.  
Q And continued to live in Michigan until you went to Marshfield?  
A Yes sir.  
Q When did you move to Marshfield?  
A In the spring of 1915.  
Q It will be about 11 years this coming spring?  
A Yes sir.  
Q What was your work during the time you were living in Michigan?

A Different jobs. Sometimes carpenter work and sometimes working at other works.

Q Lumber jack?

A Yes sir. Working in the woods. Made ties. Peeled bark.

Q You worked in the woods, worked on farms?

A Yes sir, some times.

Q Finally got so that you were working at carpenter work?

A Yes.

Q And your work in Chicago was what?

A Carpenter work.

Q And after you went back from Chicago to Michigan what kind of work did you follow?

A Carpenter work.

Q Since you have been in Marshfield what kind of work did you work at?

A Some cement work.

Q Just in a general way. Do any farm work?

A Yes sir.

Q How much time did you work on farms?

A I was at a little farm a little better than 19 months.

Q At one time?

A Yes. Wenzel & Wenzel.

Q For one man?

A Two of them.

Q And you worked for the city?

A Yes.

Q How long did you work for the city?

A Off and on for them for 9 years.

Q What was your work in working for the city?

A Sweeping streets.

Q Was this Mr. Adler, the Street Commissioner, was he your boss?

A Yes sir.

Q And that is where you got so well acquainted with Adler?

A Yes sir.

Q Also with the different men from Marshfield who testified here?

A Yes sir.

Q And Mr. Deckert testified that he lived right close to you?

A He does.

Q When did you stop working for the city?

A A year ago last July, I think, or along about that. A year ago.

Q What did you then do?

A Went into my shop of business.

Q What is your little shop?

A Sharpen shears, scissors, knives, lawn mowers, and any edged tool that comes in.

Q Skates, and so forth?

A Yes sir.

Q That is your present means of livelihood?

A Sir?

Q That is how you make your living at this time?

A Yes sir.

Q Up to this present trouble were you ever engaged in any fight or brawl, or trouble?

A No sir.

Q Be careful.

A Only when I was young. I had a fight in a bar room.

Q That was a bar room fight in which you and some other lumber jacks engaged?

A Yes sir.

Q That was in 1883?

A Yes sir, that was in 1883.

Q You were all arrested?

A Yes sir.

Q And all paid fines?

A Yes sir.

Q Aside from that you never had any fight or trouble with any man, up to the present time?

A No sir.

Q How long have you known Michael Duval?

A Shortly after I struck Marshfield.

Q That is something over 10 years?

A Yes sir.

Q How long have you been acquainted with Duval's family?

A Somewhere about 7 - 8 years.

Q What were your relations with Mike Duval from the time you got acquainted with him up to the time you were at his home on December 30th, 1925?

A I didn't understand the first part.

(Question read)

A Good friends.

Q The fact is that Mike Duval and you were a little closer than ordinary friends?

A Yes sir.

Q What were your relations with Mrs. Duval and the children in the Duval family?

A Kindness.

Q Cecelia Duval testified that you used to come to visit them a couple of times a month. What is your recollection as to your frequency of your visits to the Duval family?

A She was right.

Q She also testified as to your giving the children candies and presents, and so forth. Is that true?

A Yes sir, that is true.

Q And that continued on up to the time that the Duval family ~~lived~~ left Marshfield?

A Yes sir.

Q While you and Mr. Duval were living around Marshfield did you and Mike hunt or fish together?

A Yes sir.

Q Did you and he use to walk around out in the woods and ~~ga~~ country surrounding Marshfield, at times?

A Yes sir.

Q And on those occasions did you ever do any ~~xxx~~ <sup>target</sup> shooting or target practicing?

A Yes sir.

Q What kind of shooting iron did you have with you on those occasions?

A I had a little gun. I guess it is right there. 32.

Q Iver & Johnson revolver?

A Yes sir.

Q How long have you had that revolver?

A I don't know. A good many years.

Q How did you happen to buy it?

A When I was trapping and hunting in the fall and in the spring.

Q Carried it with you on your hunting and trapping trips?



A Yes sir.

Q Except the times when you carried the revolver with you on your hunting and trapping trips, and excepting the times when you and Mike were out and used to do a little target shooting, where did you keep this revolver?

A In my trunk.

Q Did you ever carry it, except on those occasions?

A No sir.

Q During these different trips and this target shooting, about how many times would you shoot?

A Sometimes we would shoot one shot, sometimes we would shoot four or five shots.

Q A piece?

A Yes sir.

Q And on those occasions did Mike Duval sometimes have a revolver or pistol of his own?

A Yes sir.

Q Did you later buy that - what was this pistol?

A 25 caliber.

Q Automatic?

A Automatic.

Q Did you later buy that from Mike Duval?

A Yes sir.

Q And when you came over here where was that?

A In Charley Ecker's hardware store.

Q You had it there for what purpose?

A To sell.

Q Do you know how this came here? (Indicating automatic pistol)

A Yes, the Chief of police brought it.

Q I show you "Exhibit 3", and ask you if that is the automatic pistol that used to belong to Mike Duval, and that you bought from him?

A Yes sir.

MR. O'CONNOR: We offer "Exhibit 3" in evidence.

Q I show you an Iver-Johnson 32 caliber 5 shot revolver, 37629 and ask you if that is your revolver.

A Excuse me just a second. (Witness puts on glasses)

A Yes sir.

Q How do you identify it?

A Got marks on the side of here.

Q On the side of the top of the barrell?

A Yes sir. Three marks. That is the figure initial of my name, C. J. Rey.

MR. O'CONNOR: We offer in evidence "Exhibit 4".

Q Do you recall when Mike Duval first went up to Woodruff with the intention of making it his home?

A About when?

Q About when was it?

A Well, that is along in June.

Q Of 1925?

A Yes sir.

Q Had you and Mike Duval been together through that part of the country on previous occasions?

A Yes sir.

Q I understand that you and Mike took a trip in Mike's car on a fishing trip?

A Yes.

Q Went up on the Central, and through across, and up to Woodruff and across?

A Yes sir.

Q When was that?

A Along the latter part of - fishing begin on the 1st of May, did it?

Q I think Fishing began the last of May.

THE COURT: Depending upon the kind of fish.

A Game fish. The last of May.

Q The last of May, 1925?

A Yes sir.

Q At that time, on that trip, did you and Mr. Duval drive out from Woodruff past or in the neighborhood of his present home?

A Yes sir.

Q And there you saw this clump of little trees and lake?

A Yes sir; pine trees.

Q At that time was there any talk on Mr. Duval's part about buying that particular property?

A No sir.

Q Was that the first time you were ever around Woodruff?

A Yes sir.

Q And the next time was when you went up there on the visit on Saturday before this affair?

A Yes sir.

Q And those were the only two times you were in this part of the state?

A Yes sir.

Q After Duval went up to Woodruff did you see him in Marshfield?

A Every time he came to town I think he stopped at my little place of business.

Q How many times would you say?

A 6 - 7 times.

Q So that Mike made frequent trips from Woodruff back to Marshfield?

A Yes sir.

Q And on each of those occasions you think you saw him?

A Yes sir.

Q Had he told you what he was doing, and what he had done, at Woodruff?

A Yes sir.

Q Told you he had bought this place?

A Yes sir.

Q And was building?

A Yes sir.

Q What, if anything, was said by Mr. Duval about you going up to Woodruff?

A Invited me several times to come up and visit him.

Q Was there anything said about what you and he would do if you went up there?

A He said, "Charley, be sure when you come to bring that little gun along, and I will show you some game out there. There is lots of game. There is wolves, foxes and there is a lot of rabbits, and there is a pile of skunks", he says, or something similar to that. "We might see something to shoot".

Q Talk anything about target shooting as you had done in the past?

A No, he didn't say nothing about target shooting.

Q When was the last time you saw Duval in Marshfield before you went up to visit them?

A I don't know exactly. Just a few days before he moved up.

Q The testimony was that they moved on to this new place - that is, the place he had purchased near Woodruff, on November 23, 1925. You think it was a short time before that?

A Yes, I know it was.

Q Where did you see Mike Duval at that time?

A Right there in my place of business.

Q Who was with him, if any one, besides yourself?

A His son Raymond.

Q And they came there to have some knives sharpened?

A Yes sir, three butcher knives.

Q At that time what was said about you going up for a visit?

A He said, "Be sure and come up", and I says, "Yes".

He says, "You want to be up there this winter - this fall".

Q You had promised to go?

A Yes sir. I and my Dutch chum promised to come up there. He says, "If you do come up, be sure and bring that little gun along".

Q You were going to have some fun.

A Yes.

Q Duval had frequently shot with this gun himself?

A Yes sir, he shot that quite a few times. He shot this one here too.

Q Did Raymond Duval also invite you at that time?

A No, he did not.

Q The father did the talking about the visit?

A Yes.

Q You finally started for Woodruff on Saturday, December 19th, did you?

A Yes sir.

Q Can you recall anything that decided you to make the trip at that time?

A No more than to make a good visit just before Christmas.

Q How long were you planning to be on that trip?

A Two days.

Q Go up on Saturday and stay over Sunday, and go back Monday?

A Yes sir.

Q You came over the Chicago & Northwestern Railroad route all the way from Marshfield up to Woodruff?

A Yes sir.

Q And landed in Woodruff late in the afternoon of Saturday?

A Yes sir.

Q And shortly after walked up to this place that Mike had told you he was then living?

A Yes sir.

Q And there you met the different members of the Duval family?

A Yes sir.

Q And also Gust Hanson?

A Yes sir.

Q You had known Gust, had you?

A Yes sir.

Q In Marshfield?

A Yes sir.

Q About how long?

A A couple of years, or somewhere along there.

Q On this trip on December 19th did you have with you any valise or satchel?

A No sir.

Q What did you have?

A I had a calendar.

Q Why did you have a calendar?

A It was sent by another party that runs a saloon and restaurant for Mike and his family.

Q Some one in Marshfield had given it to you to take up?

A Yes sir.

Q What did you do with the calendar?

A I delivered it to Mrs. Duval.

Q Did you have any bundle or baggage other than that calendar?

A No sir.

Q You carried this "Exhibit 4", this revolver, with you that day?

A Yes sir.

Q Where did you have that?

A Coat pocket.

Q Did you bring with you some more shells?

A Yes sir.

Q Do you remember about how many?

A No, I can't say. Took them out of the box and stuck them in my pocket. I don't know.

Q Put a few in your vest pocket?

A Yes sir.

Q Do you know what Mike Duval's business was when he was around Marshfield?

A No; different things.

Q What was his principal business for a while before he went to Woodruff?

A Making moonshine.

Q What else?

A He was an agent for different-

Q Make any home brew - beer?

A Not until up to this last summer.

Q That was before he went to Woodruff?

A Yes sir.

Q How do you know that?

A Because I was out there.

Q Ever buy any of it of him?

A Yes sir.

Q During the times that Mike Duval was visiting you in Marshfield, on his trips to Marshfield, after being in Woodruff, did Mike talk to you about his business around Woodruff?

A Yes sir.

Q What was his business around Woodruff?

A Making moonshine and beer and selling it.

