

Jefferson County Circuit Court
Case Files- Criminal
January 1875

Box 33 Folder 54

State

vs.

Dugge, Gustav

Murder

Shot Richard Billiken with a
shot gun

State of Illinois }
County of Jefferson }

The State of Illinois to the Constable
of Meramec Township in said County Greeting
Whereas information has been made to me the undersigned
Justice of the Peace within and for Meramec Township
in the said County of Jefferson that the Dead body of
Richard Bullock supposed to have come to Death
by violence has been found at the House of Gustave
Duggs in Meramec Township of Jefferson County Illinois
You are therefore Commanded to Summon Sen heirs
holders of said Township to appear forthwith at the
said place where the said body is lying and found
then and there to inquire and true presentments make
as to the manner and by whom the said Deceased came
to his Death. Hereof fail not but of this writ and
your Service make due Return
Given under my hand this 27th Day of July 1874

Henry H. Sanne Justice of the Peace

Hermann W. W. W.
John Dugg
William W. W.
Antone W. W.
Margaret W. W.
Jacob W. W.

Served the within and
the named persons

July the 28th 1874

Joseph Richter

Warrant to Constable
for Want of a proper
Officer to appear
Joseph Richter to execute
the within writ
Henry H. Same
J. J.

State of Missouri }
County of Jefferson }

Be it Remembered that on the 28th Day of July 1874 information having been given to the Subscriber a Justice of the Peace within and for Jefferson County Mo that the Dead Body of Richard Bellicken Supposed to have come to his Death by violence had been found in the house of Gustave Dugge in Meramec Township Jefferson County Mo on the 27th Day of July 1874 I issued a Warrant to Joseph Richter Deputised for Constable of this precinct Requiring him to Summons a jury according to Law to appear forthwith at the above mentioned place to inquire in what manner and by whom the Deceased came to his Death at the same time issued Subpoena Elina Dugge and Hermann Heinrich Gahr to appear at the same time and place aforesaid, and the said Joseph Richter Constable aforesaid at the time and place mentioned in said Warrant or venire returned the same that he had Summoned Hermann Ulrich Gustave Lahn August Herke Anton Ulrich Wm Jung ^{John Dugge} as Jurors to appear as therein required and also that he had Summoned the said Witnesses to appear as required by Subpoena thereupon the said Witness Jung appeared at the time and place mentioned and being duly Empaneled Sworn and affirmed proceeded to inquire into the manner and by whom the said Richard Bellicken came to his Death and the Witnesses being Sworn and their Testimony by me reduced to writing and the jury having heard the same and having also carefully Examined the Dead Body on the said 28th Day of July 1874 Returned Their verdict in writing to me as follows

that the Death of Said Richard Bullock
was caused by a shot fired from a gun from the
hands of Gustave Dugge on the 27th Day of July
1874

Signed Hermann Ulrich foreman

Gustave Luhn

John Dugge

Anton Ulrich

Wilhelm Jung

August Flörke

I Henry H. Sanne a Justice of the Peace
within and for the County of Jefferson
do hereby Certify that the above is a true
correct proceeding of all the transactions had
in behalf of the above inquest

Henry H. Sanne J. P.

Returns of the Argent
Proceeding over the
Body of
Richard Bullocken

State of Ohio
County of Jefferson 3

The State of Ohio to the
Constable of Clevance Township in said County Greeting
You are hereby Commanded to summon Elmore
Dunlap and Herman Henschel as parties to stand and appear
before me Henry H. Darnie Justice of the Peace of said
County at the House of Gustaf Dunlap in Clevance Township
Jefferson County Ohio, on the 28th of July 1894 at the hour
of three o'clock in the forenoon then and there to give
Evidence and the right to say Concerning his knowledge
to the manner and by whom the day
William whose body was lately found in said township
lying at place aforesaid came to his death
by means of said but of this will make due returns
Given under my hand this 24th day of July 1894

Henry H. Darnie Justice of the Peace

Witness, Subpoena

Oliver Dugg

W. H. Galt

for want of a proper
Officer to appear

Joseph Richter to serve
the within writ

H. H. Galt
J. J.

Served the within writ by
Reading the Same to the within
Named persons, this 24th day of
July 1874

Joseph Richter
Deft. Canal

State of Missouri }
County of Jefferson }

We, the jury, having been duly sworn by Henry Sanne, a Justice of the Peace within and for Jefferson County, diligently to inquire, and true presentment make, in what manner, and by whom, Richard Bilecke, whose dead body was found in the upstairs room of the house of Gustav Dugge, on the 27th day of July 1874, came to his death, after having heard the evidence, and upon full inquiry concerning the facts, and a careful examination of the said body, do find, that the deceased came to his death: by violence and that the said body has upon it the following marks and wounds, inflicted to wit: ~~Four~~ round caused by shot gun one shot entering in the left eye one about one inch above the ^{left} eye passing through the skull and ranging backward, one entering near the left temple also going through the skull and ranging back, one entering at the right temple passing through under the skin and coming out near the right ear, and the jury further find, that the said violence, causing said death, was committed by a certain Gustav Dugge, late of Jefferson County in the state of Missouri given under our hands this 28th day July 1874

Herman A. Ulrich (foreman)
Gustav Luhn.

