

MANSLAUGHTER THE VERDICT

Successful Fight For Doc Ingels' Neck

THE JURY OUT FROM FIVE TO EIGHT O'CLOCK

Penalty May Be One to Fifteen Years Im- prisonment---Synopsis of the Testi- mony---Case Will Be Appealed

The trial of Frank A. ("Doc") Ingels for the killing of Thomas Barker in the Claymore saloon in Marshfield on the night of Dec 6th 1932, took place before Judge Hamilton in the circuit court at Coquille City Tuesday and Wednesday, and resulted in a verdict of manslaughter, for which the penalty is imprisonment from one to fifteen years, or a fine of \$5000 or both.

The state's case was conducted by District Attorney Brown, assisted by his deputy, E. L. C. Farrin. E. B. Seabrook and C. F. McKnight were attorneys for the defense. The jury was as follows: A J Hamlin, Geo. Mullen, Ray B Dememt, Fred Perkins, A G Aiken, J T Dunlap, L D Smith, C Lorenz, W M Vandecar, Lawson Lawhorn, H J Harrington and D G Beale.

This jury was sequestered after a special venire had been summoned, and the trial commenced about 1:30 p. m. Tuesday. At 5 o'clock adjournment was taken until 7, when an evening session was held, lasting until nearly 9, when the arm of the court stenographer (Mrs. Francis McCloud) gave out. The trial was resumed at 9 a. m. Wednesday and the last witness had been examined at 10:30, when the arguments of the attorneys were commenced.

Great interest was taken in this trial and many interested listeners were present in the court room at all times during its progress. Tuesday evening the large room was crowded far beyond its seating capacity.

The trial was conducted smoothly and expeditiously. There was practically no bickering between the attorneys, and the cross-examinations, though searching, were not severe. It may be said that Judge Hamilton sits down very quickly on the sort of foolishness which takes up valuable time in so many courts. His rulings were prompt and seemed in all cases fair.

The testimony produced by the prosecution, so far as it covered same ground, was practically the same as that brought out in the preliminary examination in the Justice court, and reported in the MATL at the time.

The defense was not set up at the preliminary examination, and it was practically new matter, containing, perhaps, some surprises for the prosecution. The majority of the witnesses for the defense were able to testify only to the good reputation of the defendant or the bad reputation of the man he killed, and it may be said that on the latter point quite a strong showing was made.

Dr. Horsfall was the first witness called. He told of the condition in which he found the body of Barker when he was called, also produced two bullets found in the body.

Dr. McCormick was rung up by telephone about ten o'clock. Hastened down to Claymore saloon. Found Barker sitting on a chair, leaning his head

on his arm, which rested on the table. Barker gasped once. Took off his coat and found two bullet holes in his arm and one in the chest. Wound in the chest caused death. Arrived about 10 minutes after the shooting.

Dr. Gross told of the wounds found on BARKER'S body. Illustrated the course of the bullet, on the person of District Attorney Brown.

J. C. Wilcox—Had known Thos. Barker about two months and Ingel about a year. Was in the room when the shooting occurred. Barker was sitting behind the table. Defendant came in spoke to witness, then spoke to another man, and walked over to the table and went to shooting. After being shot Barker got up, walked around the table and into the closet. Ingels backed out of the room into the reading room. Witness asked Ingels what he was doing, and he said he was "smoking 'em up". Did not hear Ingels say anything to Barker.

Cross-ex: Witness was a barkeeper. Was looking out for the house. Witness could not remember whether he testified in Justice court that the defendant backed out without saying anything. When shooting took place, witness was standing just inside the door. Was about 20 feet from Ingels. Barker was dealing stud poker. Didn't know whether he was dealing for money or not. Barker was employed by the house. Witness illustrated to the jury on a diagram the arrangement of the room.

J. Rack—Was acquainted with Barker and Ingels. Was in Clay Moore's saloon on the night of Dec. 6th. Saw Ingels in the bar-room, and about 5 minutes later saw him in the room where Barker was. Defendant came in, walked over to the table, looked around a minute, shifted his umbrella from his right hand to his left, drew his gun and commenced shooting. Fired four or five shots in rapid succession. At the moment he commenced shooting, Barker was engaged in dealing the cards. Barker got up and walked around into the toilet room. Witness did not think Barker had any weapon on him. Ingels did not speak to Barker nor Barker to Ingels. Witness illustrated at a table the position of the men. Saw Ingels earlier in the day. Between 11 and 12 o'clock. At that time witness took a drink with defendant and he said "I'm mad, and I'm going to kill a man before sundown, and I think I am justified in doing it". Witness said: "Oh, you wouldn't do

that." Defendant repeated that he would, and said that it didn't make any difference, he had only a few years to live anyway. Offered to bet two to one that he would do as he said.