Q Did he say anything about how much business he was doing?

A He said he was doing good big business.

Q Show you any money as evidence of his prosperity?

A Sir?

Q In telling you about the business he was doing did he ever exhibit to you any money?

A Yes sir.

Q Ever tell you the class of customers he had?

A Yes sir.

Q What was it?

A He said they were cash customers, "Charley, don't have to wait for a penny. You deliver your goods you get your pay".

Q So that when you went to Duval's you knew that Duval was in this business and you could get a drink when you wanted it.

A Yes sir.

Q Right on that point. What is the fact as to your drink-



ing intoxicating liquors during your life time?

A I drink more or less right along.

Q And have always?

A For years. Ever since 1883.

Q And for a little while back, say before you made your visit to Woodruff, can you tell us about what quantity you used to drink each day?

A No, sometimes I would drink one drink, and sometimes I would drink three drinks - four drinks.

Q Ever drink as much as a pint in a day?

A No, no, no.

Q Until this occasion at Duvals home, the day of the shooting, had you ever been so drunk that you didn't know what was going on?

A No sir.

Q You were then what was known as a steady drinker?

A Yes sir.

Q But one who could-

A Control himself.

Q Who were the first of the Duval family you saw when you got to their place on Saturday?

A The two little children.

Q Where did you see them?

A About half way between the railroad and this new building.

Q What were they doing there?

A They were coming up to go home.

Q You met them?

A Yes sir.

Q And as I understand, they went back with you to the new house?

A Yes sir.

Q And at the new house you found who, when you got there?

A Mike Duval, Raymond Duval, and Gust-

Q Hanson?

A Yes sir.

Q How long did you stay at that house?

A Not very long.

Q When you got there at that house was there any talk about you getting a drink?

A Yes sir.

Q What was the talk?

A I asked Mike if he had a drink there. He said, "No, Charley, I haven't, but I guess you will find some up at the house."

Q After staying at the new house a little while what did you do?

A I and the little children went up to the old house.

Q Still have this calendar with you at that time?

A Yes sir.

Q Who did you see at the old house?

A I met Mrs. Duval and her children.

Q Were they glad to see you?

A Yes sir.

Q What did you do with the calendar?

A I handed it over to Mrs. Duval and told her that the party in front where I lived sent them that calendar.

Q At that time did you get anything to drink?

A Yes sir.

Q How many drinks did you get there from Mrs. Duval that afternoon before Mike Duval came up to the house?

A Two.

Q How long after you had been at the old house was it before Mike came?

A Probably an hour or such a matter.

Q What was it Mrs. Duval gave you to drink at that time?

A Moonshine.

Q You have drank a good deal of moonshine, have you?

A Yes sir.

Q You know what it is?

A Yes sir.

Q When Mike came did Gust Hanson and Raymond also come with him?

A Yes sir.

Q After they got to the old house was there any more drinking before supper?

A Yes sir.

Q Can you tell us about how many drinks you had?

A I had one.

Q So that before supper you had three drinks that afternoon?

A Yes sir.

Q Had you had anything to drink on the train?

A No sir.

Q After supper was there any drinking?

A Yes sir.

Q Can you tell about how many drinks you had after supper?

A Two.

Q The others have drinks also?

A Yes sir.

Q And that was also moonshine?

A Yes sir.

Q - How were you feeling as the result of your ride from Marshfield?

A Pie-eyed.

Q Do you recall about what time you went to bed?

A Not long after supper.

Q Who was it you slept with that night?

A Mike Duval slept with me. I was in bed first.

Q When you first went to bed did you go to sleep?

A No sir.

Q What was Mike Duval doing when you went to bed?

A He had one of the little children on his lap and playing a mouth organ. It had a bell on.

Q How long after you can recall was it before you went to sleep after going to bed?

A I might say 15 - 20 minutes. Might have been a little longer or a little less.

Q About how long did you sleep before you first woke up, if you can recall?

A That I couldn't tell.

Q Was Duval and the rest up when you woke up?

A Yes sir.

Q They were still up?

A Yes sir.

Q What was that woke you up, if you recall?

A A dream or "division" they call it.

Q What was the nature of that dream?

A I dreamed the house was haunted - different things around the house- and that there was a man murdered there and was buried in a deep hole back of the building - back of the house, in the lake.

Q That made quite a vivid impression on you?

A Yes sir.

Q Scared you some?

A Yes sir.

Q Do you recall how long you lay awake before Mike Duval came to bed?

A No, I do not.

Q You were awake when Mike came to bed, were you?

A Yes sir.

Q What part of the bed did Mike Duval sleep in?

A In the rear part.

Q Climbed over you?

A Yes sir.

Q Talked to you at that time?

A Yes sir.

Q After Mike went to bed did he go to sleep?

A Yes sir.

Q How long before you again went to sleep?

A I couldn't say for that. I didn't sleep much the remainder of the night.

Q About what time was it when you got up?

A Shortly after daylight.

Q Who did you see when you got up?

A Mrs. Duval.

Q What talk was there between you and Mrs. Duval when you got up?

A I says, "Good morning" to her. She said, "Good morning, Charley". She said, "How did you sleep? How did you rest?" I said, "Not very good, Mrs. Duval". She said, "Why?" I said "I had a bad dream". She said, "Tell me". I says, "No", or something similar to that. And she spoke up, she says,

"Charley it never seemed right since I lived here".

Q At that particular time did you say anything to Mrs. Duval about the house being haunted?

A No sir.

Q That was some time later, was it?

A I didn't tell her at all. I told her I would tell her Monday before I went home.

Q Did you say anything to Mrs. Duval about not sleeping in that house again?

A Yes.

Q What was that talk?

A I told her I wouldn't sleep in that house again. I would go up to town and get a bed and sleep there. And then that was dropped. She says - let's see. No, that was dropped then.

Q Did you have a drink, when you got up, before breakfast?

A Yes sir.

Q More than one?

A Yes sir.

Q How many?

A Three.

Q How many of those drinks did you have before Mike and the other members of the family got up?

A I just had three drinks.

Q You had all the drinks before Mike got up?

A No, I had one drink with Mrs. Duval and two after Mike got up.

Q That was before breakfast?

A Yes.

Q And that was this same moonshine, was it?

A Yes.

Q About what would you call a drink? About how much?

A An ounce.

Q You know about what an ounce is?

A Yes sir.

Q After breakfast what next occurred? What did you do and Duval do?

A Went down to the new house.

Q What purpose did you have in going down there?

A Look it over.

Q Who went with you?

A Mike Duval.

Q Just you and Mike?

A Yes sir.

Q And did you look over the place?

A Yes sir.

Q As I understand it, at that time the only way to get into that house was to get in from the basement door.

A Yes sir.

Q And from there up the stairs?

A Yes sir.

Q That is the way you went in, was it?

A Yes sir.

Q Looked over the basement, did you?

A Yes sir, a part of it.

Q And upstairs?

A Yes sir.

Q Two floors up there?

A Yes sir.

Q At that time, as I understand it, there wasn't any furniture in that-

A No.

Q No ~~stove~~ <sup>stove</sup> or anything of that kind?

A No.

Q While there did you and Duval have any talk about your dream?

A Yes sir.

Q And about where you were going to sleep?

A Yes.

Q What did you tell Mike?

A I told him, "Mike - He said, "You and the woman was talking". I says, "Yes". He said, "What was that?" I says, "Mike, I am going to tell you. I won't lie to you. I am going to tell you. I had a dream or division, whatever you might call it in your house up there last night", and I says, "I had this dream that the house is haunted, and that there was a man murdered there and was buried back in the lake".

Q You told that to Duval?

A Yes sir. Down in the new house.

Q And that was your explanation of why you weren't going to sleep there any more?

A Yes. I told him I was coming up to Woodruff to sleep. He said, "No, you won't. If we can't fix you a bed here we have got a car here, I will take you there".

Q Was there any drinking done while you and Duval were alone at the new house that morning?

A Yes sir.

Q How did you happen to get those drinks?

A I asked Mike if he had any drink there. He said, "I guess we can find a little". He was gone a little and he came back with a pint bottle.

Q How long was he gone?

A Not very long.



Q Long enough to have gone up to the old house?

A No sir.

Q What was in that pint bottle?

A Moonshine.

Q What became of that pint bottle?

A Drank it.

Q You and Mike?

A Yes sir.

Q Mike drink as much of it as you did?

A No sir.

Q What part of that point of moon would you say you drank there that morning?

A I guess I drank about two-thirds of it. Taste so good, and I liked it.

Q Was there any one else drank out of that first nottle?

A Not that I remember of.

Q Do you remember anything about a second bottle?

A Yes sir.

Q What was that?

A His son Raymond and this here Gust, they were moving the furniture from the old house down to the new house, and they happened to come. I said, "Mike, gosh, there ain't but a little left in here". He said, "There ain't enough to give us all a drink". I said, "Can you dig up another one?" He went and got another one.

Q That was also a pint?

A Yes sir.

Q Was it full?

A Yes.

Q And that was moonshine?

A Yes sir.

Q After the second pint, as I understand, there was a part of the first pint left?

A Yes sir.

Q Then what happened?

A We drank what there was left in this bottle, and then tapped the other bottle.

Q How many drinks do you recall Gust Hanson drinking out of this second bottle?

A One bottle.

Q How many did Raymond Duval drink?

A One drink.

Q And then what became of the rest of that bottle?

A Mike Duval and myself drank it, pretty near all.

Q Do you recall getting any more bottles or other drinks after that?

A No sir.

Q Can you tell us about when it was that you finished this second bottle, so far as you remember?

A I didn't finish it.

Q You don't remember finishing it?

A No sir.

Q Did you have dinner before you had finished doing all of this drinking you tell about?

A No sir. Didn't have nothing. Only the breakfast.

Q What did you have for breakfast that morning?

A Some fried potatoes, some pork, cup of coffee.

Q Did you have any dinner that day?

- A No sir.
- Q Did you have any supper?
- A Not to my knowledge.
- Q Why do you say you didn't have any dinner?
- A Because I don't remember of having any.
- Q That is true then also of supper?
- A Yes sir.
- Q But so far as you remember, you don't know?
- A No.
- Q About the dinner or supper.
- A No.
- Q During all the time that you and Mike Duval were around that new house and drinking, what was going on? Were you just simply talking?
- A Talking; visiting.
- Q Now, did you have any business relations with Mike Duval?
- A No.
- Q Did you and Duval ever have any business excepting as you got the moonshine from him?
- A No sir.
- Q You always paid for that?
- A Yes sir.
- Q Do you recall whether you paid for any of these drinks you testified about?
- A No sir.
- Q Those were treats on Mike's part then?
- A I don't know how that turned out.
- Q You had some money with you when you came?
- A Yes sir.
- Q Do you recall giving Mr. Duval or Mrs. Duval any money?

A I don't remember it.

Q Do you remember these men that were here in court yesterday and testified coming to Duval's house that Sunday night?

A No sir.

Q Do you remember there being some music at Duval's house?

A No sir.

Q Do you remember anything about that card game that was testified to?

A No sir.

Q You have played penny-ante at times, haven't you?

A I have, yes sir.

