Virginia At a County Court held in and for the County of Rockingham at the Court House thereof on Monday May 21st. 1900.

Commonwealth } Upon an appeal from the judgment of
vs } D. M. Switzer Mayor of the Town of Harrisonburg and Ex Office J.P.

D. S. Lewis Jr., Charles A. Hammer, M. M. Jorman, S. A. Davis, John F Lewis and E. L. Decker & Chas. W. Fletcher

This day came the attorney for the Commonwealth and the appellants D. S. Lewis Jr., Charles A. Hammer, M M. Jarman, S. A. Davis, John F Lewis and E. L. Decker in obedience to their recognizance entered into before the said Justice, and by Counsel, and thereupon the appellant moved the Court to have amended the return made by the Justice of his judgment, in this cause, in so far as the same relates to the costs on the ground that the said return is not in accordance with the judgment rendered by said Justice, which motion upon Consideration the Court overruled, but leave is granted the said Justice to amend his said return in this particular if he elects to do so. and thereupon the appellants moved the Court to enter John Acker as prosecutor in this Cause which motion the Court doth not now pass upon, and the further hearing of this cause is continued, for reasons appearing to the Court until the first day of the June Court next of this Court, being June 18, 1900, And on their motion the Court doth permit the said appellants to renew their bail

in the sum of $100.00 each for their appearance at said date whereupon the said D.S. Lewis Jr. Charles A. Hammer, M.M. Jarman, S.A. Davis, John F. Lewis and E.L. Dechert together with Chas D. Harrison and D.O. Dechert their sureties (who justified as to their sufficiency) acknowledged themselves to be indebted to the Commonwealth of Virginia, in the sum of $100.00 each to be levied of their respective goods and chattels lands and tenements for the use of the said Commonwealth of Virginia, each waiving the benefit of his Homestead Exemption as to this obligation, also each waiving any claim or right to discharge any liability arising to the Commonwealth under this recognizance, with coupons detached from the bonds of this State yet upon this condition that the said D.S. Lewis Jr. Charles A. Hammer, M.M. Jarman, S.A. Davis, John F. Lewis and E.L. Dechert do each make their personal appearance before the Judge of this Court on the said 1st day of the June Term next of this Court to prosecute their said appeal and not depart thence without leave of the Court.

A Copy Test

J. S. Mossley Clerk

Commonwealth
vs. } upon an Appeal
D. S. Lewis Jr. & others

14/102

A. Copy

Ex. "Order"

Clerk's fee 40¢

Rockingham County to wit:

Be it remembered that on the day of 1900 D.S. Lewis Jr., Jno F Lewis, Charles W Fletcher, Charles A Hammer, M.M. Jarman, E.L. Dechert & S.A. Davis, were brought before me D.M. Switzer Mayor of the town of Harrisonburg, Va ~~ex Ex~~ Officio Justice of the peace and the charge contained in the within warrant and on motion of the said prisoners the hearing of the cause was continued until the 17 day of April 1900 when the hearing of the cause was begun and said cause was concluded on the 28 day of April 1900 and the said prisoners are by me on the evidence on oath of the witnesses who testified in the case, found guilty as follows: D.S. Lewis Jr and John F Lewis are found guilty of assault and battery on John Acker; Charles W. Fletcher, Charles A. Hammer, M M Jarman, E.L. Dechert and S.A. Davis are found guilty as aiders and abettors or principal in the second degree to said assault & battery on said John Acker; wherefore I ~~adjudge~~ that D.S. Lewis Jr be fined the sum of $50 that Jno. F Lewis be fined the sum of $50, that Charles W. Fletcher, Charles A Hammer, M M. Jarman, E.L. Dechert & S.A. Davis be each fined the sum of $15 and in addition the said D.S. Lewis Jr. John F. Lewis, Chas A. Hammer, Chas W. Fletcher, E.L. Dechert, M.M. Jarman & S.A. Davis shall pay the costs of this prosecution amounting to the sum of $ But the said D.S. Lewis Jr., John F. Lewis

Charles W. Fletcher, Charles A. Hammer, M M Jarman & E. L. Dechert and S. A. Davis having prayed an appeal from my said judgment, an appeal is hereby granted them to the next Term of the County Court of Rockingham County except said Chas W. Fletcher they having given bail for their appearance before said Court on the 1st day of the May term 1900, and the said judgment and conviction, as well as said appeal and bail, are hereby certified to the said Court.