John Dugge, Anton Ulrich
August Flesche,
Wilhelm Jung

State of Missouri
County of Jefferson 3

On this 28th Day of July 1874 before me
The undersigned a Justice of the Peace of Cherokee Township
Jefferson County Mo appeared Gustaf Dugge the person named
in the hereto annexed Warrant and States that he is guilty
of the charge of killing the said Richard Bellicken on the 27th of
July 1874 that the same was done in heat of passion and while
while he the said Gustaf Dugge was under the influence of
Spiritual Liquor that he surrenders himself to the laws
of the State to abide by the Decision of the Circuit Court.

question did you ever tell him to leave your house before
and No I did not

Bellicken went up stairs when he began to quarrel
and began to give me bad talk. I went up stairs
and Bellicken was standing by the door with a pistol
in his hand. I went down into the yard ~~with a gun~~
~~but I did not have a cap on~~ I then went and got
a shot gun and ordered him to leave my house
cant say what he answered I dont understand him
Said that he want to it

Gustaf Dugge

State of Illinois }
County of Jefferson }

On the 28th Day of July 1874
before the Subscriber a Justice of the Peace of Ottumwa
Township in Said County of Jefferson personally appeared
Mina Dugge who was personally Sworn To give Evidence
and the Truth to Say concerning her knowledge of the
man and by whom Richard Bellicken the person whose
body was lately found in the house of Gustave Dugge
in Ottumwa Township Jefferson County Ill. came to his
Death thereupon the Said Mina Dugge deposes and says
as follows: On the Day the man Bellicken was found Dead
I went to old Dittmer's Store my husband Gustave Dugge
came there he had been to Catawissa, he was sober
when he came to Dittmer's went to drinking at Dittmer's
was drunk when he came home got into a quarrel with
Bellicken who was sitting on the porch reading in which
Bellicken parried the first insulting word calling Dugge
a ~~Knave~~ ^{Knave}. Bellicken went up stairs Mr Dugge went up
after him when he came down again he had a sword
in his hand which he thrust on a chair and picked
up a Rifle there was no cap on the Rifle and it
did not fire he then got a Shot gun and went into the
yard bidding Bellicken to leave his House ^{three times} Bellicken
answered him no no Come up if you want anything and
you'll go to hell, whereupon Dugge fired his gun
and everything was quiet, when old Mrs Dugge went
up stairs she called out that Mr Bellicken was shot
I did not go up stairs to see the deceased man
Seen him have a pistol a day before ~~before~~ which
he said Mr Dugge had loaded for him but he
intended to keep it in surprise for him

Mina Dugge.

Testimony of
Ellene Dagge

7

A Bill for
Murder in
1st degree

State of Missouri
County of Jefferson 3

The State of Missouri To the
Constable of Jeff Meramec Township in the County of
Jefferson in the State of Missouri Greeting

Whereas it appears from the Evidence given by Elmer
Dugge and Hermann Heinrich Gült upon the inquest
held over the body of Richard Bullocken whose dead
Body was lately found in the house of Gustave Dugge in
Meramec Township Jefferson County Mo. that the said
Richard Bullocken came to his Death by a Shot fired
by the said Gustave Dugge from a Shotgun at the said
Richard Bullocken on the 27th Day of July 1874

This is therefore to Command you in the name of the
State of Missouri: that you proceed forthwith and
apprehend the said Gustave Dugge whenever he may
be found in your County so that you have him before
me the undersigned Justice of the Peace to answer the charge
and to be further dealt with according to law

Given under my hand this 28th Day of July 1874

Henry H. Sanner Justice of the Peace

Warrant to apprehend

Gustave Dugg

Served the within Warrant in Meramec
Township Jefferson County Mo July the 28th
1874 by having the within named person
before the Justice

Joseph Richter

Deft Constable

State of Missouri }
County of Jefferson }

We Hermann H Gubbe
and Mina Dugge acknowledge ourselves severally
inculped to the State of Missouri in the sum of
fifty Dollars each, upon condition that if the above
named persons shall each make their appearance
before the Circuit Court on the first day thereof
on the next term to be holden for the County of
Jefferson at Hillsboro on the 14th Day of September
1874 then and there to testify to their knowledge
touching the Death of Richard Bellieken Dec,
and do not depart thence without the leave
of said Court then this bond shall be void
otherwise in full force

Witness my Signature this

28th Day of July 1874

Herman H Gubbe

Justice of the Peace

H H Gubbe *E. Seal*
Mina Dugge *E. Seal*

Recognition of
Witness H H Guber
Mina Dugg
Justine 3000

State of Missouri }
County of Jefferson }

The State of Missouri
to The Jailor of the County Jail
in the County of Jefferson Greeting:
Whereas Gustave Dugge has been found
guilty before the undersigned one
of the Justice of the Peace of Meramec
Township in the County of Jefferson Mo.
of having committed Murder on the
body of Richard Billickin on the
27th Day of July 1874 by shooting
said Billickin with a shot gun
at the house of Gustave Dugge in
Meramec Township Jefferson County
Mo. by which said ^{doing} Richard Billickin
got killed,

This is therefore to command you in
the name of the State of Missouri That
you receive the said Gustave Dugge in
the County Jail and him there safely
keep until the session of our circuit
court or till he is otherwise discharged
by due course of law

Given under my hand this 28th Day
of July 1874

Henry B. Lanne Justice
of the Peace

Copy

Warrant of Commitment
of Gustave Duggan.

To the Honorable Judge of Probate of Jefferson
County, in the State of Missouri;

Petition for a writ of habeas
corpus by Gustav Dugge
at present confined in the
County Jail of said County,

The undersigned petitioner, Gustav Dugge,
a citizen of said County, respectfully states,

That on the 28th day of July 1874, he was
committed to, and is now detained, confined
and restrained of his liberty in the County Jail
of said County, at Hillsboro, the County seat
of said County, by the Jailor of said County;

that he was thus committed and is now
restrained of his liberty as aforesaid illegally
and in flagrant violation of the Constitution
of the United States and the State of Missouri,
and the laws of the latter;

That all the facts, concerning his imprison-
ment or restraint, as aforesaid, and the true
cause thereof, to the best ^{knowledge} belief and ^{belief} ~~knowledge~~
of your petitioner are as follows to wit:

Henry B. Larue, a Justice of the Peace of Mer-
riam Township, in said County, issued on the
28th day of July 1874, to the Constable of said
Township a Warrant, stating, that upon an
inquest held over the body of Richard Belliken

it was found, that said Billiken came to his death by a shot fired by this petitioner from a shot gun at the said Billiken, on the 27th day of July 1874, and commanding said constable, to apprehend this petitioner, and bring him before said Justice to answer said charge.

That in pursuance of said Warrant this petitioner was arrested by a deputy constable on the same day, the same was issued and brought before said Justice,

That on the same day to wit: on the 28th day of July 1874, on which this petitioner was arrested as aforesaid, said Justice of the Peace, issued a Warrant of commitment, directed to the jailor of the County Jail of said County, in flagrant committing this petitioner to said Jail, in flagrant violation of the Constitution of the United States and the State of Missouri and the laws of the latter.