Q You know that checks are a penny apiece when you play penny-ante?

A Yes sir. And some are higher prices.

Q When it gets higher it is generally called poker, isn't it?

A Yes sir.

Q It is testified that the relations between yourself and the Duval children was always very friendly.

A Yes sir.

Q And was that true of little Pius Duval - this little boy that testified here yesterday?

THE COURT: Were you friendly with Pius?

A Yes sir, with all of them.

Q Never had had any trouble with any of the children?

A No sir.

Q They had always used you nicely?

A Yes sir.

Q And you had always used them nicely?

A Yes sir.

Q Do you remember going upstairs into what I will call the garrett?

A No sir.

Q Of this house?

A No sir.

Q At any time?

A No sir. Only when I first went there.

Q That is the time you went to look it over?

A Yes sir.

Q At that time there was no bed or other furniture in there?

A No sir.

Q Have you any recollection of Gust Hanson taking you to bed?

A No sir.

Q You and Gust had been good friends?

A Yes sir.

Q You were good friends with every one?

A Yes sir. I ain't got an enemy in the world without I got some through this affair, that I know of.

Q The testimony shows quite clearly that you that night pointed this gun toward Mike Duval and fired two shots, both of which hit Mike Duval. Have you any recollection as to that?

A No sir.

Q Do you remember getting licked or beaten by any one?

A No sir.

Q Do you recall accusing Gust Hanson, after you had been pounded, of him being the one that struck you?

A No sir.

Q Do you know who it was that struck you?

A No sir.

Q You do know that in time you found that your head had been pounded up?

A Yes sir.

Q Do you recall your arrest?

A No sir.

Q Do you recall the trip across from Woodruff?

A No sir.

Q Just a moment now. I am trying to speed this long. Wait for the question. Do you recall the trip with Sheriff Bouker and Howard Ginsted from Woodruff to Earle River?

A No sir.

Q After your recollection of the drinking by yourself and Mike Duval when you were there in the new house visiting, when is the next time that you have any recollection of what was going on about you, and what had occurred?

A Some time during Wednesday forenoon, the following week, after I was arrested.

Q That was the time you found your money?

A Yes sir.

Q Have you any recollection of talking to me, and being in the Municipal Court, in some office down there?

A It seems to me a slight remembrance. I was some place. I don't remember there.

Q Was there ever anything of any nature at any time in the relations or affairs between you and Mike Duval-

A No sir.

Q Which left in your mind any feeling of ill-will or hostility or animosity toward Mike Duval?

A No sir.

Q At this time your feeling toward Duval is the same as it has always been?

A Yes sir.

Q If he were alive-

A I would rather he would be-

A Do you know of anything that Mike Duval ever had against you?

A No sir.

Q Do you know of any reason why you shot toward Mike Duval or shot with intent to hit Mike Duval?

A No sir.

Q From this ~~XXX~~ moon that you drank, can you tell what it was made of?

A No sir.

Q Can you tell whether it had a pretty good kick or not?

A It did have a good kick.

Q You say that this "Exhibit 3" was an automatic that formerly belonged to Mike Duval?

A Yes sir.

Q And that you bought it from him?

A Yes sir.

Q In your business there in Marshfield you did a little second hand business also?

A Yes sir.

Q Bought and sold different articles?

A Yes sir. Mostly traded.

Q There is in the Duval family an older girl than this Cecilia, is there?

A Yes sir.

Q Do you recall that she is married?

A Yes sir.

Q Do you recall making her any presents?

A Yes sir.

Q Wedding present?

A Wedding present - silver knives and forks and spoons, and what I call a thunder mug, about that high. Slop jar.

Q Slop jar?

A Yes sir, a nice one.

Q About how long ago was she married?

A She was married some time last summer.

Q This past summer?

A Yes sir.

Q At the time you met Mike Duval and Gust Hanson and Raymond Duval at the new house were they glad to see you?

A Yes sir.

Q Apparently very glad?

A Yes sir.

Q During the time that you and Mrs. Duval were talking Sunday morning, before the others got up, you said that Mrs. Duval told you that she hadn't felt right in that place.

A Yes sir.

Q Did she also say to you that she would be glad when they got into the new place?

A Yes sir.

Q It was testified here yesterday by Fred Johnson that when he had you in the car he heard a bottle drop out of your pocket, and that he found it, and that it was a bottle of moonshine.

Do you remember of buying that?

A No sir.

Q Do you remember how it got in your pocket?

A No sir.

Q You weighed, as I remember it from your story, on Friday the day before you left Marshfield.



A Yes sir.

Q How much did you weigh at that time?

A 137 1/2 pounds.

Q Do you remember getting weighed in Dr. Oldfield's office on December 30th?

A Something like that.

Q And what was your weight at that time?

A About 150.

Q 155, was it?

A Somewhere around there. I wouldn't say exactly.

Q You told me at that time about losing this weight.

A Yes.

Q You gave me the weight at that time?

A I think so, yes.

Q Did you on any other occasion lose that much weight in a short time?

A No sir.

Q How has your weight generally been during your life?

A 170-80.

Q About uniform?

A Yes sir.

Q Always weighed about the same?

A Yes sir.

Q You haven't been weighed lately, have you?

A No, not since I have been here.

Q Can you tell anything about your clothes, whether you are back to normal or not?

A Just about now.

Q Going back to the Wednesday morning after this affair?

What is there about you finding this money in your shoe?

A A man by the name of Thornton walked in front of us, sitting on the bench near the table. We was talking about money. As he came back again, I said, "Thank you", I says, "I have got some money in the bottom of my foot".

Q And then what happened?

A We went into my cell and I took my left shoe off - left sock, and four \$50 in a piece of paper there.

Q You remember how that got in there?

A Yes sir.

Q When did you put that money in your shoe?

A I put that in the day - the morning before I left home.

Q Carried it there for safe keeping?

A Yes sir, so I wouldn't lose it.

Q Before this Mr. Bouker and myself had been talking to you about money?

A Yes sir.

Q And I had told you if you had any money you should hire and pay a lawyer, hadn't I?

A Yes sir.

Q What about the money up to the time you remembered this \$50. What had you been telling me? What is your recollection?

A I don't remember telling anything.

Q Isn't it a fact that up to that time you-

A Yes sir.

MR. RADCLIFFE: Just a minute. He answered he didn't know.

Q Up to that time you thought all the money you had was in those pocket books, is that right?

A Yes sir.

Q Had you been in your right mind on the night of Sunday,

December 20th, could anything have induced you to shoot Mike Duval?

A No sir.

Q Some of the Marshfield witnesses testified that you were particularly well known and friendly with the children in Marshfield. How is that?

A Yes sir.

Q What was the way in which the children met you, or you met them?

A In a friendly way.

Q They used to stop and see you at your shop?

A Yes.

Q Your shop was on one of the routes to the school grounds?

A Yes sir. High school route.

Q And those children coming and going used to stop there?

A Yes, from Washington street, and Fifth street, and from the high school past my place.

Q Did anything that children ever do annoy you and get you angry?

A No sir.

Q You have been married twice, have you?

A Yes sir.

Q When were you first married?

A In the year of 1880.

Q How long did you live with that wife?

A Very near 20 years.

Q How many children did you have by that wife?

A Five.

Q How many of those children are now living?

A Four.

Q How did it happen that you and your first wife separated?

A Well, she wasn't right.

Q Tell us. We want to know.

A She was untrue to me.

Q You and she talked that over, did you?

A Yes sir.

Q What did you decide to do?

A I would leave her.

Q What was she to do?

A She was to get a divorce.

Q On what grounds?

A Desertion.

Q What was your purpose in this arrangement?

A So I wouldn't be worrying about some one else's children.

Q Also to save the reputation of your wife and of the children?

A Yes sir.

Q Up to the time you and your first wife separated did you take care of your ~~ex~~ wife and children?

A Not all the time.

Q You didn't take care of them?

A Not at all the time. I sent her some money.

Q Before. Before you separated.

A Before. Certainly I did. Oh yes.

Q After you and your wife separated and she got this divorce did you then do anything to take care of the children?

A Sometimes, yes sir.

Q Did you keep track of them? See that they were provided for?

A Yes sir.

Q You yourself didn't contest that divorce action?

A No sir. They sent the divorce to me and I signed it and let it go back.

Q That is the papers.

A Yes.

Q And that was done pursuant to this plan of you and your wife?

A Yes sir.

Q What are your relations with your family and this first Mrs. Rey?

A Good.

Q You have seen her since that divorce?

A Yes.

Q Have been seeing the children?

A Yes.

Q Did any of them come to Marshfield to see you?

A Yes.

Q Did you ever go back to Michigan to see them?

A Yes sir.

Q How many times?

A Trice.

Q How many times did any of them come to Marshfield to see you?

A Once.

Q How many came to Marshfield to see you?

A One.

Q When you were back in Michigan visiting your children you also saw your first wife?

A Yes sir.

Q You were later married to another woman?

A Yes sir.

- Q What was her name?
- A Dora Nichols, her name was.
- Q She was a widow?
- A Yes.
- Q And had three children?
- A Yes.
- Q And she had lived in the South, had she?
- A Yes.
- Q Where was it you married her?
- A In the little town of Spencer.
- Q In Michigan?
- A In Michigan.
- Q How long did you live with her after marriage?
- A Not very long.
- Q About how long?
- A About 30 days.
- Q Why didn't you live with her?
- A Because she wouldn't do my cooking or nothing.
- Q How long did you stay away?
- A I stayed away two or three months, or something like that, and then I went back again.
- Q And tried it again?
- A Yes.
- Q You went back and forth that way two or three different times?
- A Yes sir.
- Q Before you finally left?
- A Yes.
- Q During the times you and this second woman were trying to

live together was there any trouble between you excepting about this-

A No sir.

Q Did you ever hear of a Southern woman or man having the hook worm?

A No sir. (Laughing)

Q You know that she didn't do any housework.

A Yes sir.

Q You were then away from ~~xxxx~~ her for quite a long time, and you made another attempt some time before you went to Marshfield, to live with her?

A Yes sir.

Q How long did you stay?

A Came in the spring and I left in the fall.

Q You had her come where you were?

A Yes sir.

Q It was the same old thing?

A Yes.

Q And there never was any trouble excepting this?

A No sir.

Q On one occasion I believe that this second wife made a complaint against you, charging desertion?

A Yes sir.

Q And the officer came and got you?

A Yes sir.

Q What was the outcome of that case?

A They got me Saturday night and I was in jail until Monday forenoon.

Q What happened? What did the Judge do?

A The Judge - the whole thing he give me was \$3 fine and the Sheriff's fees - no, give me \$10 find. \$3 costs.

Q What did it all amount to?

A \$40.

Q How did you pay that?

A I had two bondsmen.

Q And the bondsmen paid it?

A Yes sir, and I paid them shortly afterwards.

Q Excepting the time you were arrested during this lumber-jack fight in the saloon in 1883 and the time that you now have testified to, were you ever arrested?

A No sir. Only that one time with the wife.

Q Only those two times?

A Yes sir.

Q Did you ever have any trouble with any one excepting this bar room fight and this thing that happened on December 20th?

A No sir.