Given under my hand & Seal this 28 day of April 1900

D M. Swartzer (Seal)

Mayor of the town of Harrisonburg an Ex Officio J.P.

A Copy Teste

J S Mauzey Clerk

Certificate of Appeal
Commonwealth
vs
D S Lewis Jr. et al

"Ex. Certificate"

A Copy

Clerk's fee 40¢

1.

Given

The Jury are instructed that the defendants are presumed to be innocent until their guilt is proven beyond every reasonable doubt.

I.

The Jury are instructed that the defendants are presumed to be innocent until their guilt is proven beyond every reasonable doubt.

5.

The Jury are instructed that if they believe from the evidence that under the circumstances of the difficulty between John Acker and John F. Lewis,(the Uncle of D. S. Lewis, Jr.,), viewed from the standpoint of said D. S. Lewis, Jr., said D. S. Lewis, Jr., reasonably believed that said John F. Lewis was in imminent danger of receiving serious bodily harm at the hands of said Acker, then said D. S. Lewis, Jr., had a right to and was justifiable in interfering in said difficulty for the protection of said John F. Lewis Jr. and in the use of such force to prevent such injury as was reasonably necessary, from his point of view, if they further believe from the evidence that said John F. Lewis Jr. was without fault in bringing on said difficulty between himself and said John Acker.

given

The jury are instructed that if they believe from the evidence that under the circumstances of the difficulty between [illegible] and John F. Lewis, (the father of D. S. Lewis, Jr.,) viewed from the standpoint of said D. S. Lewis, Jr., said D. S. Lewis, Jr., reasonably believed that said John F. Lewis was in danger of receiving bodily harm, then said D. S. Lewis, Jr., had a right to and was justifiable in interfering in said difficulty for the protection of said John F. Lewis, and in the use of such force to prevent such injury as was reasonably necessary, from his point of view, if they further believe from the evidence that said John F. Lewis was without fault in bringing on said difficulty between himself and said John Acker.

(3)

Given

The jury are instructed that any admission or declaration made by one of the defendants cannot be considered as evidence against any of the other defenadnts, unless the jury believe from the evidence that all of the defendants had conspired to commit some unlawful act, and that in the commission thereof and in pursuance of such conspiracy an assault and battery was made upon John Acker and such admission or declaration was made when they were in the act of committing such unlawful act, or when in its way of commission.

The jury are instructed that any admission or declaration made by one of the defendants cannot be considered as evidence against any of the other defendants, unless the jury believe from the evidence that all of the defendants had conspired to commit some unlawful act, and that in the commission thereof and in pursuance of such conspiracy an assault and battery was made upon John Acker and such admission or declaration was made when they were in the act of committing such unlawful act, or when in the way of commission.

4

The jury are instructed that in this cause the burden of proving every material fact necessary to ~~xxx~~ establish the guilt of the defendants rests upon the Common wealth, and that each and every such material fact must be proven beyond every reasonable doubt; and if the jury shall have any reasonable doubt as to any material fact necessary to establish the guilt of the defendants, or any of them, they are to give the defendants the benefit of such doubt, and acquit them, or any of them as to whom such doubt applies.

Given

5

4

The jury are instructed that in this cause the burden of proving every material fact necessary to establish the guilt of the defendants rests upon the Commonwealth, and that each and every such material fact must be proved beyond every reasonable doubt; and if the jury shall have any reasonable doubt as to any material fact necessary to establish the guilt of the defendants, or any of them, they are to give the defendants the benefit of such doubt, and acquit them, or any of them as to whom such doubt applies.