Cross-examination:—Did not know whether Barker was dealing for money. Did not employ Barker. Felt no animosity toward defendant. Was standing at Ingels' right side when the shots were fired. Saw the gun, but did not try to reach it. After Ingels emptied his revolver, he backed away, still clicking his revolver. Barker started to get up before the shooting was all over. About 8 or 10 people were standing and sitting around the table. Witness did not think he told any one of Ingel's threats. Did not think he would carry them out. Witness was asked if he did not make the statement about Feb. 15th that if the defendant was cleared he would leave the country. He answered, yes, and that he had heard the defendant, after his arrest, had said that he would get him too. Witness didn't remember of ever hearing the expression "smoke 'em up" used before that day.

Charley Gee, Chinaman:—Knew Barker and Ingels. Was in Clay Moore's saloon when Ingels shot Barker.

Illustrated on diagram where he sat and the position of Barker and Ingels. Fired five shots, quick Barker and Ingels did not speak to each other.

Cross-ex: Witness was said Barker got up Ingels after Ingels fired all his shots and went to water closet.

J. W. Carter: saw Ingels in the jail next morning after the homicide. Ingels asked if he had killed two men. Witness told him no he had killed old Tom. Defendant said he could go to bed and sleep sound after killing that old man. On Monday, defendant told witness how he killed old Tom. Said Tom was shuffling the cards and reached them over to a man to cut, and as Barker reached his arm out to take the cards again, he commenced shooting. Said he if had another gun he would have got Rack. Defendant told witness of his trouble with Barker. Said he had helped Barker out, and intimated that the latter had been concerned in the attempt to hire the Central gambling room away from him. On Sunday morning Ingels told witness there was an old grudge between him and Barker for what happened in Seattle about 20 years ago, when Barker had got away with his wife and his money.

Fred Johnson, barkeeper at the brewery: Saw Ingels about 2 o'clock on the day of the shooting. Said to witness, "You never seen me mad before, but I am pretty mad now." After some more conversation he said: "I am going up the street to smoke up." Had heard the defendant use the same expression a great many times before. Saw defendant have a revolver in the Pioneer saloon that day.

Ben Schuyler:—Was tending bar for Clay Moore the night Barker was shot. Ingels came in and came up to the bar and treated. Said "I'm going to smoke 'em up tonight—smoke 'em up good." Walked into back room, and in a few moments witness heard shots. Thought it was fire crackers—then that it was a holdup. Started into "back room and saw Ingels going out of the door, putting something in his pocket. Had often heard defendant use the expression, "smoke 'em up."

Frank Denning:—On the day of the killing defendant told him that some of the gun players of Marshfield had made their threats to lay him on a slab, but he would lay them on a slab before the sun went down. In the evening witness saw him in the Blanco bar and he said he was going down to Clay Moore's to smoke 'em up, and asked witness to go along and see the fun. Witness did not hear him say that he was going to Clay Moore's to see Tobe Cox, who owed him some money.

Cross-ex: Had often heard defendant use the expression, "smoke 'em up." C. J. Tibbette:—On the morning of Dec. 6th, in the Broiler restaurant, heard defendant say that "Old Tom" was knocking and he would like to kill him. Defendant was talking to Frank Farrin.

L. McCulloch:—Saw Ingels on the morning of Dec 7th. Ingels then had a revolver which he turned over to Bert McCulloch.

J. W. Carter recalled, and produced the pistol taken from Ingels. Revolver admitted in evidence. Barker's vest produced and admitted over objection of defense.

Frank Hague:—Sold Ingels a .38 calibre revolver. Said to defendant: "Doc you are not going to kill any one, are you?" Defendant made some reply indicating that he wanted it for self-defense.

J. A. Armitage:—Was in Clay Moore's saloon. Saw defendant in the card-room between 10 and 11 o'clock. Barker was dealing stud poker. This witness told substantially the same story of the shooting as the other witness and drew a diagram with which to illustrate it. When the first shot was fired Barker had his hand out and resting on the deck of cards. Witness didn't remember hearing the defendant say anything—about smoking 'em up.

Here the state rested.

The defendant, Frank A. Ingels was the first witness placed upon the stand by the defense. He first told the story of the shooting. He went into Clay Moore's saloon looking for one Tobe Cox, who owed him some money. He walked back into the gambling room and over to the table where Barker was dealing a game. He stood there a few seconds looking around at the players, of whom there were five or six, but not seeing the man he was looking for. Barker was dealing, with his hat pulled over his eyes. Presently Barker pushed the deck over to some one to cut and as he did so raised his eyes and saw defendant for the first time. He jumped up quickly, threw his hand to his right hip pocket. Defendant then shot him, and continued to shoot until his revolver was empty, backing away at the same time, while Barker started around the table toward him. He then walked out to the street and proceeded up on the hill intending to apply for shelter at Ed Dean's house, as it was raining, and have Dean send for an officer to take him into custody. He rung the bell at the house he supposed to be Dean's but no one replied. About an hour later he rang the bell again but though there was a light in the house, no one made a movement. He then went into the woodshed and stayed until morning, when he walked down town intending to give himself up, but met the night watch and assistant at Nasburg's corner and was taken into custody. Witness had been informed by Wm. Ferry the day of the shooting, that Barker had threatened his life. He had met Barker in the Palace chop house early that morning, when the latter had threatened to put him on a slab. Had known Barker since 1876, and knew he had a reputation as a very bad man. Barker had shot at him in 1880 in Tacoma, shooting out of an alley as defendant passed, after defendant had failed to comply with his request for a loan. The reason he did not prosecute was the fear of causing the closing of the gambling houses. Had not seen Barker since then until he saw him in Marshfield. He shot Barker because he thought from the latter's motions that he was about to shoot him. Barker had worked for him a while after coming to Marshfield, and at one time in the gambling room of the Central hotel had raised a chair and threatened to strike him with it.