(Recess for 10 minutes)

CROSS EXAMINATION  
By Mr. Radcliffe

Q Mr. Rey, are you still married to the second wife?

A No sir. Yes sir. As far as I know, without she is dead.

Q How long since you have seen her?

A About 11 - 13 years.

Q You never lived with her at Marshfield?

A No sir.

Q You lived over in Michigan when you came to Wisconsin?

A Yes sir.

Q I understand, Mr. Rey, you remember everything up to some



time during the forenoon or about noon of Sunday?

A Yes sir.

Q December 20th?

A Yes sir.

Q You had had considerable to drink that forenoon, hadn't you?

A Yes sir.

Q You had had three drinks before breakfast?

A Yes sir.

Q About two-thirds of the first pint that you got?

A Yes sir.

Q Do you know how much you drank out of the second?

A I couldn't tell. I think I drank my share of the second too, if I got hold of it.

Q You lost the reputation you previously had for carrying liquor that day, did you?

A Yes sir.

Q Your reputation prior to that time was a man that drank it and carried it well, was it?

A Yes sir./

Q You drank the greater part of your life?

A Ever since 1883.

Q You have drank moonshine regularly in Marshfield?

A Since it has been here.

Q Since the country went dry?

A Yes sir. When I could get it.

Q Did you have any trouble getting it?

A Sometimes had to go a little while without it.

Q Did you tell any one ~~it~~ besides Duval about your dream?

A No sir.

Q You never told anybody it was a lie about this dream?

A No sir.

Q When did you tell him about this dream, in the forenoon or afternoon?

A In the forenoon.

Q In the morning?

A Yes sir.

Q Where did you tell him this, in the new house or in the old?

A In the new place, while we was drinking.

Q You say you have been acquainted with Mr. Duval about 11 years?

A Yes sir. Between 11 and 12.

Q You were always a chum of Mr. Duval?

A Yes sir.

Q What was Mr. Duval's reputation in and about Marshfield - was it good or bad?

A As far as I know, it was good.

Q Good enough so that he was a chum and associate of yours?

A Yes sir.

Q Is it customary for people to hunt wolves and foxes with a small gun like this gun here?

A Well, I don't know about that.

Q Would that be the gun you would ordinarily take on a hunting expedition?

A On to small game it is good. I have shot a lot of ~~mink~~ mush rat and mink with them.

Q You picked that gun out for wolves?

A No, if I was hunting wolves or foxes I would like a bigger gun. But that is a good little gun at short distances.

Q Did you expect to hunt mush rats when you came up there?

A No sir.

Q Would you testify that Mr. Duval told you that there was wolves, and coyotes and foxes?

A Didn't say nothing about coyotes.

Q Wolves and foxes?

A Wolves and foxes. Rabbits and skunks.

Q Is that the gun you shot Mr. Duval with?

A I don't know as I shot Mr. Duval.

Q The other gun you didn't have with you at the time?

A No sir.

Q Your sole purpose in bringing that gun to Woodruff was to hunt wolves and foxes?

A Whatever we could see.

Q And other small game?

A Yes sir.

Q Did you go out hunting when you came in?

A No sir.

Q The first thing you wanted was a drink when you got there, wasn't it?

A Yes sir.

Q And the second thing you wanted was a drink?

A Yes sir.

Q And the third thing you wanted-

A Yes sir.

Q And the principal thing you wanted was a drink?-

A Yes sir.

Q That is what you came up for.

A To have a good time.

Q To get drunk.

A Not exactly to get drunk. For a good time with the family and have a few drinks. I didn't figure on getting drunk, if I

had I would have stayed home. I could get drunk to home, if I wanted to.

Q You knew when you came there, or had reasonable ground to believe when you came there you could get something to drink?

A Yes sir.

Q Did you get anything to drink in Woodruff before you went out there?

A No sir.

Q Did you get anything to drink in Woodruff after you left there?

A No sir.

Q Do you remember of seeing me in Woodruff?

A No sir.

Q The night of the shooting?

A No sir.

Q You testified that you are of German extraction?

A I am a German.

Q Were you born in this country?

A Yes sir.

Q Your parents born in the old country?

A Yes sir.

Q You, I think, have testified that Gust Wagner had one drink out of one of these bottles.

A Who?

Q Gust Hanson, I mean.

A Yes.

Q What were these men doing that day - Sunday?

A They were moving.

Q They were working that day?

A Yes sir.

Q Work all day?

A I don't know.

Q Worked as long as you remember?

A Yes sir.

Q I think you testified you only saw Hanson take one drink.

A Yes sir.

Q You don't know what became of the second bottle?

A We licked it pretty near all up.

Q The second bottle?

A Yes sir.

Q As well as the first?

A Yes sir.

Q You got pretty drunk?

A I don't know what you would call it. I don't remember nothing afterwards, I know that.

Q Did you have any more dreams that day or night?

A No, only the one I had Saturday night.

Q Did you sleep any time Sunday?

A No sir.

Q You were up all day, were you?

A As far as I remember.

THE COURT: Do you remember what became of the second bottle?

A I say we drank it very near all up before I was unconscious.

THE COURT: I didn't mean the liquor in it, I mean the bottle itself.

A I don't know nothing about the bottle.

Q You remember Saturday night very well, of Mr. Duval coming to bed?

A Yes sir.

Q You remember everything in fact, up to some time Sunday during the time after you drank pretty near the second bottle?

A Yes sir.

Q And after that you don't remember anything.

A No sir.

Q Would you say you were durnk or sober?

A I would say I was drunk.

Q Do you know how much money you had when you left Marshfield?

A Between \$106 and seven dollrs. Exactly I couldn't say.

Q There was money found on you after Sunday night, wasn't there?

A I think there was, yes.

Q How much, do you remember?

A I don't know.

Q Don't you know how how much?

A No sir.

Q No one has ever told you?

A No sir.

Q Why did you put \$50 in your shoe?

A I might lose it.

Q You intended to get drunk when you put that money in your shoe, didn't you?

A No sir. I just put it in there for safe keeping. If I should go busted I would have that to bring home with me.

Q How did you expect to go busted?

A Well, hard telling when you are going out.

Q Buying drinks?

A Sure. Buy a drink if you have a chance. I ain't one of them kind afraid to spend a dollar if I got it if I am in the

right company.

Q You wouldn't go broke if you were sober.

A Not very likely, no.

Q Then when you put this money in your shoe you were afraid you were going broke, didn't you?

A Yes sir. Might go broke.

Q I don't exactly remember when you say you put this money in your shoe. Was it at Marshfield?

A Yes sir.

Q Before you left home?

A Yes sir. The same morning, when I dressed my feet.

Q Took what money you figured on spending, in your pocket?

A Yes sir.

Q You say this moon had a good kick to it?

A Yes sir.

Q You are a good judge of moonshine?

A Pretty good, yes sir.

Q Do you remember telling anybody what your name was at any of these times, Sunday night or Monday?

A No sir.

Q When do you say you first came to.

A Wednesday forenoon.

Q When did you first know that your head was injured?

A Not really until Wednesday morning.

Q Did you have any idea you were injured before that time?

A I don't know how I would express it.

Q Did you feel any pain in your head before Wednesday?

A No.

Q You didn't feel anything?

A No.

Q Did you eat anything?

A Very little. I drank a part of a cup of coffee.

Q Before Wednesday?

A Yes sir.

Q Was that all you ate at any meal until Wednesday noon?

A Yes sir.

Q Were you sick?

A No sir.

Q Didn't feel any ill effects from drinking?

A No sir.

Q Felt good?

A Felt good as far as I remember.

Q How did you feel Wednesday, Thursday, or Friday?

A Fairly good, thank you.

Q Felt good?

A Yes sir.

Q Did your head bother you any?

A A little sore right in here.

Q Sore under the eye?

A I didn't feel much of that then until after I washed.

Q Do you feel it now?

A Not in here. In here. (Indicating temporal region)

Q Do you know how you got that?

A I don't know, no sir.

Q Do you remember telling the officers not to hurt you or be rough with you?

A No sir.

Q Might be you said it, for all you know?

A Well, might be.

Q You say you don't remember any music even?



A No sir.

Q No card game?

A No sir.

Q The only thing you do remember is that you didn't eat anything.

A Yes sir.

Q Just coffee, until Wednesday noon.

A I don't remember after breakfast over there drinking anything only moonshine. Wednesday morning I know I drank a little coffee.

Q You don't remember eating or drinking anything until Wednesday morning?

A No sir.

Q You didn't understand my other question then.

A I did not.

Q I asked you if you ate anything prior to Wednesday morning after you came here to jail.

A Did I eat any?

Q Yes.

A After Wednesday morning?

Q No, before.

A No.

Q Did you drink a little coffee?

A A little coffee, yes. For breakfast, Wednesday morning.

Q Anything Tuesday morning?

A I eat a little Tuesday morning - I believe a piece of bread. A part of a slice of bread. A part of a cup of coffee.

Q Did you eat anything on Monday morning?

A No sir.

Q No part of Monday?

A No sir, or Tuesday.

Q Were you sick those two days?

A Didn't feel sick.

Q You remember how you felt?

A As far as I remember.

Q Do you remember telling the Sheriff how you were?

A No sir.

Q Do you remember telling anyone what your nationality was?

A No sir.

Q If you had any moonshine in your pocket when you left Duval's place you don't know it then, is that it?

A No sir.

Q Did you put any in your pocket while you were sober?

A No sir.

Q And you saw no full bottles before you lost your balance, did you?

A No sir, only what I and Mike drank there.

Q Who was with you and Mike when you were doing this drinking?

A Nobody.

Q You were alone?

A I and him alone, visiting and having a good time. Talking about old days, naturally as any two friends would.

Q You worked in the woods a good many years ago?

A Off and on, yes sir.

Q Work in Wisconsin or Michigan?

A Michigan. Some in Wisconsin.

Q Used to drink at the time you worked in the woods?

A Yes sir.

EXAMINATION BY THE COURT:

Q Do you remember being in Johnson's restaurant Sunday night?

A No sir.

Q Or talking to Johnson?

A No sir.

Q Do you remember Hans Rold, the Sheriff, who was here?

A No sir.

Q No recollection of any of that at all?

A No sir.

Q Do you remember saying if you shot Duval you ~~shak~~ did it in self defense?

A No sir.

Q Did you have anything to eat at noon time on September 20th of December?

A No sir.

Q You are sure about that?

A Yes sir.

Q Nor in the evening?

A No sir.

Q What time did you leave Marshfield on December 19th?

A Somewhere between half past nine and ten o'clock in the forenoon.

Q Did you have breakfast that morning?

A I did.

Q Do you remember what you ate that morning?

A I ate some corn flakes, milk, a cup of coffee.

Q Where did you eat?

A To home.

Q Get your meal yourself?

A Yes sir.

Q Was that all that you ate?

A Yes sir.

Q Did you go to Woodruff by way of Antigo?

A Around the junction.

Q By way of Wausau?

A Yes sir.

Q Eland Junction and Antigo?

A Yes sir.

Q There is a lunch counter at Eland.

A Yes sir.

Q And there is another at Antigo?

A Yes sir.