7

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ROCKINGHAM COUNTY---GREETING:

You are hereby commanded to summon J. C. Beery & Dr. C. M. Holbingsworth. & John Rodgers

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 *o'clock, a. m., on the* 2d *day of this* November *Court ~~next, being~~ the* 28th *day of* November 1900 189 *, to testify and the truth to say in behalf of the Commonwealth against* D. S. Lewis Jr. & Thos & C. A. Hammer

who stands charged with ~~and indicted for~~ Misdemeanor

And this he *shall not omit under the penalty of £*100. *And have then and there this Writ.*

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 28th *day of* November 1900, ~~189~~, *and in the* 125th *year of the Commonwealth.*

J. S. Messerley, *Clerk.*

Form 68—Berlin.

Entered April 1900
Patent Jan 5, 88, 6

Commonwealth

vs 3 Sp

D. S. Lewis Jr. relator

J. C. Beery
D. C. M. Holmigenwalt.
John Rodgers

Forth mlt

J. S. MESSERLEY, CLERK.

C. H. BRUNK, DEPUTY.

CLERK'S OFFICE.

COUNTY COURT OF ROCKINGHAM.

Harrisonburg, Virginia, ... 190....

Commonwealth

o

D. S. Lewis & others

Entering Atty 10. May let. order 36. Cert 25. June let order 36. Cert 25. Aug let. order 36. order 36. 3 Sp. 49 Copies $5.50 Cer 25. Certifying 15 witnesses 4 50 Nov. let 4 Spas 32 Copies $4 00 Certifying 23 witnesses $6 90 8 orders 2 88 Jury rc 75. Dec let order 36. Jany 28. Judgt 36. taxg Costs 20. Certifying fees & filg papers 20. March let order 36. April let Do. 36

29.66
.83
$30.49

$29.66
Atty. 5.00
Sheriff 17.40
Jury 15.68
Witnesses 73.36
Justice &c. 6.90
$287.00

708
222
930

1440
184
1624

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Be it remembered that upon the trial of this cause after the Commonwealth, to maintain the issue upon its par had introduced all of its evidence in chief, as set forth in Bill of Exceptions No. 1, which is here referred to and made a part of this Bill of Exceptions, and had rested its case, and after the defendants, to maintain the issue upon their part, had introduced all of their evidence in chief, as set out in the same Bill of Exceptions, the Commonwealth, to further maintain the issue upon its part, in rebuttal, called one, Chas. C. Hering, to whom it propounded the following question, to-wit: "State whether or not when Ike Davis was knocked down he was attacking any one". To the propounding of which question the defendant, by counsel, objected, on the ground that the question did not seek to elicit any testimony which was properly admissible in rebuttal, this matter having been inquired into by the Commonwealth in its evidence in chief, but the Court overruled said objection and permitted the witness to answer said question as follows: "He was not striking in my judgment at all". To which action of the Court in so overruling said objection and in so permitting the propounding of said question and in so permitting the witness to answer, as above stated, the defendants, by counsel except, and pray that this, their Bill of Exceptions No. 3 may be signed sealed and enrolled and made a part of the record in this case, which is accordingly done.

Geo. G. Grattan (SEAL)

in order to introduce testimony in rebuttal by the defendants to the effect that Ike Davis was attacking Hamilton and Lifsitz when he was struck.

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It is remembered that upon the trial of this cause after the opening, to maintain the issue upon its part and introduce all of its evidence in chief, as set forth in their Bill of Exceptions No. 1, which is here referred to and made a part of this Bill of Exceptions, and had rested its case, and after the defendants, to maintain the issue upon their part, had introduced all of their evidence in chief, as set out in the same Bill of Exceptions, the Commonwealth, to further maintain the issue upon its part, introduced, called one, Chas. G. Herring, to whom it propounded a question, [illegible] "State whether or not when the Davis was crossed down he was attacking any one". To the propounding of which question the defendant, by counsel, objected, on the ground that the question did not seek to elicit any testimony which was properly admissible in rebuttal, this matter having been inquired into by the Commonwealth in the evidence in chief, but the Court overruled said objection and permitted the witness to answer said question as follows: "He was not attacking in my judgment at all". To which action of the Court in so overruling said objection and in so permitting the propounding of said question and in so permitting the witness to answer, as have stated, the defendants, by counsel except, and pray that this, their Bill of Exceptions No. 6 may be signed, sealed and enrolled and made a part of the record in this case, which is accordingly done.