That said Warrant of commitment, though in proper form perhaps, has been issued in a case and under circumstances, not allowed by law, and that said Warrant and process of commitment is not authorized by any judgment, order or decree, nor by any provision of law, for the following reasons to wit:

1st said Justice of the Peace did not inform

the petitioner of any criminal charge or charges, made against him, if any;
2nd said Justice of the Peace did not appoint nor inform this petitioner of any time and place, when and where the charges of crime, if any, against this petitioner, might be tried, and he might be heard,

3^d said Justice of the Peace caused no trial to be held and no hearing to be had, as to whether any offences had been committed or not, and whether there was any probable cause, to believe this petitioner guilty thereof,

4th said Justice caused no witnesses to be subpoenaed in the matter, nor was this petitioner informed of his right of hearing, and no hearing given him, whether, no time given him, to get counsel, or even witnesses on his behalf.

This petitioner prays, that he is not guilty of the crimes or offences mentioned in the warrants of arrest and commitment, nor of any crime or offence.

This petitioner therefore prays, that a writ of habeas corpus be issued and directed to the jailor of the said county, commanding him, to have the body of this petitioner before your Honor, to inquire into the cause of his commitment and confinement as aforesaid, and for the reasons above stated to discharge this petitioner.

This petitioner further states, that no ap

petition for the relief sought, has been
made to or refused by any board, officer
or officers, superior to your Honor.

A copy of the Warrant of Commitment
aforesaid, is herewith filed.

Gustav Dugg

State of Missouri:
County of Jefferson } Es. Gustav Dugg being
sworn according to law, says, that the
above petition and the matters therein
stated, are true to the best of his know-
ledge and belief.

Given to and
subscribed before
me, this 7th day of August
1874,

Gustav Dugg

Kenneth F. Address
Notary Public.



Petition

by
Eugene Dwyer,
for
annt of habeas
corpus.

Presented for filing
and action - Filed
before me August
7th A. D. 1874
J. G. Williams
Judge of Probate

Filed Aug 14th 1874
W. S. Dwyer
Clerk

State of Missouri } 20. By the Habeas Corpus
County of Jefferson } Act

The State of Missouri to James D.
Williams, Keeper of the Jail of said
County.

You are hereby commanded
that the body of Gustav Duggen in
the Jail of said County under your
custody detained as it is said under
safe and secure conduct together
with the cause and day of his
being imprisoned and detained
you have before me Joseph F. Williams
Judge of Probate said County
forthwith at my office in Hillsboro
in said County to do and receive
what shall then and there be con-
sidered concerning the said Gustav
Duggen so imprisoned and detained
as oppressed and hence fail not
at your peril.

Witness my hand and official
seal this 7th day of Aug 1874
J. F. Williams
Judge of Probate

In obedience to the within writ, I herewith
return the same, together with the body of the said
Gustave Dugge, who is now in my custody in
the Jail of said Jefferson County, under &
by virtue of a warrant of commitment is-
sued by Henry B. Sarna, a Justice of the Peace
of said County, charging him with murder
by shooting and killing one Richard Bilt-
iken, - and which warrant of commitment
dated the 28th day of July 1874, together
with the examination papers in said
case is herewith returned - This
7th day of August 1874

James F. Williams,
Deputy
Jailer

State of Missouri, County of Jefferson
on the 7th day of August 1874 the within
named Gustav Dugge being brought
before me at office in said County, was
declared entitled to be admitted to bail
in the sum of three thousand dollars
and in default of giving the same was
remanded to jail. The custody of the
jail of till he should give the same and
and now on this 14th day of August
1874 a recognizance
is offered by said

Gustav Dugge for his
appearance at the
next term of the Circuit
Court to answer for the

Charge of Murder as in said
recognizance which is herewith
returned is specified which recogni-
zance is approved and the defendant
is thereon discharged from the
custody of said Jailor upon the
term specified in said
Recognizance - This 14th day
of August 1874 - J. F. Williams
Judge of Probate

Know all men by these presents that Gustav
Duggan principal and George Duggan
Wm. Laesser

as securities acknowledge themselves
to owe the State of Missouri in the
sum of Three Thousand dollars for
the payment of which we bind our-
selves, our heirs, Executors and Adminis-
trators. This ^{Recognizance} obligation is to be void
however upon the following conditions
that whereas the said Gustav Duggan
has been imprisoned in the Jail of
Jefferson County Missouri upon a
charge of Murder of Richard Belknap
and whereas on the 7th day of August
1874 the said Gustav Duggan was
brought before Joseph J. Williams
Judge of Probate of said County
on a writ of Habeas Corpus and
upon a hearing of the same it was
ordered by said Judge of Probate
that said Gustav Duggan be bailed
in the sum of Three Thousand dollars
for his appearance at the Circuit
Court of said County to answer
the charge of killing said Belknap
now if the said Gustav Duggan shall
he and personal appear before
the Judge of said Circuit Court

at on the first day of the next term thereof
to be holden at Hillsboro in said County
on the Second Monday of September
1874 and from day to day at said
term ~~and~~ to answer any indictment
which may be preferred against him
said Gustav Dugg by the Grand
Jury of said County for said Charge
and not depart said Court without
leave of Court. Then this recognizance
shall be void otherwise it shall re-
main in full force.

Witness our hand and seal this
8th day of August 1874.

Gustav Dugg 
George Dugg 
William Proctor 
W. Thickett 
J. C. Allen 
H. H. Sanner

Signed and Subscribed to
above me the undersigned
Justice of the Peace this 12th
Day of August 1874

Henry H. Sanner
Justice of the Peace

State of Missouri
vs

Gustav Duggel

The within Recogniz-
ance is taken
by me and by
me approved
this 14 day of
August 1874
J. B. Williams
Judge of Probate
in & for Jefferson
Co. Mo.