Q The train stops at both places. Did you eat at Eland Junction?

A To Eland Junction.

Q You ate there?

A I got a cup of coffee and a bowl of soup there for dinner.

Q Anything else?

A No sir.

Q When did you get up to Woodruff?

A It was along after four o'clock. I should judge pretty near five o'clock. Getting quite dusk.

Q Was the train late that day?

A Yes sir.

Q It is due up there much earlier than that, isn't it?

A Yes sir. So I was told anyhow.

Q Did you have anything to eat further than what you have said?

A No sir.

Q When you got to Duvals, when was the first time when you ate anything?

A Yes sir.

Q When was it that you ate?

A In the evening. For supper.

Q That was about when?

A Well, along six - seven o'clock.

Q Have a full meal then?

A I ate what I wanted.

Q What was it?

A Some fried potatoes, cup of coffee. A piece of meat.

RE DIRECT EXAMINATION  
By Mr. O'Connor:

Q Did you have, when you left Marshfield, money in the bank?

A No sir.

Q You never had money enough to keep a bank account?

A Not late years.

Q This was all the money you had at the time?

A Yes sir.

Q It isn't possibly quite clear to the jury about eating in the jail, from the time you were put in there until Wednesday morning. You have testified that as near as you can remember you didn't eat anything on Monday or Tuesday?

A Yes sir.

Q That is a fact, is it?

A Yes sir.

Q You may have eaten something Monday and Tuesday?

A Yes sir, I might, but I don't remember.

Q Your replies to Judge Reid about eating on Sunday is from your recollection?

A Yes sir.

Q You don't remember of eating any dinner or any supper.

A No sir.

Q You may have eaten?

A I might, but I don't remember it.

Q You testified you told Mrs. Duval about your dream but didn't give her the details of it.

A Yes sir.

Q So that you talked with Mrs. Duval, who was here yesterday?

A Yes sir.

Q About your dream, and how you felt about it?

A Yes sir.

Q She is alive?

A I hope so. She was yesterday. I wish Mike was alive instead of me.

Q So that the purpose of your visit to Woodruff was to have a little visit with your friends the Duvals and their children, and have a few drinks with them, and go on back home?

A Yes sir.

Q See them before Christmas?

A Yes sir.

RE CROSS EXAMINATION  
By Mr. Radcliffe:

Q Is it customary for you to only eat corn flakes and milk for breakfast?

A No.

Q Why did you happen to not eat any more than that?

A Because I didn't feel like it.

Q Had you been drunk the day before?

A No sir.

Q You were sick, were you?

A No sir. Never get sick. Ain't been sick for years that I know of. Never get drunk enough to make me sick.

Q This particular morning you only ate corn flakes and milk?

A Yes sir. Because I didn't want to cook no breakfast.

MR. O'CONNOR: I don't think it is necessary to call these other witnesses. It is all in here by Mr. Ray and other witnesses, so this will be the defendant's case.

DEFENSE RESTS.

.....

HERBERT BOUKER, recalled on behalf of the State, in rebuttal, testified as follows:

EXAMINATION BY MR. RADCLIFFE:

Q Mr. Bouker, you remember being at Woodruff the morning after this shooting - shortly after 12:00 o'clock?

A Yes sir.

Q Do you recall me asking this defendant what nationality Duval was?

A I don't believe I do.

Q You remember me asking him what his nationality was?

A No.

Q Do you remember him saying what his name was that night?

A Yes sir.

Q What did he say it was?

A Charles Rey.

Q Do you remember him saying how old he was that night?

A Not at the time. I think he told us in the car, afterwards.

Q On the way to Eagle River?

A On the way to Eagle River.

Q Did he tell you that night or the next day what his nationality was?

A No.

HOWARD OLMSTED, called on behalf of the

State, being duly sworn, testified as follows:

DIRECT EXAMINATION  
By Mr. Radcliffe:

Q Mr. Olmsted, you were at Woodruff the night of this shooting, were you not?

A Yes sir.

Q Were you in this restaurant at the time this defendant and Mr. Bouker and myself, and a great many others, were in there?

A Yes sir.

Q Do you remember me asking this defendant what nationality Duval was?

A Yes sir.

Q What was his answer?

A French.

Q Do you remember me asking him what his nationality was?

A Yes sir.

Q What was his answer?



A He said German or American, or German and American, I don't know which.

Q He answered the question?

A Yes sir.

Q Did you hear him answer as to what his name was?

A Yes sir.

Q What did he say his name was?

A Charles Rey.

Q At that time did you hear him say where his home was?

A Yes sir.

Q Where did he say it was?

A Marshfield.

Q Did you hear him at any time during that night or on the way home say where he came from?

A When?

Q At any time that night.

A He talked continually all the time. He told us that he was from Marshfield up there visiting - told us where he had lived before, and told us most everything.

Q Told you about the same history of himself that he has told on the stand?

A I haven't been here all the time, but some of the testimony that I heard was about it.

Q Did he appear to be a man that was drunk at the time?

A I wouldn't say that he was as he is today at all, or anywhere near it.

Q He acted queer?

A He acted in a - either in a trance or as if he was dazed - in a dazed condition.

Q He talked all the time though?

A Talked continually.

Q Did you ask him whether he was married or single?

A I think that while we were coming home Herb and I asked him and he said something about having a wife in Michigan.

Q Did he say anything about having children?

A He said something about having children.

Q That you didn't pay any particular attention to at the time?

A Not very much, no. We didn't ask him.

STATE RESTS.

.....

THE COURT: I want the jury to know that Dr. F. C. Studley, who has been sitting here during the trial and is now sitting here, was appointed by me as Circuit Judge to examine the defendant and to listen to the testimony given on this trial, and then upon all of the facts that have thus been brought to his knowledge, to testify in respect to the mental condition of this defendant at the time when this shooting occurred. Dr. Studley will now be sworn and will be examined on that. I want you to know that he is appointed by the Court and is not in the employ of either one side or the other in this case; that he is here in an impartial position, just as I am on the bench in an impartial position, and is to express his opinion upon the mental

condition of the defendant from that standpoint.

DR. F. S. STUDLEY, called by the Court,

being duly sworn, testified as follows:

DIRECT EXAMINATION

By the Court:

Q Your full name, Doctor, is what?

A Frank C. Studley.

Q Are you a physician and surgeon?

A I am.

Q How long have you been?

A For about 31 years.

Q Located at Milwaukee at the present time?

A Yes sir.

Q How long a time have you been located there?

A 31 years.

Q Are you in active practice?

A Yes sir.

Q You are licensed to practice in the state of Wisconsin, are you?

A Yes sir.

Q With your license recorded?

A Yes sir.

Q In the practice of your profession have you given special attention to cases of insanity and other allied cases?

A Yes sir.

Q For how long a period?

A For about 28 years, I have confined my work exclusively to that form of practice.

Q Are you connected with a hospital in Milwaukee?

A Yes sir.

Q What hospital?

A The Riverside Sanitarium.

Q Has that to do largely with mental troubles?

A Entirely so.

Q You are the physician, or one of the physicians, who treat the patients there?

A I am the Superintendent and the physician in charge.

Q Have you been appointed at different times by courts to consider cases in the courts, similar to this?

A Yes sir, over a period of 25 years.

Q Served upon a good many insanity commissions in such cases, have you?

A Yes sir, many hundreds.

Q And have been put in the position of an unprejudiced and unbiased observed and expert to give opinion, have you?

A Yes sir.

Q Have you had to deal with the effects of moonshine upon the users of it?

A I have seen quite a bit of that, yes.

Q Seen a good many cases of that type?

A Yes sir.

Q And to consider what the effect of the use of moonshine in large or small quantities, or the continued use of it, has had upon the mental faculties?

A Yes sir.

Q Did you examine the defendant, Charles Rey, yesterday?

A I did.

A I did.

Q Made a personal examination of him?

A Yes.

Q And you questioned him?

A Yes sir; mental examination.

Q You questioned him quite fully?

A I did.

Q Using about an hour to do that?

A I did.

Q You inquired into his past, his history, and all that he was able to tell you about himself?

A Yes sir.

Q Did you make any physical examination of him?

A Yes sir, I did.

Q What was that?

A I examined the entire physical state; heart, lungs, reflexes, eyes, to touch, sensation, blood pressure, and I noted his nutrition. I noted whatever he might show in the way of tremor of the fingers, of the closed eye lids, of the tongue; watched and looked for paralysis and for any nervous manifestation.

Q Anything that might indicate an abnormal nervous or mental condition?

A Yes.

Q You have sat during the entire taking of testimony in this case, have you not?

A I have.

Q And have heard all that has been received on this trial?

A I think so.

Q Taking into consideration your examination, and that you have listened to here in the form of testimony in this trial, what would you say was the mental condition of the defendant Rey at

the time when he made this trip from Marshfield to Duval's place, in December of 1925?

A Up to the time that he reached the home of Michael Duval and so far as I would judge, for some little time thereafter, he was in a normal mental condition.

Q You see no evidences that he was in any way out of the normal mental condition?

A No. There, however, comes a certain period of time after which he began to drink and to feel the toxic effects of the moonshine; when there appeared to be a certain lack of the power of recollection, and then ensued at a certain time, about when he went to bed, or shortly before he went to bed, when he became, in my opinion, in a sort of automatic trance-like state of mind - a real pathological intoxication, when his conduct, and his thinking, and his feeling showed a very marked departure from the usual and ordinary manner of thinking, feeling and acting.

Q You refer to Saturday evening?

A No, I refer to Sunday evening. There was up to that time - it is very difficult to say how far his power of recollection was maintained and good, up to the time that he went to bed that night, for the reason that after one has the toxic effects or the poison effects of alcohol of the moonshine variety in their system, and the blows which he received on the head, there appears to be a difficulty of remembering - or of recalling, which is not, however, a condition of the total unconsciousness; but I refer more especially to the period when the boy Pius Duval took him upstairs in the attic of his house to go to bed; where he sat silently, stupidly, on the bed, and then without any

apparent motive came downstairs with the gun in his hand and proceeded directly to fire shots at Michael Duval. I believe that from the time at least - possibly before that - but from the time that he ascended those stairs until he came down and fired the shots, or as far as I know, until he lay in the corner and was assisted to arise by the two young men who were here yesterday, I believe there was a period he was in a condition of total unconsciousness, - complete, - in which condition he could not know the difference between right and wrong. He was unable to know the nature and quality of the act which he performed. And I would say in this trance-like - this unconscious condition, he would be said to be medically insane, and I presume, although that is not a matter for a doctor to say, I presume also legally insane. Thereafter he appears to have been able to give his name and to relate certain circumstances about himself - his age, which, however, he has no recollection of; that is, the ability to recall and remember, I distinguish from that of total unconsciousness. He was not totally unconscious when he told the men to be careful and not to injure him - not to be rough with him, that he was an old man; when he gave his name and age later to the witness just preceding me, he was not unconscious, although it is quite true that he was not able later on to remember or to recall that he had said and done those things. We call that by the medical term of amnesia. It is more particularly distinguished by the term retrograde amnesia; that is, being able to remember back what occurred, although he had comported himself in a fairly normal

manner during this period of time.

