

## Second Degree Murder is Held Against Daniels

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Kleck, Dr. Pucelik stated that when he had arrived at the scene of the trouble on the night of September 5th, that he had found the body of Zoubek where it had been carried or dragged along the roadway. To Mr. Robertson's inquiry he stated that the body had been stripped of clothing to the waist when he had arrived there.

Chief of Police Joe Libershal was called and testified that Daniels had complained to him of weeds and shrubs growing along the Zoubek place and which had shut off the breeze. The witness had told him that he could do nothing as the brush and weeds were on the Zoubek place. Later Zoubek had reported that someone was cutting the bushes. The chief of police had warned the parties to stop fussing or they would both be in trouble. On cross examination Chief Libershal stated that Daniels had complained to him on the afternoon of September 5th, of someone shooting at the Zoubek place. Daniels had made complaints of the actions of Zoubek's at several times.

Ray Becker testified that he was deputy sheriff at the time of the stabbing, that he had been called to the scene on the night of September 5th in company with Sheriff Thimgan. When they arrived Zoubek was lying on the side of the roadway of Lincoln avenue. The Zoubek car had been standing in the driveway from the avenue to the yard. The street light was going but the lights on the car were out. He had been out on September 23rd with the photographer, Mr. McFarland and County Attorney Kleck. He was shown photographs and identified his car as being in position as that of the Zoubek and Daniels car. On cross examination Mr. Becker was asked why he had placed the car on Bryant street and stated that it was because the Daniels' had stated that their car had been parked there and also this had been the statement of Earl Newton. Witness on cross examination was shown the gear handle ball and stated that it had been found at the scene and also stated that he had found an old sock at the scene the next morning.

Mrs. James Zoubek, Sr., was recalled to the stand and stated on questioning by County Attorney Kleck that she wished to correct some of the statements that she had made on Monday afternoon. She stated this morning that the Zoubek and Daniel cars were farther apart than she had stated on Monday, also that it had taken but two or three minutes to walk to the scene of the trouble instead of fifteen as she had first stated. On cross examination Mrs. Zoubek stated that James and Newton were out of the car on the south side when she had first seen them. James had not moved when she saw him outside the car, Ival Daniels had attacked him. Witness acknowledged that she had talked with her husband about her testimony after returning home on Monday night. She had called at the office of the county attorney this morning. On re-direct the witness stated that she had asked the county attorney if she might correct the testimony.

Following the recess at 12:15 Earl Newton, companion of James Zoubek on the night of his stabbing, was called to the stand to relate the circumstances on the night of the murder. The witness related that on the night of September 5th he and James Zoubek had returned to the Zoubek home at 9 o'clock and sometime later had decided to go to town after some tobacco. They had driven partially out of the driveway and there saw the car of the Daniels parked in Bryant street. James Zoubek had called to the occupants of the other car to clear the roadway and they had later complied. He testified that as the car stopped in Lincoln avenue that John and Ival Daniels and William Falk had gotten out of the car and started toward their car, that Zoubek had got out and they had started fighting and then witness had come out of car to assist Zoubek. He testified as to seeing the elder Daniels come from the west and also seeing Zoubek and Everett Daniels fighting, of Daniels striking Zoubek with a club as well as hitting at him with some flashing weapon, that Zoubek had then struck Daniels and knocked him down and that Daniels had then stabbed at Zoubek again and this time Zoubek had fallen to the road. Witness had hurried up to the scene as he claimed Daniels had attempted to strike Mrs. Zoubek who had rushed to the scene.

On cross-examination the witness was given a thorough examination by Attorney W. A. Robertson of the de-

fense, who referred frequently to the transcript of the preliminary hearing and the statements made then by the witness. Witness denied that the statement had been made by Zoubek that "we will get a Daniels," and that witness had replied "you bet we will." The witness stated on cross examination that before reaching the Zoubek home that they had visited the Burk home. In reply to the question of the defense attorney the witness stated that the Zoubek car could have gone on west on Bryant street after the Daniels car had moved but did not. John and Ival Daniels and Falk were between the two cars when the fight with Zoubek was going on. Witness was asked if the statement made in the preliminary hearing that "Falk had knocked Zoubek down and hit him over one eye." The witness stated that if any statements were in the record that he had probably made them. Witness said he was not able to just place all of the parties as they were constantly moving around during the fight until after Everett Daniels had appeared. Questioned as to distances which had been testified to in the preliminary hearing, witness stated that he had guessed at them as he had not measured them. Witness was asked to conversation in the presence of Cliff Schafer that he had knocked Everett Daniels thirty feet, and denied any statement of this kind.