Filed Aug 14th 1874

W. S. Boyce

Clerk

State
vs.
~~Mustache~~ Dugge } In the Circuit
Court of Jefferson
County Missouri

The Clerk of the Circuit
Court, will please issue subpoenas
for H. H. Sanner, H. Ulrick & Otto
Beck, - witnesses for the State

Almer Green
Prosecuting Attorney

State
vs
Lugger

Filed Dec 28th 1874
W. J. Boyce
Clerk

SUBPOENA--CIRCUIT COURT.

STATE OF MISSOURI,

County of *Jefferson*

ss.

THE STATE OF MISSOURI.

To *Wm. G. Guber, Dr Geo. W. Elders, Dr Henry Mull*
and Fanny Dugges

YOU ARE HEREBY COMMANDED, That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the *Town* of *Hillsboro* the *22d* day of *January* A. D. 187*7*, then and there to testify and the truth to speak, in a certain matter of controversy now pending in our said court, wherein

The State of Illinois is Plaintiff;
Gustave Dugges is Defendant;
on the part of said *State*; and, this you shall in nowise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

Witness my hand and seal of our said Court. Done at office
in *Hillsboro*, in the County aforesaid, on this *19th*
day of *December* A. D. 187*4*.

By

C. H. Horne
W. H. Gray Clerk
D. C.

SUBPÆNA

No. *10*

Jefferson Circuit Court.
Jany Term, 1875.
State

vs Subpæna.
Gustave Dugge

Plffs. }
~~Def.~~ } WITNESSES.

Day of Trial *Jany 12 1875*
H H Guber
Dr Geo W Elders
Dr Henry Stuee
Janny Dugge

RETURN.

I HEREBY CERTIFY, that I served the within Writ in the County of *St Louis*
the *8th* day of *January* 1875, by *Reading* *the same*
the within named *Hanny Dugge*
the within named *St Geo W Elders*
Col Geo W Elders *will not* *found in my*
home
Fee, \$ *1.25*

A B Mark Smith
By Wm T. Mockler Clerk

SUBPOENA--CIRCUIT COURT.

STATE OF MISSOURI,

County of *Jefferson*

ss.

THE STATE OF MISSOURI.

To *Mr. Henry Kull*

YOU ARE HEREBY COMMANDED, That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the Town of *Hillsboro* the *12* day of *January* A. D. 1875, then and there to testify and the truth to speak, in a certain matter of controversy now pending in our said court, wherein

The State of Missouri is Plaintiff,
and *Hustave Dugger* is Defendant,
on the part of said *State*; and this you shall in nowise omit.
And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

Witness my hand and seal of our said Court. Done at office
in *Hillsboro*, in the County aforesaid, on this *28th*
day of *Decr*, A. D. 1874.

W. L. Boyce ClerkBy *C. Thos. Marine* D. C.

SUBPOENA

No. ~~1237~~

Jefferson Circuit Court.

January Term, 1875.
State

vs Subpoena.
Duggel

Plffs. } WITNESSES.
Defrs. }

Day of Trial Jan'y 12 75

Dr. Henry Null

Due Jan'y 12 75.

RETURN.

~~I HEREBY CERTIFY, that I caused the within Subpoena to be served on the County of~~

~~the County of~~ 1875, by

~~I~~ The within named Michael Dr. Henry Null cannot
be found in my County. Dr. Henry Null Jan'y 11 1875.
Dr. E. B. 1237
I advise you that I cannot find Dr. Henry Null in my County.
By W. B. Valentine Deputy.

SUBPOENA.--CIRCUIT COURT.

STATE OF MISSOURI,

County of *Jefferson*

ss.

THE STATE OF MISSOURI.

To *H. H. Same, H. Ulrich & Otto Beck*

YOU ARE HEREBY COMMANDED, That, setting aside all manner of excuse and delay, you be and appear in proper person before the Judge of our Circuit Court, at the Court House, in the Town of *Hillsboro* within and for said County, on the *12* day of *January* A. D. 1875, then and there to testify and the truth to speak, in a certain matter of controversy now pending in our said court, wherein

The State is Plaintiff,
Gustave Dugge Defendant,
 on the part of said *State*; and, this you shall in nowise omit. And the person or officer serving this Writ is commanded to have the same at the time and place aforesaid, certifying thereon his return.

Witness my hand and seal of our said Court. Done at office in *Hillsboro*, in the County aforesaid, on this *28th* day of *December* A. D. 1874.

Clerk

By

W. D. Boyce
C. H. Corone

D. C.

SUBPOENA

No. *179*

Jefferson Circuit Court.
January Term, 1875.
State

vs Subpoena.

Dugges

Prs. }
WITNESSES.

Day of Trial *Jan'y 12 1875*

He He Same

He Ulrich

Att' Beck

RETURN.

Fee, \$ *1.50*

T. B. Misch & Co.
By Wm. F. Mitchell Esq.

I HEREBY CERTIFY, that I served the within Writ in the County of *Lexington*
the *5th* day of *January* 1875, by *Es. Hollins* the
same at *St. Louis* *at* *Ulrich* and
Att' Beck

Bill of Cost accrued before
 Henry H. Sanne Justice of the Peace
 in Case of the State of Missouri
 against Gustaf Dugge on Charge of
 Murder of Richard Ballouken Dec
 July 28th 1879 Justice of the Peace

" To affidavit	\$ 00 35
" To Warrant to apprehend Criminal	00 35
" Docket index and Entry	00 20
" writing down Evidence of Witness;	01 05
" Certifying the Evidence	00 15
" writing Commitment to jailor	00 35
" taking Recognizance of Witness	00 35
" Transcript	25

Constable Joseph Richter fees	2.80
" To Serving Warrant on Criminal	00 75
" to Taking Criminal to jail	1 00
Mileage going and returning from jail being 15 th Miles Each way	3 00
Total amount of Cost	\$ 7.55

I Henry H. Sanne a Justice of the Peace
 within and for Jefferson County Mo
 do Certify the above to be a correct
 Statement of all Cost accrued before
 me in the Case of State against Dugge
 on Charge of Murder of Richard Ballouken
 Dec. on this 28th Day of July 1879
 Henry H. Sanne
 Justice of the Peace

\$ 7 55

Peckell
in Case

of State Treasury
against
George Dwyer

H H Lane

J P

Filed Jan'y 18 78/5
Chas. H. H. H.
Clear

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To Mrs. Fanny Duggel (defendant) George Duggel (father)
vs Do Geo W Elders

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 11th day of May, 1878, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein The State of Missouri is Plaintiff, and George Duggel is Defendant, on the part of Sept.; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 27th day of April A. D. 1878.