(SEAL)

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Be it remembered that upon the trial of this cause, after the Commonwealth, to maintain the issue upon its part, had introduced all its evidence in chief, as set out in Bill of Exceptions No. 1, which is here referred to and made a part of this Bill of Exceptions, and had rested its case, and after the defendants, to maintain the issue upon their part, had introduced all of their evidence in chief, as set out in the same Bill of Exceptions, the Commonwealth, to further maintain the issue upon its part, in rebuttal, called one, Julius C. Sibert, who testified that he had been present in the Republican convention on the 17th day of March, 1900, and to whom the Commonwealth then propounded the following question: "State whether or not you saw Mr. Acker strike at any one and whether or not it was possible for him to have struck at Hammer as stated by Bello Lewis and Hammer, ~~any one~~". To the propounding of which question the defendants, by counsel, objected, upon the ground, 1st., that such testimony did not constitute rebuttal testimony, but testimony in chief, and should have been so introduced by the Commonwealth and that it was improper to admit it at this stage of the cause under the guise of rebuttal, and 2nd., that the question called for an opinion of the witness, which it was improper to admit him to give, but the Court overruled said objection and permitted the witness to answer the same, as follows: "I did not see him strike at any one and it was impossible for him to have struck at Hammer as described by Lewis and Hammer ~~any one~~." To which action of the Court in so permitting the

This was the witness which was last heard

propounding of said question and in so overruling the objection and in so permitting the witness to answer, as above set forth, the defendants, by counsel except, and pray that this, their Bill of Exceptions No. 2 may be signed, sealed and enrolled and made a part of the record in this cause, which is accordingly done.

Geo. Shattan (SEAL)

Be it remembered that upon the trial of this cause, and after the evidence set forth in Bill of Exceptions No. 1 had been introduced by ~~the~~ Commonwealth and Defendants; and after the jury had rendered its verdict as therein set out; and after the Court had overruled the motions of the Defendants for a new trial and in arrest of judgment, as set out in said Bill of Exceptions No. 1, and in Bill of Exceptions No. , the Defendants, by Counsel, moved the Court not to enter a judgment against them jointly for the costs of this proceeding, but to enter such judgments for costs against them severally as it might deem just and proper under the evidence in the cause, as shown in ~~to~~ said Bill of Exceptions No. 1, which is here referred to as part of

this Bill; but the Court over-
ruled said motion and proceeded
to enter the following judg-
ment (here insert judgment);
to which action of the Court in
so overruling said motion and in
entering said judgment
the Defendants, by Counsel, ex-
cept and pray that this, their
12th Bill of Exceptions, may be
signed sealed and enrolled,
which is accordingly done.

Geo. W. Munson (Seal)

"revolutionary methods," to which Hammer responded that he might have had such a conversation with Hooke, but if he did, did not remember it

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Be it remembered that upon the trial of this cause, after the Commonwealth had introduced, to maintain the issue upon its part, had introduced all its evidence in chief, as set out in Bill of Exceptions No. 1, and had rested its case, which is here referred to and made a part of this Bill of Exceptions, and after the defendants, to maintain the issue on their part, had introduced all of the evidence in chief upon their part, as set out in Bill of Exceptions No. 1, including the testimony of Chas. A. Hammer, the Commonwealt to further maintain the issue upon its part, in rebuttal, called one, H. S. Hooke, to whom it propounded the following question, to-wit:- "State whether or not, on the day of the convention, and before the convention, you had a conversation with Chas. A. Hammer in A. W. Loewener's store and if so, state what he said in that conversation". To the propounding of which question the defendants, by counsel, o objected, on the ground that the evidence sought to be brought out by said question was properly testimony in chief and should have been so offered by the Commonwealth, and that it was not proper to admit its introduction under the guise of rebuttal; and that it did not constitute any rebuttal testimony, but the Court overruled said objection and permitted the witness to answer said question as follows: "I did; he was talking about the convention and he said to me: "We are going to claim our rights in the convention today; you may call it revolutionary or not'". To which action of the Court in so permitting the propounding of said question and in