The cross examination was completed at noon when the adjournment came.

### Defense Opens Case.

With the resumption of court at 1:30 the state rested.

The first witness of the defense was Ival Daniels, who testified in answer to questions of Attorney W. A. Robertson that on the day of the trial of the case between his brother Charles and the Zoubeks, he, with his father, mother and a lady named Perry, had left here at 2 p. m. and driven to Brownville, leaving there on the return at 6:30. On Labor day he had been home at Plattsmouth, had driven the care to Bryant street, the car being a four door 1926 Dodge. Had battery trouble with the car and had backed up Bryant street some fifteen feet. John Daniel, and Falk had been with him, Ival driving. John and he had got out of car, a car had come from the gate of the Zoubek home and he had heard someone say they wanted to get through. They had pushed the car on into Lincoln avenue around the intersection. Witness did not see John get into car. James Zoubek crawled on east side of car. "I can whip you," and same to Ival. Zoubek had struck him on face, left side of face. The car was not stopped at this time. Had gone out car on west side and someone hit him. Had laid on ground for time and then gone on home. Did not see Falk until officers came. Did not see father. Had nothing to defend with. None had knives or clubs. Car was 40 feet into Lincoln avenue.

On cross examination by Kleck he stated that he did not see tire chain or sock with billiard ball. Had driven to Bryant street before Zoubek came. Had passed Zoubek. Had turned lights off while using starter. Did not know that car was that of Zoubek. Had seen Zoubek, but did not see Newton. Did not pass Falk on road. Had turned the lights on when the Zoubek car appeared.

The next witness called to the stand was John Daniels, who stated he was 21 years old, lived with father and mother. Place ran half a block south to Bryant street. On Monday, September 5th was in Ival's car that evening. Battery was down, Ival, Falk and witness in car, witness in the back seat. Had driven around to highway 75, had backed car into Bryant street, motor had died. Had seen car come out of Zoubek place. Someone had called, had gone down the road to hear what was said. Had gone back to help push their car into Lincoln avenue. Had later crawled into car. Just as made turn Zoubek had said "I can whip you," to witness and Falk and also Ival. Daniels car not stopped. Zoubek had stayed on car. When witness had got out of the car Zoubek was on the west side. Newton came around the front of Daniels' car. Witness had taken tire chain. Was near door for five minutes. Did not see Ival or Falk after Zoubek came. Everett Daniels had come later, was at Bryant street, had asked where Ival and Falk were, asked Newton what was the matter. Newton had hit Everett Daniels twice. Everett Daniels had said "get in car and lets get out." Had pushed car to start. When Newton and Zoubek were fighting them, had seen glitter of some object, did not know which had it. Did not see Ival or Falk until reached house. Ival was on davenport in house and Falk on back porch. Pushed car part way into the driveway. Everett Daniels did not have anything in hands. Zoubek had

struck with some object. Was a dark night.

On cross examination witness said they had two cars at place. Falk had driven to river to secure some tires for Dodge car. Had secured Falk and driven around for some time. After stopping had been able to get car started. Had stayed at Bryant street for five minutes. Had only seen Ival, Falk, Newton and Zoubek at fight. Had not seen cane at fight.

The defense in the early afternoon testimony of Tuesday presented Lee Cotner, who testified that he was acquainted with the Daniels and Zoubek families. He stated that he had visited the Daniels home on the night of September 5th, had arrived there about 8 p. m. and remained until about 9:35. Everett Daniels was there all of the time and he had seen Mrs. Daniels several times that evening. He had seen Ival and John Daniels and William Falk twice, once around 8 o'clock. The second time they had left the Daniels home around 9:30. It was a dark night the witness stated. The witness had gone straight home from Daniels. On cross examination Mr. Cotner stated that Zoubek's name was mentioned but once during Cotner's stay at the Daniels place, about kids shooting at the Zoubek place, Everett Daniels had showed the witness a gun and said he would show Zoubek's he had a gun too.