C. Tho' Horine, CLERK.

Executed the within in Jefferson to collect
by reading the same to the within named
Fanny Dugge, Geo. Dugge, Dr. Geo. W.
Elders, Dr. A. Crull, on the 1 day of May
1875

John Haeger

May 5 1875

Shaho
to
Dugge

D

Fanny Dugge +
Geo Dugge x
Dr A Crull x
Dr W Elders +

2,00

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *Christian Gumbler, Herman Mentz and
John S. Doherty, Dietrich Uelgen*

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *11th* day of *May*, 1875, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *The State of Missouri* is Plaintiff, and *Gustav Suggs* is Defendant, on the part of *Suggs*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *27th* day of *April* A. D. 1875.

C. Tho' Horine, CLERK.

Executed the within ~~not~~ in Jefferson Co. Mo.
by reading the same to the within named

~~Christian~~ Herman Mentzen
enrol. John, B. Daherty. Patrick
Ulzen. on the 7 day of May 1873.

Jacob Haeger

May 7 1873

State

to

Aug 9

—

Christian Guntzler
Herman Mentzenrolf X
John D Daherty X
Dietrich Ulzen X

4 2.00

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To Joseph Richner, Frank Heland, Jacob Roesser,
Louis Frieden, John Frieden & John Stuenkel

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 14th day of May, 1875, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein

The State of Missouri

is Plaintiff, and Gustav Duggel is

is Defendant, on the part of Defendant; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 27th day of April, A. D. 1875.

C. Th. Horine, CLERK.

Exceeded the within in Jefferson, Co. edbo, by
reading the same to the within named Frank,
Clark, Jacob, Raeser, Louis, Ficken,
John, Ficken, John, Stuvesant, on the
24th of May 1875, and on Joseph —
Richter by a coppe on the 4th day of May
Jacob Heger

May 1875

Shake

Dugge

20

~~Joseph Clark~~
Joseph Richter X
Frank Island X
Jacob Raeser X
Louis Ficken X
John Ficken X
John Stuvesant X

\$ 3.00

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *Fanny Duggan, M. A. Larrie*
Whick and 16th Decr

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *11th* day of *May*, 187*8*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein

The State of Missouri vs
Fanny Duggan
is Plaintiff, and *State*
is Defendant, on the part of
to fail.

; and herein you are in no wise

Witness, C. THO' HORINE, Clerk of our said Court, with the
seal thereof before affixed, at office, this *23rd* day
of *May* A. D. 187*8*.

C. Thos Horne, CLERK.

Executed free within in Jefferson Co. Mo.
by reading the same to the within named
Fanny Dugge. and, H. Ulrich. and
Otto Beck on the 14th day of May
A.D. 1875

Jacob Haeger

May 1875

State

no

Dugge

I

Fanny Dugge X

H H Samuel

H Ulrich X

Otto Beck X

2.00

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To

George W. Ecker & M. M. Fisher.

Dr Henry Mull,

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 11th day of May, 1878, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein The State of Missouri is Plaintiff, and Gustav Dugges &c is Defendant, on the part of State; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 3rd day of May A. D. 1878.

C. Tho. Horine, CLERK.

Executed the within in Jefferson Co. Mo.
by reading the same to the within named
Geo. W. Elders by ~~one~~ the ~~6th~~ day of May
A D 1875

Jacob Haeger

May 5 1875

State
v
Dugge

S.

Geo W Elders m d x
H H Guber
D Henry Null

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *John Stegman, William Richter*
William Coates & Henry F. Pittman

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *11th* day of *May*, 187*5*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *The State of Missouri* is Plaintiff, and *Gustav Duggen* is Defendant, on the part of *Def*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *27th* day of *April* A. D., 187*5*.

C. Thos. Horine, CLERK.

Executed the within in Jefferson Co. Mo
by reading the same to the within named
Wm Richter, Wm Roeser, Henry J. Dittmer on the
day of May. 1875.

Jacob Hager

May 5 1875

Shake

to
Lugge

X

Jos Stegman

Wm Richter X

Wm Roeser X

Henry J Dittmers X

100

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *Charles H. Hughes, 1218 St. Angelo*
vs Henry F. Boutwell, 1619 Washington Ave

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *11th* day of *May*, 187*5*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein

The State of Missouri

is Plaintiff, and

Gustavo Surges

is Defendant, on the part of.

State; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the
seal thereof hereunto affixed, at office, this *4th* day
of *May* A. D. 187*5*.

C. Tho' Horine, CLERK.

May 18/5

State

vs

Judge

Dr. G. H. Hughes

12 18. fr Aug 1875

Dr. H. D. Boutwell

16 19

Hutchinson

Assess

Served this writ in St. Louis County on
the 10th day of May 1875 by reading the same to
D. C. Chas H. Hughes

Emile Thomas Sheriff
By Dr. H. D. Boutwell

And further ^{Served this} summons in St. Louis County
by reading the same to Henry D. Boutwell
this 10th day of May 1875

Emile Thomas Sheriff
J. H. Lane
copy.

For \$1.00

STATE OF MISSOURI,
COUNTY OF JEFFERSON.

To Chas. S. Brewster M.D. Chas. P. Smith M.D. and
R. M. McMullin

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the fourteenth day of September, 1877, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein The State is is Plaintiff, and Charles Dugge is is Defendant, on the part of Sept; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 15 day of May A. D. 1875.

C. Tho' Horine, CLERK.

m. 5 1875

Shake

n

by Dugger

Shuff 150

150

I received this note at the County of
Jefferson in the State of Missouri the
15th day of May A.D. 1875-13 reading the same
in Dr. McPherson Dr. J. B. Brewster and Dr. M.
McPherson

J. B. McPherson

State
vs
Gustav Dugga

} Indictment for
Murder.