Bill of Exceptions No. 1 - Hooke, in the Commonwealth's rebuttal, stated that before the convention he had had a conversation with Hammer in which he referred to the convention

Be it remembered that upon the trial of this cause, after the Commonwealth had introduced, to maintain the issue upon its part, had introduced its evidence in chief, as set out in Bill of Exceptions No. 1, which is here referred to and made a part of this Bill of Exceptions, and after the defendants, to maintain the issue on their part, had introduced all of the evidence in chief as set out in Bill of Exceptions No. 1, including the testimony of Chas. A. Hamner, the Commonwealth to further maintain the issue upon its part, in rebuttal, called one, C. Brooks, to whom it propounded the following question, to-wit:- "State whether or not, on the day of the convention, and before the convention, you had a conversation with Chas. A. Hamner in A. B. Lonsberry's store and if so, state what he said in that conversation". To the propounding of which question the defendants, by counsel, objected, on the ground that the evidence sought to be brought out by said question was properly testimony in chief and should have been so offered by the Commonwealth, and that it was not proper to admit the introduction under the guise of rebuttal; and that it was did not constitute any rebuttal testimony. But the said Court overruled said objection and permitted the witness to answer said question as follows: "I did; he was talking about the convention and he said to me: 'We are going to claim our rights in the convention today; you may call it revolutionary or not'". To which action of the Court in so permitting the propounding of said question and in

ing of said question and in permitting the witness to answer, as above set forth, the defendants, by counsel, except, and pray that this, their Bill of Exceptions No. 4 may be signed, sealed and enrolled and made a part of the record in this cause, which is accordingly done.

Geo. Hallam (SEAL)

Virginia In the County Court of Rockingham County Nov. Term 17, 1902
Virginia In the Circuit Court of Rockingham County October
Term Nov. 7, 1902.

C. A. Hammer &c Plffs

vs } On an Appeal from the County Court of Rockingham County

The Commonwealth deft

This day came the appellant by Counsel, and the appellee by Geo. N. Conrad, Atty. for the Commonwealth, and the Court having heard arguments of counsel for the appellants and for the appellee, and having maturely considered the same, as well as the transcript of the record in this cause, is of Opinion that the County Court of Rockingham County erred in refusing to sustain the motion of appellants to quash the execution against them set out in the said transcript. And it is therefore ordered that the Judgment of the County Court in the petition of appellants complained of be reversed and annulled, and the Court now proceeding to render such Judgment as the County Court ought to have rendered, doth order that the execution in favor of the Commonwealth of Virginia against the appellants for certain fines and Costs particularly set forth in the transcript of the record be quashed for the reason that there is embraced in the Cause included in said execution the sum of seventy-three dollars and 36/100 ($73.36, being for allowances to witnesses for the Commonwealth erroneously taxed against the appellants, and this Cause is now remanded to said County Court with instructions to direct the issuance against the defendant in the execution set forth in the transcript of the record

an execution for the same sum for which the said execution set forth in said transcript of the record originally issued, less the said sum of $73.76 above held to be erroneously taxed against the appellants

A Copy Teste

D. H. Lee Martz Clerk

A Copy Teste.