Dr. R. P. Westover was called to the stand and testified as to the injuries he had found on the Daniels'. He had examined them the next morning. On Everett Daniels he found cut one half inch long in front of left ear, also skin bruises, caused by sharp or semi-sharp instrument, also contusions or bruises on hand from blunt instrument. Ival Daniels cut on head and eye, cheek one bump over right temple and cut on upper forehead, right shoulder and ankle bruised. Sharp or semi-sharp instrument used. John Daniels had a cut on arm, clean cut, apparently by sharp instrument. On cross examination Dr. Westover stated that he had been the family physician of the Daniels family since their residence here.

Eugene Mason was sworn and testified that he knew the Daniels and Zoubek families. He had seen the Daniels car the morning after the trouble and had noticed two spots of blood on ceiling and spots on side and floor of car. He testified that they were brown like dried blood. He had seen Zoubek and Newton at Burke's. He had heard Zoubek say, "I'll get 'em before morning," the witness had said "who?" and Zoubek had said "Daniels." Newton had said "you bet." On cross examination by County Attorney Kleck, Mason stated that he had no drinks at Burke's, was there after dark. Questioned as to how he came to examine the car he stated that he happened to be there and just looked over the car. Asked as to whether the gear shift knob was gone, witness said that he believed it was. Did not know when bumps and dents in car body were made.

Ival Daniels recalled stated that he had never seen the exhibit of the ball from the gear shift handle.

John Daniels also recalled stated that he had never seen the exhibit of cue ball or ball from gear shift handle before it was presented in court.

Clifford Schaffer was sworn and testified that he had known all of the parties concerned. He had seen Newton the next day and heard him make a statement that he, Newton, did not know what was the matter with Zoubek, he didn't fight as good as usual. Newton had said that he knocked down three of them himself and had knocked old man Daniels fifteen feet. There was no cross examination of this witness.

Henry Kuhmann stated that he lived south of Lincoln avenue and knew both the Zoubeks and the Daniels. He recalled being awakened on Labor Day night by the disturbance. He had gone to the intersection of Lincoln avenue and Bryant street on the night of September 5th about 9:30, had seen Zoubek lying near car. Officers had come after Kuhmann had reached there. Zoubek's car was on incline with motor stopped, lights out. Saw a cap picked up, also saw watch picked up, not watch that had been found.

O. W. Vanderpool was sworn and testified that he had visited here on September 6th after peaches at the Daniels home and had wondered how blood could get on ceiling of the Daniels car.

On cross examination the witness stated that he had known the Daniels' family for the past four years and visited occasionally.

Charles Daniels testified that Deputy Sheriff Becker had picked up sock in the road and threw it over the fence, sock had hole in it. Had

never seen the gear shift ball on exhibit before.

Miss Hazel Parriott of Brownville was sworn and testified that she had formerly lived in Plattsmouth near the Daniels home. The little boy was here last July at the time the case of Charles Daniels was in the justice court. The boy had to be in a play that night and was taken to Brownville that day by Everett Daniels, wife and Ival Daniels.

Harry J. Hooker testified that Zoubek had carried a knife.

Howard Ballinger testified that he knew both the Zoubek and Daniels families, knew Jimmy Zoubek. He had heard Zoubek say in front of Daniels place that if they would come out in the road that he would kill the whole bunch. He had examined car September 6th and saw blood and dents in car. He had seen Zoubek with knife last winter. On cross examination by County Attorney Kleck witness stated that he was a friend of Daniels'. He had gone there after grapes on September 6th. He had seen Dodge car about six times, did not know when dent in car was made.

Mrs. Eva Daniels, wife of the defendant, was then introduced on the stand and testified that they were the parents of seven sons, the oldest twenty-seven and the youngest eleven years. Witness had seen William Falk on Labor day. Ival and John had worked on car. In the evening of September 5th had heard noise on the hill south of their place. Mr. Daniels had started up the hill, did not carry cane. The witness had gone with her husband, they had gone past car and Everett Daniels had gone down the bank along the road. Witness had seen Falk and Ival Daniels about half way between car and the Daniels home going north. John Daniels was on east side of car as they approached, had bulky object in hand. Witness had seen Earl Newton and someone else in the roadway, did not recognize the other party. Daniels had gone down into the road and asked what the trouble was about. Newton had struck him twice. Mr. Daniels after getting up the second time had asked John where the other boys were and had told John to go home. Daniels had no knife on him at the time.