Ingels was on the stand an hour. He told his story in a very deliberate and positive manner, and no doubt helped his case. He appeared to be in good health and spirits.

Wm. Ferry. He had a conversation with Barker and he said he didn't like Ingels, and had told him he would put him over the divide. Witness told Ingels about this about 3 o'clock in the afternoon of the homicide. Had often heard Ingels use the expression, "smoke 'em up." Met defendant in the Blanco bar room that evening. Defendant told him to wait a few minutes, as he was going to get some money and would be back. Had some money coming to him

and was going to leave in a few days. Saw Ingels have a pistol. Barker's reputation was that of a very bad man. Reputation of defendant was that of a peaceable good natured inoffensive man; was good. About March 15th, heard John Rack say in answer to a prediction that the defendant wouldn't be hanged "you have another guess coming."

Cross-ex:—Frank Denning was not in the Blanco bar when Ingels left, a few minutes before the shooting. Witness and the barkeeper were the only persons that Ingels talked with there, Barker had told witness the town was not big enough to hold him and Ingels and he should put him on a slab.

R. R. Brainard:—was present in the Palace chop house on the morning of Dec 6th. Barker and Ingels were there. They were sitting there, and Barker got off his stool and went over to Ingels and threatened to put him on a slab.

Chas. Stidham:—Was cook in the Palace chop house in December, saw Ingels and Barker there. Heard Barker say to Ingels "I'll put you on the shelf before night." Ingels said: "I'll take your word for it." Barker said: "Don't say too much about it or I'll knock you off that stool." Didn't hear any previous quarrel. Barker had come in first.

Emerson Ferry:—Was tending bar at the Blanco on the night of Dec. 6th. Saw Frank Ingels there between 10 and 11 o'clock in company with Wm. Ferry. No one else present. Four men in back room. Frank Denning was not present. When defendant went out he told Wm. Ferry to wait a few minutes, as he would be right back. He was going to collect some money. Defendant had been drinking but was not drunk. Thos. Barker's reputation was that of a bad character in general. Reputation of the defendant was unknown to the witness.

Cross-ex: Defendant was in the saloon about 5 minutes.

Ed Gould:—Was clerk and bartender at the Central. Saw a difficulty between Barker and Ingel, when Barker threatened to brain Ingel with a chair. Witness was with defendant on Dec. 6th. Didn't hear him make any threats against any one. Had often heard Ingels use the expression, "smoke 'em up." Ingels' reputation was that of a peaceable, inoffensive man. Witness did not know Barker's reputation.

A. P. Owen: Day before the trouble saw Barker and Ingels talking in front of the Blanco bar. Couldn't hear what they said, until Barker drew away saying "you can't give me any guff, or I'll smash you. Ingel stepped up to him again and in a moment Barker repeated the same expression, and soon walked down the street, saying to the witness that that old dough-face couldn't give him any guff, and he would have him on the run, or words to that effect.

W H Noble, Wm Ward, V N Perry, W J Butler and Jas L Ferry testified to the good reputation of Ingels and the bad reputation of Barker.

John Snyder and Levi Smith testified that Ingel's reputation was good.

L M Noble and John Bear testified to Barker's bad reputation when he was on the Bay before.

Capt. Jas. Magee had been brought over from Empire to testify that he didn't know what Barker's general reputation was.

Dr. Horsfall:—Explained course of bullet that inflicted the fatal wound, and it was slightly downward. As an expert the witness thought the weapon must have been nearly on level with the wound.

Watt Short:—Did not remember of being in the Broiler on the morning of Dec 6th when Ingels was there, as related by C. L. Tibbette.

Geo. Hughes:—Often heard Ingels use the expression, "smoke 'em up." It was a by-word with him. The finished the testimony for the defense. In rebuttal the prosecution called two witnesses.

Marcellus Ireland:—was with Frank Denning on the evening of Dec 6th; Denning went into the Blanco bar, stayed a few minutes then came out and went with witness to the chop house. This was a short time before the shooting.

The attorney for the defense made a noble fight for their client, and are to be congratulated on their success in making as good a showing as they did.

The attorneys finished their argument about 5 o'clock and the jury retired. After about three hours deliberation, the verdict of manslaughter was returned.

It was reported last night from an inside source that on the first ballot the jury stood 6 for murder in the second degree, 4 for manslaughter and two for acquittal, and a compromise was finally effected on the verdict of manslaughter.

It was announced by O. L. Ingels, the brother of the defendant, who is here to help him out of the trouble, that the case would be appealed.

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