J. S. Mosseley Clerk

A Copy of Order Book 15/4

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Be it remembered that upon the trial of this cause the Commonwealth, by counsel, prayed the Court to give certain instructions, which were objected to by the defendants, by counsel, and the objection so made sustained by the Court, and thereupon the Court, of its own motion, in lieu of said instructions so prayed for by the Commonwealth and rejected by it, gave the following instruction: to-wit:-

The jury are instructed that, if they believe from the evidence beyond any reasonable doubt that an unlawful and unjustifiable assault and battery was made upon John Acker, and that any of the defendants, while not personally and actually making such assault and battery, were yet present, aiding and abetting such asault and battery the jury may find all of them so aiding and abetting such assault and battery guilty thereof.

To the giving of which instruction so given by the Court the defendants, by counsel, objected, but the Court, overruling said objection, gave said instruction, and the defendants, by counsel, except, and pray that this their Bill of Exceptions No. 10 may be signed, sealed and enrolled and made a part of the record in this cause, which is accordingly done.

Geo. Gretton (SEAL)

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Be it remembered that upon the trial of this cause the Commonwealth, by counsel, prayed the Court to give certain instructions, which were objected to by the defendants, by counsel, and the objection so made sustained by the Court, and thereupon the Court, of its own motion, in lieu of said instructions so prayed for by the Commonwealth and rejected by it, gave the following instruction: to-wit:-

The jury are instructed that, if they believe from the evidence beyond any reasonable doubt that an unlawful and unjustifiable assault and battery was made upon John Baker, and that any of the defendants, while not personally and actually making such assault and battery, were yet present, aiding and abetting such assault and battery the jury may find all of them so aiding and abetting such assault and battery guilty thereof.

To the giving of which instruction so given by the Court the defendants, by counsel, objected, but the Court, overruling said objection, gave said instruction, and the defendants, by counsel, except, and pray that this their Bill of Exceptions No. 10 may be signed, sealed and enrolled and made a part of the record in this cause, which is accordingly done.

(SEAL) _____

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Be it remembered that upon the trial of this cause, after the Commonwealth, to maintain the issue upon its part, had introduced all of its evidence in chief, as set out in Bill of Exceptions No. 1 which is here referred to and made a part of this Bill of Exceptions, and rested its case, and after the defendants, to mainatin the issue upon their part, had introduced all of their evidence in chief, as set forth in said same Bill of Exceptions, the Commonwealth, to further maintain the issue upon its part, in rebuttal called one, Isaac D. Davis, to whom it propounded the following question: to wit:- "When you were knocked down at the convention, were you attacking anybody"? To the propounding of which question the defendants, by counse objected, upon the ground that the question did not seek to elicit any evidence properly admissible in rebuttal, but that the same should have been offered by the Commonwealth along with its other evidence, but the Court overruled said objection and permitted the witness to answer said question as follows: "I was not". . To which action of the Court in so permitting the asking of said question, in so overruling said objection and in permitting the witness to answer said question as set forth above, the defendants, by counsel, ex cept and pray that this, their Bill of Exceptions No. 6 may be signed, sealed and enrolled and made a part of this Bill of Exceptions, which is accordingly done.

Geo. G. Grattan (SEAL)

Note: Commonwealth introduced Isaac Davis as a witness to show that he was attacking Sumner when he was struck.

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Be it remembered that upon the trial of this cause, after the Commonwealth, to maintain the issue upon its part, had introduced all of its evidence in chief, as set out in Bill of Exceptions No. 1, which is here referred to and made a part of this Bill of Exceptions, and had rested its case, and after the defendants, to maintain the issue upon ~~its part~~ their part, had introduced all of their evidence in chief, as set out in said same Bill of of Exceptions, the Commonwealth to ~~main~~ further maintain the issue upon its part, in rebuttal, called one, John C. Beery, to whom it propounded the following question, to wit: "State whether o or not Ike Davis, when he was knocked down, was attacking anybody". To the propounding of which question the defendants, by counsel, objected, on the ground that the witness had been interrogated with reference to the difficulty in which said Ike Davis was involved, during his first testimony in the cause and that the question now propounded did not seek to elicit any evidence properly admissible in rebuttal. But the Court overruled said objection and permitted the witness to answer the same as follows: "He was making an attack upon no one". To which action of the Court in so permitting the propounding of said question and in so overruling the said objection, and in so permit ing the witness to answer, as above stated, the defendants, by counsel, except, and pray that this, their Bill of Exceptions No. 7, may be signed, sealed and enrolled, and made a part of the record in this cause, which

in order to contradict testimony introduced by the Defendants to the effect that the Davis was attacking anybody when he was struck