Mr. Daniels had suffered injuries to the face that had broken the skin. On returning home she had bathed her husband's face and wiped the blood off. Ival had head cut it was found when they had returned home and John cut on the arm. When they arrived home Ival and Falk were there and John had arrived about the same time. Witness did not know what had happened to the other persons who were in the fight. On cross examination she stated that she had seen Falk and Ival going toward home as she and her husband had gone to the scene of disturbance. Witness testified that her husband had not said, "We will have to stick together on this."

Everett Daniels was called to the stand at 3:40 p. m. and denied making any remark about having to stick together, had not talked to Falk about knife. On Monday, September 5th he had been home and Lee Cotner had come in the evening to see about some grapes. Cotner had stayed about fifteen minutes after 9:30. John, Ival and Falk had driven in once while Cotner was at the house. The witness had started to town to seek his young son, Glenn, when he heard the disturbance south of the place and had started for the scene of the trouble. Witness denied owning a dagger or that he had shown it to William Ferguson. Witness also denied conversation with Chief of Police Libershal. Witness had left on the day of the supposed conversation with Libershal, for Brownville immediately after court, had not returned until after midnight of that day.

On September 5th Ival had trouble with his car and had worked on it for some time. They also had purchased some second hand casings from the Grebe's, fishermen near the river. The witness denied having his cane when he went to see about the trouble on Lincoln avenue. He had seen John there on the west side of their car, Earl Newton was there and some other person who he did not recognize. He had gone down the bank of the road and asked, "Where is Ival and Bill?" Newton had struck him more than once. The second time he had got up and all was hazy to him at the time. He had helped John get the car started. The wife had helped him up the bank and they had gone on home. Had no knife on him. He had been no farther south on Lincoln avenue than where he had come down the bank. On cross examination Mr. Daniels denied any conversation with Ferguson, no recollection of any knife and had not conversed with anyone that he knew of. Did not have any conversation with Leo Cotner as to gun. Did not know Glen Ferguson. The only party that he had recognized was Earl Newton

at the scene of the fight, did not recognize the other party. Witness did not know who had hit him the second time.

The defense rested their case at 4:40.

Earl Newton and James Zoubek, Sr., were recalled in rebuttal and stated they had not seen Mrs. Daniels near the scene of the trouble that night. Witnesses had seen no strange man during the fight.

Ed W. Thimgan, testifying in rebuttal stated that Daniels had said that his wife was with him and also that he had said that he was the last of the family to reach home on the night of the trouble.

Mrs. James Zoubek was called and stated that she did not see Mrs. Daniels on the night of the trouble and did not see any strange man.

The testimony closed at 4:30 and the court adjourned until this morning for the argument and instructions to the jury.

## Cass County Farm Bureau Notes

Copy furnished from Office of County Agent Waincott

### Annual Meeting Well Attended

About 450 people attended the Cass County Farm Bureau annual meeting held in Weeping Water at the Congregational church Saturday evening, November 26. Reports of the work done by the farm bureau and extension service were given as follows:

Paul Gerard reported on the progress made in the use of legumes and how effective insect control work had been. He said, "In 1921 Cass county had 118 acres of sweet clover, which was generally thought of as a bad weed. By the effective use of experimental plots, farm tours, meetings and publicity, the real value of sweet clover has been brought to the farmers. Today there are 30,000 acres in the county. Experiments have proved that an 18 inch growth of sweet clover turned over in early May is equal to twenty tons of manure per acre."

Without a doubt Cass county land is more fertile today than it was ten years ago. The wealth of our nation depends on the fertility of our land and the farm bureau and extension service have certainly been maintaining this immeasurable wealth in Cass county. More land should be put in alfalfa, as there is always a demand for alfalfa hay. More hardy and disease-resistant varieties are being used now but more acres should be seeded."

Mr. Gerard continued, "I will give you an example of how effective insect control work is when it is done in the right way and at the right time. In 1930, the estimated damage to the wheat crop in Cass county was 30 per cent. The county produced 500,000 bushels. A thirty per cent damage would be 150,000 bushels, and at 30c per bushel would be \$45,000. An observation station was placed in the county and a letter was sent to every farmer telling them of the danger of another infestation, how to keep down the volunteer wheat and to hold up their seeding until the safe seeding date was announced. Meetings were held throughout the county and publicity was used extensively. As a result of the work, damage was less than 5 per cent in the county this year, while neighboring counties had from 20 to 50 per cent damage. This saving alone would be enough to operate the farm bureau for twelve years."