In the Jefferson Circuit
Court. May Term 1875.

This affiant Gustav Dugga the
defendant in the above entitled
cause states on oath that he can-
not solely proceed to trial in this
cause at the present term of this
on account of the unavoidable
absence of two material witnesses
on his behalf herein - viz: Dr. A.
Crull and William Richter whose
testimony is material ^{in this cause} without
which he cannot solely proceed
to trial: that he has used due diligence
to procure the attendance of such
witnesses at this time by having them
duly summoned: that they are sick
unable to get here: that there is no
one in attendance or within reach
of the process of this Court by whom he
can prove the same facts as he
expects to prove by such absent
witnesses: that such witnesses are not
absent by the advice, ^{consent} procurement
or connivance of this affiant and

he believes he can obtain their attendance
by the next term of this Court of a
continuance be granted him.

Sworn to & subscribed } Gustav Duggs.

Before me May 12th 1873

C. H. Horine Clerk Cir. Ct.

State of Missouri

27

Gustav Duggel

—

Affidavit for
Continuance

Filed May 12 1885
C. Thos. Hering
Clerk

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To ¹Sammy Dugger, ²Geo Dugger, ³S. G. Slogman, Dr. A. Crull, Dr. G. R. Elders, ⁴Wm. Richter, ⁵W. Raeser, ⁶N. D. Sumner, ⁷Chris. Guenther, ⁸Herman Mentzenhoff, ⁹J. D. Scherdy, ¹⁰D. Wilson, ¹¹Jos. Richter, ¹²Frank Claue, ¹³Jacob Raeser, ¹⁴Louis Frickel, ¹⁵John Kuves, and

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the 13th day of Sept.

, 1878, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein Thos. Mate

is Plaintiff, and Guibor Dugge

is Defendant, on the part of Sept.; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this 4th day of Sept., A. D. 1878.

C. Tho. Horine, CLERK.

S. 18/5

State
²⁰
Gustav Dugger

with for Sept

L. H. Co. x 1

Rich. 4

Dugger 5

Gen. 4

St. 4

St. 4

S. Sept 9 1875

Shuff Fee \$8.50

Filed Sept 13. 1875

The Marine
Co.

I Enclosed this with all to bank of
Jefferson in the care of Mr. J. H. Co.
of Sept 18/85 by Reading to draw it
to within month General named write =
see

T. B. M. S. Shuff
By Mr. W. C. Lee Clerk

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *N. A. Guher, Dr Geo W Elders Dr Henry Mull*
Fanny Dugge, N. Ulrich N. S. V. Same & Otto Beck,

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *13th* day of *Sept.*, 187*5*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *The State* is Plaintiff, and *Gustav Dugge* is Defendant, on the part of *State*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the
seal thereof hereunto affixed, at office, this *3rd* day
of *Sept.*, A. D. 187*5*.

C. Tho. Horine, CLERK.

St 1875

State
to
Gustav Dugger

S.

St. St. Huber
Dr Geo. W. Elders
Dr Henry Null
Fanny Dugger
St. Ulrich +
St St Lanne +
Old Beck +

2.00
6.50
8.50

Filed Sept 13 1875
S. M. C. Ho. Marine
Shuff Free
Sept 13 1875

6.00
22.00
28.00
22.00
6.00
16.00
10.00

6.00
6.00
12.00

I Enclosed this m^y at the County of Jefferson
in the State of Mo the 27th day of September
1875 by reading the same to the within
named Witnesses the within named
St. St. Huber not found in my county—

A. B. Waples
By Wm. W. Deane Clerk

State of Missouri }
County of Jefferson } ss

State of Missouri }
vs } In the Jefferson
Gustave Dugge } County Circuit Court
September Term 1895

Now Comes the Plaintiff in the
above entitled Cause - and by its
Attorney moves the Court to
reconsider the order made on the 15th
day of May 1895 - admitting Defend-
ant to Bail: and that Defendant
be remanded to the Custody of the Jail-
or of Jefferson County - for the
reasons following to wit -

1st - That the reasons upon which the afore-
said Order was granted do no
longer exist - And

2nd - That the offense of which De-
fendant stands charged and ~~for~~
~~which he stands indicted~~, is not
bailable under the laws of this
State

~ A. Green, Pros. Atty,
~ & J. C. Mc Ginnis

State

vs.

Gustave Duggs

Motion to

rescind order for

Bail &c,

Filed Sept. 14th 1875

C. H. Marine

Clerk

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *Fanny Dugger, George Dugger, Dr. H. H. Hoggan, Dr. A. Knell, Dr. H. W. Elders*
Mr. Richter, Wm. Roesser, Henry J. Dittmer, & Christ. Gungler, Clement H. Haver-

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *first* day of *Monday of December*, 1875, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *The State of Illinois* is Plaintiff, and *George Dugger* is Defendant, on the part of *slept*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *24th* day of *November*, A. D., 1875.

C. Tho' Horine, CLERK.

20

Augge



- 1 Fannie Duffe
- 2 George Duffe
- 3 Dr. G. S. Sherman
- 4 Dr. C. A. Gill
- 5 Dr. G. W. Edwards
- 6 C. W. Winter
- 7 Wm. Pearson
- 8 A. H. Dittus
- 9 C. L. May Co

Sherry Lee

~~\$500~~

I executed this with at the County of Lexington in the
State of Virginia the 20th day of November 1875 - By reaching
the land in 1874 Stephen I further executed the within
the 2nd day of Dec. ad 1875 - By reaching the same to James
Duggs George Wagon & a camel Dr. by H. Elders & Michael J. M.
Reber

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To Herman Mentgen & D. Doherty, D. Ugent, Joe Richter
Frank Clark Jacob Kaiser Louis Ficken & Joe Throssard

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *first* day of *Monday of December*, 187*8*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein *The State of Mo. vs. J. J. J.* is Plaintiff, and *Geor. Duggan* is Defendant, on the part of *Left*; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *24* day of *November* A. D. 187*8*.