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Be it remembered that upon the trial of this cause, after the Commonwealth, to maintain the issue upon its part, had introduced all of its evidence in chief, as set out in Bill of Exceptions No. ___, which is here referred to and made a part of this Bill of Exceptions, and had rested its case, and after the defendants, to maintain the issue upon their part, had introduced all of their evidence in chief, as set out in said same Bill of of Exceptions, the Commonwealth to make further maintain the issue upon its part, called one, John C. Beery, to whom it propounded the following question: "State whether or not Ike Davis, when he was knocked down, was attacking anybody". To the propounding of which question the defendants, by counsel, objected, on the ground that the witness had been interrogated with reference to the difficulty in which said Ike Davis was involved, during his first testimony in the cause and that the question now propounded did not seek to elicit any evidence properly admissible in rebuttal. But the Court overruled said objection and permitted the witness to answer the same as follows: "He was making an attack upon no one". To which action of the Court in so permitting the propounding of said question and in so overruling the said objection, and in so permitting the witness to answer, as above stated, the defendants, by counsel, except, and pray that this, their Bill of Exceptions No. ___, may be signed, sealed and enrolled, and made a part of the record in this cause, which

is accordingly done.

E. O. Hamilton (SEAL)

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Be it remembered that upon the trial of this casue the following evidence was in troduced in behalf of the Commonwealth, to maintain the issue upon its part: (Here insert the Commonwealth's evidence in chief)

And the Commonwealth having rested its case, the defendants, to maintain the issue upon their part, introduced the following evidence, to-wit: (here insert defendant's evidence in chief).

And the defendants having rested their case, the Commonwealth, to further maintain the issue upon its part introduced, in rebuttal, the following evidence to-wit: (he (here insert Commonwealth's evidence in rebuttal).

And the Commonwealth having closed its case, thereupon the defendants, to further maintain the issue upon their part, introduced the following evidence in rebuttal; to-wit: (here insert defendant's evidence in rebuttal).

And this being all of the evidence introduced by the Commonwealth and the defendants, and the Court having given the instructions as set out in Bill of Exceptions Nos 9 and 10, and the argument of counsel being heard, the jury retired to consult of their verdict and after some time returned into Court and rendered thefollowing verdict, to-wit: (here insert verdict). And thereupon the defendants, by counsel, moved ~~th~~ the Court to set aside the said verdict and grant them a new trial, upon the ground that the said verdict was contrary to the law and the evidence in the cause, which mo-

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Be it remembered that upon the trial of this cause the following evidence was introduced in behalf of the Commonwealth, to maintain the issue upon its part:

(Here insert the Commonwealth's evidence in chief).

And the Commonwealth having rested its case, the defendants, to maintain the issue upon their part, introduced the following evidence, to-wit: (here insert defendant's evidence in chief).

And the defendants having rested their case, the Commonwealth, to further maintain the issue upon its part introduced, in rebuttal, the following evidence to-wit: (here insert Commonwealth's evidence in rebuttal).

And the Commonwealth having closed its case, thereupon the defendants, to further maintain the issue upon their part, introduced the following evidence in rebuttal; to-wit: (here insert defendant's evidence in rebuttal).

And this being all of the evidence introduced by the Commonwealth and the defendants, and the Court having given the instructions as set out in Bill of Exceptions No. ___ and ___, the jury retired to consult of their verdict and after some time returned into Court and rendered thefollowing verdict, to-wit: (here insert verdict). And thereupon the defendants, by counsel, moved the Court to set aside the said verdict and grant them a new trial, upon the ground that the said verdict was contrary to the law and the evidence in the cause, which mo-

tion to set aside said verdict and grant them a new trial the Court overrruled. To which action of the Court in so overruling said motion.the defendants, by counsel, except and pray that this, their first Bill of Exceptions, ~~m~~ may be signed, sealed and enrolled and made a part ofthe record in this cause, which is accordingly done.