Q Referring to the amount of moonshine which the evidence shows he consumed. You recall that on Saturday night, before supper, after his arrival at Duvals he had two or three drinks and had some further drinks in the evening, the exact number I think is not clear, and retired to bed early. Was there sufficient in that amount of moonshine to have produced any delusions in his dreams?

A I don't know as I exactly-

Q That was on Saturday night.

A What is meant by by delusions in dreams?

Q Perhaps that is not a proper term. He testified to having had a bad dream - a dream of murder and the burying of the body, and so forth.

A That is not ~~un~~unnatural, even though he had simply one drink or two drinks of moonshine. Under certain conditions that would be sufficient to produce a dream of that type.

Q In fact wouldn't a bad case of indigestion produce such a dream as that?

A Yes sir.

Q Even though there had been no liquor used at all?

A Yes sir.

Q So that the liquor is not strictly accountable for that bad dream.

A No, you can't say that it was.

Q On the following day it was testified that he had some drinks before breakfast. Thereafter he and Duval had two pint bottles of moonshine during the day, and they drank the most of it, some



of it being drunk, perhaps more than half of all of it being drunk by the defendant Rey. Assuming that six is the quantity of liquor which the defendant Rey had; would you say that that was sufficient to produce amnesia - produce unconsciousness?

A I would, sir. And I would say, moreover, if he had taken even one-fifth of that amount it would still be sufficient to produce amnesia.

Q Is there a difference between the effects of moonshine and the effects of regularly distilled liquors?

A Yes, there is.

Q What is that difference?

A As I look back over four or five years of the cases which have come to me I do not recall one case of the ordinary and old-fashioned delirium tremens in four or five years. Although we have a number of alcoholics there all the time, we haven't that effect any more. But we do see cases coming into us showing the poisonous effects of alcohol - the poisonous effects of this moonshine. And these poisonous effects seem to produce the effect of loss of memory. They will do unaccountable acts and have no recollection thereafter of having done them. We see more especially the poisonous effects of alcohol on the optic nerve, forming blindness; but as far as the mind goes it is as though they had been hit over the head with a bludgeon for the time being. In some cases longer, in some cases shorter, there is a period of total unconsciousness.

Q Sort of stupor?

A I would term it unconsciousness.

Q May the patient walk about and appear to be practically normal in action, and yet be in that condition?

A To the untrained eye, and to the untrained examiner I would say they would be able to do that.

Q In the case of moonshine you say it does not produce the old fashioned delerium tremens very much.

A Not in my experience.

Q It produces an entirely different effect.

A Yes, a poisonous effect - a toxic effect.

Q Going back to the afternoon and evening of the shooting of Duval. You recall the testimony shows that Mrs. Duval and other members of the family, Raymond, and the men who were there to play the guitar and violin observed no particular abnormality about the actions of the defendant; that he appeared to be interested in what was being done; participated in the card game for some 15 or 20 minutes, and was not noticeably abnormal to them. Is it possible that that may be?

A There is nothing unusual about that at all - nothing unusual. As a matter of fact he may have been normal. The only suspicion that there may have been something abnormal at that time is in the statement which he makes that he can not recall or remember. On the other hand - no, I see nothing in that which shows alcoholic amnesia at that time, for this reason-

Q That was very shortly before this shooting.

A Yes, but apparently he seemed to know where he was. He called people by name; and in total and complete alcoholic amnesia I am not I, and you are not you, and I do not recognize you as you, and the whole setting is entirely different. So long as during a period of time he knows who he is, and who Raymond Duval was, and Mike Duval was, he can not be said

at that time to have been in a condition of unconsciousness, total or partial, by the mere fact that he afterwards can not remember. But in this interval where I believe he was totally unconscious I base my opinion upon the nature of the act - upon his conduct; upon the lack of apparent justifiable motive; upon the very way in which he went about it, is so characteristic of one in alcoholic trance.

Q You think that the fact that there was no motive for shooting Duval is an important fact, do you?

A Any rational motive?

Q Yes.

A Yes. I have no doubt that while this man was unconscious that he was subject at that time to some hallucinations, and that he did have delusions which he can not afterwards recall, and the motive for the killing was probably due to some hybrid or vague idea which came into his mind in that condition of unconsciousness.

Q If you were to assume that his statement that he did not recollect is not true; if he were actually able to recollect the events from the time of the card game to the time of the shooting, would you still say that he was in a state of amnesia?

A No sir, I would not. If he was able to recollect all of those things up to the time of the shooting, and the actual shooting, then he was not in a condition of amnesia.

Q So that it depends in this case largely upon the truthfulness of his statement that he didn't know what happened, didn't know that he played the card game, and didn't know what happened thereafter until the time of the shooting?

A That is not the point which influences my opinion so much

as the fact of the very nature of the act; of his conduct immediately preceding this act; of the amount of alcohol which he had in him, and the lack of any real motivation.

Q Would you say that at the time when he was in the card game, and at the time when he went upstairs with this witness Hanson, and during the time he was upstairs, and when he returned with the pistol and did the shooting, that he was incapable of knowing just what he was doing?

A I would not include the card game, Your Honor. I would think he was very drunk. He was lapsing into a condition of unconsciousness, and that from the time when he reached the top of the stairway until he again returned with the pistol and fired the shots, and until he was partially awakened in the act of being lifted from the floor, he was totally unconscious.

Q Is there any relation between that condition and what is known as sleep walking?

A Well, they are both trance-like states. One is produced by alcohol and one is not. Somnambulism, you mean?

Q Yes.

A Of course they are all trance-like states. Epileptic trance-like states also occur.

Q So that a patient may have been active and move about and apparently is able to see things and to act almost as if ~~thoroughly~~ thoroughly awake and alive, and yet be in a trance?

A Yes sir. I have know of cases where they have gone away and been absent for two or three or four months;- have totally lost their identity; have conducted business and

succeeded and not known where they were or who they were, where they were, and afterwards suddenly came to. That is very common. As a matter of fact, I believe in this particular case, when he received the drubbing which he did at the hands of Michael Muval it served to partially bring him to.

Q You think that would have an awakening effect rather than putting him into a trance.

A I do. By the very fact when he was assisted to arise he sort of partially realized he was hurt, and said "Don't strike me. Don't injure me, I am an old man". Consciousness at that time was returning.

THE COURT: If the attorneys desire to examine, you may.

THE

MR. O'CONNOR: I don't care to ask the Doctor any questions. I think he has made it very clear and very helpful, as far as I am concerned.

CROSS EXAMINATION  
By Mr. Radcliffe

Q How long does a trance-like state last?

A Anywhere from a few seconds or moments to weeks or months.

Q And amnesia the same?

A Yes. Of course, amnesia and a trance-like state are somewhat different. Amnesia means simply inability to remember.

Q What about the trance-like state. The same?

A In a trance-like state you can not recall when you become

conscious what occurred in the trance-like state.

Q Can you with amnesia?

A Amnesia, is simply, as I said, a lack of ability to recall and remember.

Q Practically the same thing then, is it?

A Not exactly, no.

Q So far as I can see it is a distinction without a difference.

A There may be a partial amnesia. There may be complete amnesia. You can have complete amnesia in epilepsy, in hysteria, in sleep. You can when you are in a trance-like state. It is simply a symptom of a condition, whereas the condition is something else.

Q Would this defendant be as apt to shoot anybody as Rey if he was in a trance-like state - as Duval?

A He would be, yes.

Q Just as apt to shoot anybody in the room?

A Yes.

Q The fact that he fired two shots at Duval, would that have any bearing on his mental condition?

A No, nor if he shot five.

Q Of if he shot one shot at five different people in the house?

A It depends upon what was in his mind in that trance-like state which he could not afterwards recall.

Q But his mind is active in this trance-like state?

A Yes, but it is split off. The personality is dual - double, and he can not recall in the state of clear consciousness what he actually thought, acted and felt when he was unconscious.

Q This trance-like state, you think, was broken up at the time he received the beating?

A I do. It can be broken up.

Q We could be sure as to his name and age and residence and be insane as to everything else, could he?

A No sir.

Q How do you account for his knowing who he was, and where he came from; his family, and all of that?

A At that time he was not insane. At that time he was emerging from this condition of total unconsciousness, and he was not insane at that time.

Q You testified as to the different effects of moon and the old fashioned whiskey. Didn't you ever see any one that was so drunk that he didn't know what he was doing from whiskey as well as moonshine?

A Yes.

Q Produced the same results, didn't it?

A No.

Q So far as the mind was concerned?

A No. You mean a drunken stupor? No. A drunken stupor, if you mean that, the man simply dead drunk and asleep?

Q Yes.

A But when a man is in a trance-like state he is not asleep - he is not lying down; he is walking about and doing apparently logical, normal acts, whereas a man in a drunken stupor is lying down flat on his back, dead to the world.

Q What I am trying to get at is, having't you known, from your experience of men being plain drunk, walking around and couldn't remember the next day what they did, from plain whiskey.

A Of course too that condition is a trance-like condition. Whether you take the old fashioned whiskey or whether you take moonshine today, a man could very easily become so intoxicated

that he would not know for hours what had occurred. That is pathological intoxication;- different from ordinary drunkenness.

Q Ordinary drunkenness you mean is drunkenness where they do not go to the state of losing consciousness, is that it?

A Yes.

Q But you have seen men, in your life time, walking around apparently all right and wouldn't remember what they were doing?

A Oh yes.

Q Lots of them?

A Yes.

Q Just the same with whiskey as with moon?

A Yes.

Q So far as that effect is concerned - the moonshine with its poison effects may have a more lasting effect or different effect, but temporarily the result is about the same, isn't it?

A Yes, possibly a little more intense. It is hard to estimate that, of course, because in every case you have to do with the relative factor of different persons - different individuals.

Q And the amount drank controls that considerably?

A I have seen the same condition produced exactly as is described hereby two drinks of old fashioned whiskey.

Q You say you have never seen a case of delerium tremens from moonshine?

A I have not seen a case of the old fashioned D.T.'s. in four years, I said.

Q Would you say that they do not have D.T.'s. from moonshine?

A No, I don't say that. I say I haven't seen them.



Q Do you claim that his state from the time he went upstairs to the time he got through with the shooting, was a trance-like state?

A That is my opinion of it, yes.

Q It could have been just plain drunk, couldn't it?

A I don't think so.

Q Drunkenness was the cause of it anyhow, wasn't it?

A No. I would say the moonshine was the cause of it. Yes.

Q Moonshine was the cause of it?

A Yes sir.

Q The first stages of moonshine is drunkenness, is it?

A Yes.

Q The second stage is drunkenness, isn't it? Most of the stages of moonshine is drunkenness, isn't it, ordinarily?

A I don't know what you mean by stages.

Q Degrees.

A Degrees of drunkenness?

Q Yes.

A Yes. Trance-like state is not a degree of drunkenness at all. Trance-like state is something abnormal - pathological - a different phase entirely.

Q Some people are more subject to trance-like states.

A Some people never have it.

Q Never would, no matter how much they take?

A Yes.

Q Then you say at the time he did this shooting he didn't know who he was shooting at?

A That is my opinion, yes.