C. Th. Horine, CLERK.

и да

Schiff für

\$400

I executed this with a to County of Lexington
in the State of Virginia the 2nd day of Dec
A.D. 1875 - My reading to same to the within named
Gerrard New General J. D. Dougherty & Nelson for better
knowing & blank facts of Coeser Lewis & Decker
as was done

7. B. Map & Shiff
3. Mr Woodlee York

STATE OF MISSOURI, }
COUNTY OF JEFFERSON.

To *Otto Beck*

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *first Monday* day of *December*, 1875, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein

is Plaintiff, and *The State of Missouri*
Gustav Suggel to

is Defendant, on the part of *State*
to fail.

; and herein you are in no wise

Witness, C. THO' HORINE, Clerk of our said Court, with the
seal thereof hereto affixed, at office, this *10* day
of *November* A. D. 1875.

C. Tho' Horine, CLERK.

State

2

Lugger

Dec Term 1876-

Otto Beck,

Shuff's Feet 50

O executed this writ at the County of Jefferson in the State
of Missouri this 2nd day of December ad 1875-
by reaching the same to Otto Beck the within
named

D.B. Wood

By J. A. Wood

D.B.

STATE OF MISSOURI,
COUNTY OF JEFFERSON.

To

Christian Smiles

You are hereby commanded, that setting aside all manner of excuse and delay, you appear before our Circuit Court, for the County aforesaid, on the *first Monday* day of *December*, 187*5*, at Hillsboro, then and there to testify and the truth to say in a certain matter of controversy now pending in our said Court, wherein

The State of Missouri

Gustav Duggel

is Plaintiff, and

is Defendant, on the part of *State*

; and herein you are in no wise to fail.

Witness, C. THO' HORINE, Clerk of our said Court, with the seal thereof hereto affixed, at office, this *10th* day of *November* A. D. 187*5*.

C. Tho' Horine, CLERK.

State
to
Dugge

Dec 1. 1875.

Christian Ginsler

Dec 10 23
Charges 10 92
- 10 92

of Councils

I have to certify that I observed the within
first of the reading of Jefferson's Declaration
the 10th of November 1875 by
Reading it to the within named witnesses (the Councils)

4311

State

no

Rugger

Dec Term 1875

State

- 1 Gustav Richter
- 2 Chas E. ...
- 3 ... Landman
- 41 ...
- 5 ...
- 6 Dr H. ...
- 7 H. H. ...
- 8 H. ...
- 9 H. ...

Shuffe

\$100

I Enclose this list of the truly of Jefferson in the list
of names the said day of December and 1875 by
reading the same to the name of Gustav
Richter & E. H. ... H. ...
which is ... to within named H. ...
G. B. ...

By W. W. ...

State of Missouri
vs
~~George Dugge~~
Gustaf Dugge

Minerva Dugge, ^{being} duly sworn says
that her husband came home drunk and
he and Billican ^{had some words,} got into a quarrel. and
Billican got mad and ran up stairs and
made a noise walking across the floor.
and her husband requested him to stop
and he would not do it. ~~Her husband~~
then started up stairs with a sword. - Billican
told him if he came up, he would send him to
hell. My husband then came down stairs & got a
shot gun & stepped out in the yard, & told Wil-
ken to leave the house, ^{Wilken} & told him he would not
do it, - he would send him to hell first. - Then I
heard the gun fire, - Did not see him shoot, - he
then went to Esquire Sanna's - Sanna came & went up
stairs, - Richard Wilken was not dead then,
Sanna went away, & in about 1 or 2 hours came back,
& Nelson came - My father told me some three hours
after Wilken was shot that he was dead. -
It was on Monday, 27th July 1874, that Wilken
was shot, - Was about half past six when my
husband came home & the difficulty occurred,
We sent for Dr. Geo. W. Elders, as soon as he was shot,
- he got there about two hours afterwards, - & Dr. Henry
Full was with him,

The State
against
Gustave Dugge } Indictment for Murder

The Court instructs the jury
as follows:

Gunn
1st Every person has a right to the peaceable possession of his dwelling house and is not bound to flee or retreat therefrom to avoid danger if assaulted therein, but may use such means as are absolutely necessary to repel the assailant from his house and if the jury believe from the evidence in this cause that Richard Billiken was stopping at Defendant's house either as a hired hand or otherwise and was not a member of Defendant's family; that on the evening of the homicide the said Billiken and Defendant got into a quarrel when Billiken retired up stairs in Defendant's house and armed himself with a pistol and Thereupon the Defendant ordered him repeatedly to leave his house forthwith which Billiken refused to do. That Defendant knew

that said Billiken was armed with
a pistol and had reasonable grounds
to believe that said Billiken in-
tended to kill Defendant, ^{or do him some great personal injury} rather than
permit Defendant to arrest him
or expel him from his house,
and if they further find that
Defendant in attempting to expel
said deceased from his house
used no more force and did
not employ other instrument than
was necessary and proper under
the circumstances, then they should
acquit

2^d That if the jury believe from the evidence in this cause that Richard Billiken was residing with Defendant temporarily, working for him at his own pleasure but was not a member of his family; that on the evening he met his death the Defendant ordered him to leave his house several times which the said Billiken refused to do, then the said Billiken from the time he was so ordered by Defendant to leave his house and his refusal to do so, was a trespasser and if the jury further believe from the evidence that at or before the time he was so ordered to leave the said Billiken armed himself with a pistol for the purpose and with the intent to resist Defendant in any attempt he might make to expel him from his house then the Defendant had the right to repel force by force and was not bound to retreat or flee from his house but had the right to pursue said Billiken until Defendant had driven him from the house or placed the

Given

1
said Billiken in such a position
that he could do him no harm
and if they further find that Defendant
in attempting to get Deceased out of
his house used no more force and
did not employ any other instrument
than was necessary and proper for
that purpose then they should
acquit

3. The law of self defence and the defence of one dwelling house is euphotically the law of nature. And if the jury believe from the evidence **in this case** that Defendant had reasonable cause to apprehend a design on the part of Deceased to commit a felony upon him Defendant or do him some great personal injury and that there was reasonable cause to apprehend immediate danger of such design being carried out and he shot and killed Deceased to prevent the accomplishment of such apprehended design then the killing is justified upon the ground of self defence and the jury should acquit.