Warren Fager, 4-H corn club leader, gave a report on the corn variety and type improvement work in Cass county. "Corn variety and type demonstrations have been conducted in this county for about eight years. The work started with about six varieties. This year 35 were grown in the county which was one of the four state experimental plots. Great interest has been shown in these demonstrations as shown by over one hundred farmers attending the result demonstration for each of the past three years," he said.

"Probably the most interesting variety in the tests is the Krug Yellow Dent, a very smooth variety that has been grown in the plots for three years. It has outyielded many of the best local varieties by 3 to 8 bushels per acre. Seed was furnished to 15 4-H corn club members this year by Mr. Waincott, the county agent, for their ten acre fields. This will make a good supply of seed available to Cass county farmers for another year. I did not have enough seed given me by Mr. Waincott to plant all of my field so I purchased some from a man who said he had Krug corn. The ten acres that was the real Krug corn yielded 94 bushels per acre while the remaining part of the field planted with the other corn made 60 bushels per acre. If we could increase the

## CORD PANTS

Those much wanted Cedar Corduroy Pants are here. These husky, warm trousers are the answers to a mother's prayer. A pair of pants that stay put; take all kinds of abuse and eliminate patching!

Philip Thierck  
VALUE GIVING CLOTHING

ished lamp bases and provided lights sufficient for family needs.

Mrs. Will Ost reported on the benefits to be derived from keeping home accounts. She said, "The part home products contribute to our living is surprising." She also said that home accounts had helped solve the problem of spending money for the children. The children are now on an allowance and they are finding that they must choose wisely to make that allowance being given them the most satisfaction possible. 54 homemakers are keeping records this year.

Soap making as a means of utilizing surplus fats, such as cracklings, meat fryings, etc., is very gratifying practice, according to Mrs. Nelson Berger of Nehawka. 42 women have made or transported such surplus or otherwise waste fat into 1660 pounds of pure soap during the past year. This soap has given satisfaction not only for laundry purposes but also as toilet soap.

Sewing machine clinics are becoming more popular each year. 151 women attended 8 clinics the past year, at which time 102 machines were overhauled, cleaned and put into good running condition. Since the clinics these same 151 women have helped overhaul 154 more machines, making a total of 256 machines made new. Ordinarily one would pay \$3.50 to have this done which means a saving of \$96.00 beside the joy of sewing with a good working machine.

Miss Evelyn Wolph, in summarizing the girls 4-H club work said, "My girls felt that the way in which they had learned to make themselves useful, to co-operate with others and to get the most out of life was worth all their effort in 4-H work to say nothing of the material advantages." 140 girls carrying cooking projects made a total of 10,763 recipes and helped prepare 10,848 meals. 98 clothing club members made a total of 694 garments. 5 canning club members canned 627 quarts of fruits, vegetables and meats. These are just a few of the accomplishments of the 266 completing 4-H projects this summer.

Francis Flood, world traveler and explorer showed motion pictures and told of his trip to the Island of Boré. He compared the agricultural methods of Australia, Java, Borneo and China with that of the United States. He said "The reason the United States was foremost of all nations in the world in agriculture was because our Pilgrim fathers believed in education and we have kept this ideal ever before us in agriculture as in other things ever since."

"This is most evident here in Cass county by the way you people have responded to the annual meeting. It shows that you are interested in agricultural education." The newly elected board members are Carl Day, Paul Gerard and Harry Bricker.

Journal Want-Ads get results!

## Public Sale

To settle the estate of Niels P. Petersen, deceased, I will sell at Public Auction on Saturday, December 3, 1932, at 1 o'clock p. m., at the residence located on the land in Greenwood, Nebraska, the following Cass county, Nebraska, property—

Lots 1 to 20, inclusive, Block 7, all in Ryder's Addition to Greenwood; and—

The north half of the northeast quarter and the southwest quarter of the northeast quarter, all in Section 27, Township 11, Range 9.

Said premises will be offered in parts and as a whole and will be sold subject to approval of the District Court.

HANS P. M. HANSEN, Admr.  
Fremont, Nebraska