Q Didn't know who he was himself?

A No.

Q His mind was not a blank, he was somewhat active. He was operating under a delusion, was he?

A I think so. Connected possibly, and in all of these cases most likely with some delusion. A figure before him assumes the proportion of a hideous monster. The thing which motivates the conduct in a trance-like state, is an idea, of course - some hallucination; some thing seen or heard, but some delusion based on that thing seen or heard, which spurs him on to react automatically.

Q There has been some thing in his life that has been the cause of that reaching back - that is the cause of this delusion or hallucination?

A I don't think so.

Q Do you think that he got that out of thin air, without any occasion for hallucination or delusion?

A Hallucinations are always gotten out of thin air. Hallucinations never come from anything else. Hallucinations are unreal. There is no basis for hallucinations. If there were it would be an illusion, not an hallucination.

Q It is very common however that men when drunk pick up the very slightest pretext for a quarrel?

A Yes.

Q They will remember things that they never would have remembered if they were sober?

A I believe that is true.

Q That will form a basis for an argument or quarrel, will it not?

A Yes.

Q Very apt to, and it has done so a great many times?

A Yes sir.

Q Is it possible that that could have been the case here -

some imaginary insult or wrong that was done the defendant some time by this man Duval and which come back to his memory while in this state?

A I do not think so. The ordinary trance-like state does not have to do with yourself, as a rule, and with your friends, as a rule as they are. They have to do with entirely different - a different state of circumstances - different people - different relations.

Q There is nothing in this case to show by his - any utterances that he has made that he was in a trance-like state. There is no testimony to show that he didn't know that he was Charley Rey or that Michael Duval was Michael Duval, is there?

A No statements, but conduct.

Q Purely conduct.

A Conduct. The very nature of the conduct. The very nature of the act, and the way the act was consummated was very, very typical of a trance-like state.

Q Forgetting that for a minute. This same thing could have happened by a man being drunk, and as we just got through talking about, having an imaginary wrong at some time or other?

A So far as the shooting, you mean?

Q Yes.

A Well, the same act could have happened, but I don't think the same conduct could have occurred.

Q What was there about this man's conduct that - you didn't see it, of course, but what was there - the testimony shows that this man didn't stagger; - he walked around the same as other people.

A Yes.

Q What is there to show that this man wasn't plain drunk?

A The very thing you have spoken of;- that he did not stagger; that he appeared perfectly normal to all those about him; that he walked upstairs with this young lad, and then directed him to go down or he would give him a bullet, as I recall. Then that he sat on the bed where he was expected to go to bed - sat on the bed, and then within a period of 15 minutes he was again observed still sitting on the bed, and then came downstairs with the gun in his hand and proceeded directly to pull the trigger and fire the shots; wholly without conscious intent, to my kind.

Q Well, would you say that a man ordinarily who had drank in the space of time in which this defendant did, around a quart of moonshine, would not be drunk?

A He might be drunk and might be on his feet at the same time.

Q Would this trance-like state tend to stop him from staggering, or would he still be drunk and still be in the trance-like state?

A He could be either way. He could either walk steady or stagger and be in a trance-like state.

Q He would ordinarily stagger with that much moonshine in him?

A I would think so.

Q Do you believe that he drank that much moonshine?

A I don't think I ought to say what I believe.

Q Your testimony is all on what you believe.

THE COURT: He is assuming that the liquor was used - the amount of liquor was used, in his opinion. If that amount of liquor was not used you might have a different

opinion?

A I don't think I would have very much, because, as I said before, the trance-like state can occur even with two drinks. I have known a number of cases where even two drinks of liquor have produced the same condition.

Q That depends upon the physical condition of the subject drinking it, usually?

A Somewhat, I presume.

Q Physical and mental condition, both?

A Yes.

Q Did this defendant from his examination, show signs of having drunk alcohol all his life?

A Yes, he does. He shows the very marked appearances of a chronic alcoholic.

Q How does he manifest it?

A The amount of subcutaneous fat over the man; the amount of fat over his entire body; the marked tremor of the fingers when they are extended; the watering of the eyes; the tremor of the tongue; the tremor of the closed eye-lids. And then if you get to the man mentally, making all due allowances for the small amount of education he has had, he is still a boy in mind;- still a boy;- a cheerful, happy-go-lucky fellow, and very friendly. He showed to my mind no evidence of a chronic alcoholic psychosis - of a chronic alcoholic form of mental trouble, he simply showed the physical degenerative effects of alcohol taken over a long ~~xxx~~ period of time.

Q The longer a man drinks alcohol his powers of resistance are what effects that, isn't it, as a rule?

A Yes, that is true. In other words you can't carry as

much as you could when you were younger.

Q Very markedly so with an old man?

A Yes.

Q Will alcohol in time affect the reasoning powers, of itself?

A If constantly taken.

Q Yes. If drank every day, or every few days, or whenever he can get it, as he testified to.

A Yes. Depends upon how long he lives, of course.

Q His powers or resisting its influence are lessening all the time, are they?

A Yes sir.

Q He becomes more of a slave to alcohol?

A Yes.

Q What do you think this man's object was when he put this money in his shoe?

A Concealment.

Q Don't you think that he knew in his own mind that he was going to get drunk? Haven't you dealt with drunken men considerably in your practice in your sanitarium?

A Yes.

Q Don't you believe that man went up there with the design of getting drunk?

A I don't know what design he had when he went up there, but in the matter of putting the money in that place I can only judge from what he said; and that is if he was held up or lost the money or went broke he would have something to fall back upon. I don't see how I can go back of that and judge differently.

Q It is not the normal thing for a man to do?

A Well, I would say it would be very normal for a man of this type to do that.

Q Customary place to carry money?

A Not for me, but I think he might.

Q Then this defendant at the time he committed that crime was suffering from a trance-like state, was he?

A Yes sir.

Q He wasn't himself at all?

A He was not.

Q Duval was not Duval?

A Correct.

Q There was nothing real to him?

A I believe that.

Q You say it is your guess that the beating he got sobered him up instead of producing amnesia, is that it?

A I do believe that, yes sir.

Q Then you would say that this beating would not be likely to cause amnesia?

A No.

Q Produce amnesia?

A No, I don't think it would. You can go to work and knock a man out with a bludgeon, - you can render him unconscious, but that form of unconsciousness is not a trance-like state. A man can be hit over the head with an iron bar, suffer from concussion, but he falls down.

Q It is conceded this man was not in a trance-like state when he got to Woodruff, after the shooting.

A No.

Q But he was probably suffering from amnesia. He claims.

that he could not remember a thing until Wednesday morning. Now if this blow on the head sobered him up, he had ought to remember-

A As a matter of fact he does remember certain things. He does remember certain things, but he does not remember anything which occurred when he was totally unconscious.

Q He has testified that he don't remember eating anything in this jail, or drinking anything.

A Well, he may not.

Q Then how do you account for the blows on the head bringing him out of it?

A Well, they did partially bring him out. I will say this. If he had been asked when he was in that condition of total unconsciousness, who are you, or where are you, he probably could not have said. But when the shooting was all over, and he was bunged up pretty badly, and on the way to the jail or to Woodruff, he did give his name;- he did give his age, and to that extent he was not unconscious.

Q And not suffering from amnesia either, at that time?

A Not suffering from a trance-like state, no.

Q They will talk and recite things that happened pretty well, while they are in this state of amnesia you talk about and still not remember it, is that it?

A If you mean by that they will talk to a stranger in a logical way, I will say yes, but if they talk to a person who knew them before they would probably make mistakes which would be recognized.

Q Well-

A Mistakes of orientation; mistakes of knowing where they



where and who they were talking to. If you were in a trance-like state today, and I would talk to you, you would answer Yes or No to questions which I asked you, but when you emerged from your state an hour later you would have no recollection at all of my talking to you and of the questions asked. You would not know me as Dr. Studley and yourself as Mr. Radcliffe.

Q That is the distinction between a trance-like state and pure drunkenness, is it?

A Yes sir.

Q There is no evidence in this case to show that there was a trance-like state from any conversations of this defendant, is there?

A Yes, I think some. Some which might make you suspect that. One witness here testified that the strange thing about this man was that he could not make him realize that he had killed Mike Duval.

Q But that might have been caused by pure drunkenness, might it not? Loss of memory from drink?

A Well-

Q Why not?

A Yes, theoretically it might be so too. There was more to this case than simply drunkenness.

MR. RADCLIFFE: That is all.

MR. O'CONNOR: After this grilling have you changed your mind at all as to this man's condition at the time this shot was fired?

A I have not changed my mind, and I don't believe I have been grilled.

(Recess until 1:30 p.m.)

Court convened at 1:30 p.m.

After argument of counsel to the jury, the Court instructed the jury, as follows:

Members of the Jury:

It is my duty to instruct you on the law of this case.

The charge against the defendant is that on December 20, 1925, he willfully and of his malice aforethought killed and murdered Michael Duval.

It appears without dispute that on the 20th of December, 1925, the defendant Rey, by use of a pistol, otherwise known as a revolver, fatally shot Michael Duval while Duval was in his own home, near Woodruff, in this county, and thereby produced Duval's death which occurred three or four days later.

The defendant has pleaded Not Guilty to this charge, and he has also pleaded that at the time of the alleged crime he was insane, and for that reason not legally responsible for his acts.

You should, therefore, first consider and decide whether on December 20, 1925, at the time when the defendant Rey shot and inflicted fatal wounds upon Michael Duval, Rey was so insane as not to be responsible for his acts.

Every person is presumed to be sane and legally responsible for his acts unless the contrary is made to appear by the evidence.

The accused person is under the law insane and not responsible for his acts when he ~~has~~ has such an

abnormal mental condition produced by any cause, as renders him at the time of doing the act or acts unable to distinguish between right and wrong in respect thereto, and not aware of the nature and quality of the act which he is doing, and unconscious that the doing of it will make him subject to punishment.

Please get into your minds the elements of insanity in a legal sense. The mental condition of the accused must be, at the time of doing the act which ordinarily constitutes crime so much out of normal condition of mind that he is unable to distinguish between right and wrong in respect thereto and unconscious that the doing of the act would make him subject to punishment.

In this case there is no suggestion or evidence that the defendant Rey was insane before he came to the home of Duval, December 19, 1925. He is described as theretofore being a quiet, peaceable, law-abiding man. But it is claimed that while at Duval's place he was drinking moonshine liquor, which is a distilled, unrefined, intoxicating liquor, and was so badly affected by it as to be insane and not legally responsible for his acts at the time when he shot Duval.

Now get in mind clearly that mere voluntary drunkenness is no excuse or justification for crime, and it could not even reduce the degree of a criminal homicide if notwithstanding the Drunkenness the accused was capable of forming a deliberate intent to commit the crime. Neither does drunkenness constitute insanity.

Intoxication which merely excites the passions or feelings of the intoxicated person and makes him more

active and more ready to do wrong is neither an excuse nor a justification for crime and does not constitute insanity, nor reduce the degree or quality of any crime that he may commit under those circumstances. But if the use of intoxicating liquor proceeds to such a degree and for such a time that it produces delirium or produces any other abnormal mental condition which makes him incapable of forming any intent to commit a crime, or makes him unable to distinguish between right and wrong in respect to his acts, and makes him unconscious of the fact that the doing of the act or acts would subject him to punishment, then the condition is one of insanity.