4. It is not necessary to this defence that the danger should have been real or actual or that danger should have been impending and immediately about to fall. If the jury believe from the evidence that Defendant had reasonable cause to believe these facts and he shot under such circumstances as he believed to prevent such expected harm, the jury should acquit. But before the jury can acquit on the ground of self defence they ought to believe that Defendant's

cause of apprehension was reasonable
Whether such reasonable cause has been
established by the evidence the jury are
to judge.

5. If the jury have a reasonable doubt of
Defendant's guilt, they should acquit
but a doubt to authorize an acquittal
on that ground ought to be a substantial
doubt touching Defendant's guilt
and not a mere possibility of his
innocence.

6. Every person is entitled to the peaceful possession of his dwelling house, which is termed in law, his Castle and when the owner orders a party to leave his house ~~the party~~ it is the duty of such party to obey such order and he has no right to remain there against the will of the owner simply because he may claim that the owner is indebted ^{to him} for wages or otherwise.

State of Missouri, Plaintiff

vs

Eustace Duggs Deft.

102

Given

The Court instructs the Jury, that defendant is charged with Murder in the first degree, by having wilfully, deliberately and premeditatedly killed Richard Billiken by shooting him with a shot gun. "Wilfully" as used here means intentional, not accidental. "deliberately" means a cool state of blood, that is not a heat of passion caused by sufficient provocation, and "premeditation" means thought of beforehand, any length of time however short. "Malice" signifies such a state of disposition as shows a heart regardless of social duty, and fatally bent on mischief; and "passion" sufficient to exterminate homicide, is a heated state of the blood, caused by lawful provocation.

No 2

Given

If the Jury find from the evidence that the defendant did wilfully draw a gun and ~~and~~ shoot Richard Billinkin simply because Billinkin used harsh, or words of reproach to words him, and that he thought of the killing any length of time however short, before he shot Billinkin, the offence is murder in the first degree, and the Jury should so find.

3rd

Given

If the Jury find from the evidence that defendant wilfully shot and killed deceased on account of any old grudge, as a matter of revenge or retaliation therefor, then the offence is murder in the first degree, and the Jury should so find.

If the jury find from the evidence that defendant and deceased had a difficulty which resulted in the death of deceased, and that defendant brought on the difficulty by any unlawful act of his, then there is no self defence in the case, and you should not acquit on the ground of self defence; and in ~~case~~ ~~the~~ such case it makes no difference how imminent the peril may have been in which defendant was placed during the difficulty.

5th

Given

If the Jury find from the evidence that defendant wilfully killed deceased by shooting him with a shot-gun, there is no murder in the second degree in the case but the homicide is murder in the first degree, or manslaughter, according to circumstances, that is, if he wilfully shot and killed deceased in malice, it is murder in the first degree; if he shot and killed deceased in a cruel and unusual manner, in a heat of passion, as above ^{in instruction 1st} described, but without a design to kill, it is manslaughter in the second degree.

6th
Given

If the Jury find defendant guilty of ~~murder~~ murder in the first degree, you will simply return a verdict stating the fact.

7
Jury

If the Jury find defendant
guilty of manslaughter in the second
degree. You will assess his punishment
by imprisonment in the penitentiary
not less than three nor more than
five years

8th

In considering what defendant said after the fatal act, the jury ~~will~~ consider ^{it} all together.

He is entitled to the benefit of what he said for himself, if true, as the State is of any thing he said against himself in any conversation proved by the State.

What he said against himself the law presumes to be true, because against himself; but what he said for himself, the jury is not bound to believe, because said in a conversation proved by the State; they may believe or disbelieve it, as it is shown to be true or false by the evidence in the case.

9th

If the Jury believe from the evidence that Richard Billiken on the ~~27th~~ 27th day of July 1874 was residing at defendant's house as a hired hand or boarder, and the defendant and said Billiken on that evening got into a quarrel and that said Billiken thereupon went up stairs in defendant's house, taking a pistol with him, and that the defendant then seized a sword and went up stairs after said Billiken, who stood at the head of the stairs and presenting the pistol at defendant told him not to come any further or he would shoot him, and that the defendant then went down stairs ~~and~~ and got his shot gun and went out of the house in the yard and pointing the gun towards the ~~the~~ window where Billiken was standing (though not in sight of defendant) and ordered him to leave the house or he would shoot him, but that Billiken refused to leave, and if the Jury further believe that said

Billiken was not then armed
or making any effort to shoot
defendant, and that the defendant
then shot and killed said
Billiken ^{with a dangerous weapon} then there is no self defense
in the case; and if the jury should
believe from the evidence, that the
defendant then thus killed said
Billiken in the heat of passion,
but without a design to effect
death, then the offense is
manslaughter in the ~~second~~ ^{third}
degree, and the jury should
so find, and assess defendant's
punishment at imprisonment
in the penitentiary not ~~exceeding~~ ^{exceeding}
~~three~~ ^{two} years, nor ~~less~~ ^{less} than
~~five~~ ^{two} years, or by imprisonment in the
County Jail not less than six months, or by fine
not less than five hundred dollars, or by both
a fine not less than one hundred dollars, and
imprisonment in the County Jail not less
than three months,

4311
State
vs
Lugge

Billiken was not then armed
or making any effort to shoot
defendant, and that the defendant
then shot and killed said
Billiken ^{with a dangerous weapon} then there is no self defence
in the case; and if the jury should
believe from the evidence, that the
defendant then thus killed said
Billiken in the heat of passion,
but without a design to effect
death, then the offence is
manslaughter in the ~~second~~ ^{third}
degree, and the jury should
so find, and assess defendant's
punishment at imprisonment
in the penitentiary not ~~exceeding~~ ^{exceeding}
~~three~~ ^{two} years, nor ~~less~~ ^{less} than
~~five~~ ^{two} years, or by imprisonment in the
County Jail not less than six months, or by fine
not less than five hundred dollars, or by both
a fine not less than one hundred dollars, and
imprisonment in the County Jail not less
than three months,

4311

State

vs
Lugge