Insanity may be produced by too much alcohol. But if the use of alcohol merely produces intoxication and drunkenness that is not insanity.

A person may have an abnormal mental condition and thus be what may be termed pathologically insane and yet be able to distinguish right and wrong and be conscious of the rightful or wrongful nature of his acts at all times and thus be legally sane and criminally responsible for his unlawful acts. If at the time of doing an act he understands its nature and character and its consequence and has knowledge that it is wrong and criminal, and has mental power sufficient to apply that knowledge to his own act and to know that if he does the act he will be doing wrong and will be liable to punishment, any partial insanity or any partial disturbance of his mental condition is not enough to exempt him from responsibility.

The statute provides that when a special plea of insanity is interposed in a criminal case, if the jury shall find upon such special issue that the accused is insane, or

that there is reasonable doubt of his sanity at the time of the commission of the alleged offense, they should return a verdict of "not guilty because insane".

Under the law as it stands, the jury have no right to find the defendant guilty in this case of any crime unless they become satisfied by the evidence beyond a reasonable doubt that the defendant was at the time of the commission of the alleged crime, sane. If the jury become satisfied by the evidence that the defendant was at that time insane, within the definition of that term as I have given it, or if the jury believe from the evidence that there is reasonable doubt of the defendant's sanity at the time of the shooting in question, then you should not find him guilty; on the contrary, you should find him "not guilty because insane". But in case you all become satisfied by the evidence beyond a reasonable doubt that the defendant was sane when he shot Duval as the evidence shows, then you should return a verdict finding him guilty of some criminal homicide.

In case you reach the conclusion that the defendant was sane, then you should consider whether he was guilty of murder in the first degree.

The statute provides that a homicide when perpetrated from premeditated design to effect the death of the person killed, or of any human being, shall be murder in the first degree. The important words here to be noted are "premeditated design to effect the death". These words mean the same as intent to kill.

A design, purpose, or intent conceived and fixed in mind is regarded by the law as premeditated. It is not

necessary in order to constitute murder in the first degree that the intent should have existed for any length of time before the killing. It is sufficient if there was an intent to kill distinctly framed in the mind before the fatal shot was fired. There need not be any material amount of time between the formation of that intent and the killing.

The law presumes that a normal person intends all of the natural, probable, and usual consequences of his acts, and that when one intentionally assaults another with a dangerous weapon likely to kill and without legal justification or excuse, and the life of the party assaulted is actually destroyed in consequence of the assault, then the natural presumption is that death or great bodily harm was intended, and in such case the law implies malice, or intent to kill, and you may infer it, unless the evidence shows to the contrary.

If, therefore, you should all become satisfied beyond a reasonable doubt that the defendant at the time when he shot Duval was legally sane, and that he then and there had an intent or design to kill Duval, then you should return a verdict of guilty of murder in the First Degree.

In case you find from the evidence beyond all reasonable doubt that the defendant was sane at the time when he shot Duval and then do not find that he had a specific intent to kill Duval, you should consider whether he is guilty of murder in the second degree.

The statute provides that an unexcused and unjustified killing of a human being when perpetrated by an act imminently dangerous to others, and evincing a depraved mind regardless of human life, without any premeditated design to effect the death of the person killed, or of any

human being, shall be murder in the second degree.

Now in this degree there does not exist any intent to cause the death of a human being, and this is the most important difference between murder in the first degree and murder in the second degree. In second degree murder the killing is done by an act imminently dangerous to others and evincing a depraved mind regardless of human life, but without any intent to actually take life.

To be imminently dangerous to others means to be inherently dangerous and likely to at once produce great injury or death to some other person. The act producing the death must also be such as to show that the person doing it is of a depraved mind and regardless of, or in other words without any respect or care for human life.

Under the evidence in this case the defendant was, at the time of the shooting of Duval not guilty of any crime because he was insane, or he was guilty of either murder in the first degree or murder in the second degree. The jury have the power to acquit the defendant unconditionally and without finding him insane, but if you do so it will be contrary to the evidence and the law in this case.

If the defendant was sane and responsible for his acts when he shot Duval, and intended to kill Duval, then he is guilty of murder in the first degree, and if he did not have that specific intent to kill, then he was guilty of murder in the second degree.

Under the law every person charged with crime is presumed to be innocent until he is proven guilty. He enters upon his trial with the weight of that presumption

presumption in his favor and it attends him at every point throughout the trial, and it must prevail and result in an acquittal unless the evidence produced in court is sufficiently clear and convincing to satisfy every member of the jury beyond all reasonable doubt that the defendant is guilty.

It is your duty to reconcile the evidence with the presumption of innocence, if that can be done reasonably, and so long as any of you have a reasonable doubt of the ~~guilty~~ guilt of the defendant you ought not to find him guilty. But a reasonable doubt which forbids conviction must be real and not imaginary. A merely speculative or imaginary doubt is not a reasonable doubt. A reasonable doubt can be nothing less than an honest and substantial doubt concerning the defendant's guilt for which a good reason can be given based on the nature of the evidence in the case.

Guilt is proved beyond a reasonable doubt when all of the evidence in the case fairly and reasonably considered impresses the judgment of an ordinarily reasonable and prudent juror with a conviction upon which he would act without hesitation in the most important affairs of life.

If within these rules I have given you you become satisfied beyond all reasonable doubt that the defendant is guilty, it is your duty to convict him. If you do not become so satisfied it is your duty to acquit him.

In considering the evidence you should as to every witness consider his or her age, intelligence, manner of testifying, interest in the result of the trial, if any appears, any temptation to testify falsely appearing in the evidence, the reasonableness of the testimony given, and all other circumstances shown by the evidence which either support or dis-



credit the testimony of the witness.

In considering the testimony of the defendant you have a right to consider his deep interest in the result of the trial, and you may take that into consideration. If any other witness appears to have any interest in the result of the trial, that special interest should be taken into consideration. The same tests that you apply to determine the credibility of the defendant you should apply to every other witness in the case.

The evidence tends to show that the defendant Rey had no motive or reason for killing or injuring Duval. There is very little, if any, evidence to the contrary of that. Motive is often an important matter in deciding whether a crime was committed or whether there was a criminal intent; but while it is competent for the prosecution to show a motive for the crime, the showing of a motive does not establish the charge alone. And while it is competent for the defense to show that there was a lack of motive to commit the crime, the lack of motive is not a defense in itself, and does not necessarily rebut evidence by itself satisfactorily establishing the guilt of the accused. Presence or absence of motive in every case is a mere evidentiary circumstance to be given just such weight by the jury as they deem the same entitled to under the circumstances.

Now this case is submitted to you. It is of a very grave nature. It involves the taking of human life. There is no more serious crime known to the law than the taking of human life wrongfully - criminally, The defendant's liberty is at stake in this case. Bear those consequences in your mind, and bear in mind your oath to return

a verdict according to the evidence. It is of grave importance to the welfare of society that justice be done both to the people of the state on the one side and to the defendant on the other.

The jury retired at 3:10 p.m.

.....

The jury were called into the court room at 4:50 p.m., whereupon the following proceedings were had:

THE COURT: Gentlemen of the jury, since you were sent out in this case my attention has been called to the fact that in the argument of the case it was stated by the District Attorney that if you should find the defendant "not guilty because insane" he would be turned out - actually go free. If I had noticed that at the time when the argument was made I would have corrected it at that time. I want to correct it now. That would not be the result of your finding the defendant "not guilty because insane". And I will go further and say that if you should find the defendant "not guilty because insane" the law requires that the Court shall commit him to an insane hospital. I think you should know that because the influence of the arguments which I have mentioned might be improper, and I have called you in for that purpose. You may retire now and consider your verdict.

The jury again returned into court, at 7:45 p.m. with their verdict, finding the defendant "Not Guilty because Insane".

The Court addressed the defendant, as follows:

THE COURT: On the finding of the jury it is the requirement of the statute that you be committed to the Central State Hospital for the Insane, at Waupun, Wisconsin. It is now the order of this Court that you be committed to the Central State Hospital for the Insane, at Waupun, Wisconsin, there to be treated - that means that you are to be an inmate of that place, and be subject to their direction and control and treatment, and the only way in which you can be discharged therefrom will be by ~~wa~~ hearing down there before a proper court and jury, if it is demanded, on the question whether you are at that time sane or not. Not only must the finding be that you are sane, before you can go at large, but it must also be that you are not likely to have any recurrence of the insanity or mental irresponsibility that you have which might lead you to commit any other such offense as this. Until the authorities are satisfied that that is the situation, that you are not likely to have a recurrence of this you will have to be detained in the hospital. You understand that, do you?

THE DEFENDANT: Yes sir.

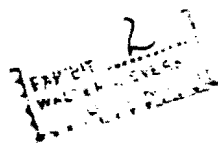
THE COURT: You will have to remain in charge of the Sheriff and the Sheriff will transfer you to that hospital.

State of Wisconsin) )  
County of Marathon) ss.

I, Walter A. Evers, Official Reporter for the Sixteenth Judicial Circuit of Wisconsin, do hereby certify that the foregoing is a true and correct transcript of all the testimony given and proceedings had relating to the trial of the above entitled action; that I have carefully compared the same with my original notes taken at the trial of said action, and the whole thereof, and the foregoing is a correct statement of the testimony given and proceedings had on said trial, and the whole thereof.

Walter A. Evers  
Reporter

Dated February 6, 1926.



Statement of Michael Dural  
 taken at St. Mary's Hospital,  
Rhineland, Wisconsin, Maudey  
December 21st 1925: 11 A.M.

Statement taken and reduced to  
 writing by John W. Kelley,  
 District attorney for Oneida  
 County after first informing  
 Michael Dural that he was  
 in danger of dying;

Chas. Rye, came to my  
 home in Vilas County  
 about one mile <sup>west</sup> from  
Woodruff Dec. 19-1925  
 in the afternoon, visited  
 a while, Rye gave me one  
 five dollar bill and one  
 five dollar bill to my wife  
 for Christmas present.  
 Chas Rye had been drinking

some: Chas Rye,  
Jack Buscha, Ray Sival  
and myself were playing  
cards: after finishing  
playing cards Chas Rye  
went upstairs and came  
down ~~with~~ in a few minutes:  
just after that I looked over  
and saw Chas Rye with a  
revolver in his hand and  
the muzzle of the revolver  
pointed at me: almost  
immediately Chas Rye  
shot me three times  
in the body with the  
revolver. I had had no  
quarrell with Chas Rye  
at any time and had  
known him for about  
twelve or fifteen years.  
M. Busch

STATEMENT OF ACCOUNT

Rhineland, Wis.,

Dec 28

1925

M Duwall

IN ACCOUNT WITH

HILDEBRAND FURNITURE  
AND  
UNDERTAKING COMPANY

Casket	95 00	
Box	15 00	
Emb	15 00	
Shroud	15 00	
	<u>140 00</u>	
Rec'd Check Hpel		
Dec. 28. - 25		
J. F. Hildebrand		