Geo. Newman (SEAL)

tion to set aside said verdict and grant them a new trial the Court overruled. To which action of the Court in so overruling said motion, the defendants, by counsel, except and pray that this, their Bill of Exceptions, m may be signed, sealed and enrolled and made a part of the record in this cause, which is accordingly done.

(SEAL)

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Be it remembered that upon the trial of this cause, after the Jury had returned the verdict therein, set forth in the ~~tah~~ Bill of Exceptions, which is here referred to and made a part of this Bill of Exceptions, and the Court had overruled the said motion for a new trial, as set forth in Bill of Exceptions No. 1, which is also here referred to and made a part of this Bill of Exceptions the prisoners moved the Court to arrrest the judgment of the Court upon said verdict, upon the ground, 1st, that the record in this cause shows that as to five of said prisoners, to-wit, C. W. Fletcher, E. L. Dechert, M. M. Jarman, Chas. A. Hammer and S. A. Davis, there was no charge of any offense against the laws of this state properly cognizable in this Court, for the reason that it appears from the certificate of the Mayor of the town of Harrisonburg, endorsed upon the warrant in this cause, that said five prisoners were convicted by him not of assault and battery upon John Acker, but of being aiders and abettors in an assault and battery upon said Acker, and that no such thing as an aider and abettor in a misdemeanor is known to the law of this state; and that said five prisoners ought, therefore, to be discharged from custody; and 2nd, that said verdict of said jury states that ~~said prisoners~~ these prisoners are found guilty "of assault and battery upon John Acker in manner and form as charged in the warrant," and that inasmuch as the charge in said warrant contained is a charge of assault with intent to maim, disfigure, disable and kill, being a

felony, and which charge. so contained in said warrant this Court in the present proceeding was without pwer to try, and the punishment fixed by the jury in their said verdict/ being the punishment prescribed by law for assault and battery, said verdict was ~~defective~~ improper, null and void, and that judgment should not be rendered thereupon.
But the Court overruled said motion and refused to arrest said judgment and rendered judgment upon said verdict against the prisoner as appears from the record in this case To which action of the Court, in so overruling the motion t to arrest said judgment and in so rendering judgment upon said verdict, the prisoners, by counsel, except, and pray that this, their 11th Bill of Exceptions, may be signed, sealed and enrolled and made a part of the record, which is accordingly done.

Geo. Shutten (SEAL)

felony, and which charge, as contained in said warrant this Court in the present proceeding was without jurisdiction to try, and the punishment fixed upon the jury in their said verdict being the punishment prescribed by law for assault and battery, said verdict was defective in form, and void, and that judgment should not be rendered thereupon. But the Court overruling said motion and refusing to arrest said judgment and rendered judgment upon said verdict against the prisoner as appears from the record in this case to which action of the Court, in so overruling the motion to arrest said judgment and in so rendering judgment upon said verdict, the prisoner, by counsel, excepted, and pray that this bill of exceptions may be signed, sealed and enrolled and made a part of the record, which is accordingly done.

(SEAL)

6

given

The Jury are instructed that a party assaulted may strike without first retreating and is entitled to use such force to repell the attack, as, from his point of view may be reasonably necessary, if he is without fault in bringing that necessity upon himself.

The jury are instructed that a party assaulted may strike without first retreating and is entitled to use such force to repell the attack, as, from his point of view may be reasonably necessary, if he is without fault in bringing that necessity upon himself.

Virginia:

Rockingham County, to-wit:-

To All or any one of the Constables of said County:

Whereas, John Acker of the said County this day made complaint and informed D. Switzer, Mayor of the Town of Harrisonburg, in said County, and ex officio a Justice of the said County, that D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Deehert and S. A. Davis, of the said County, on the 17th day of March, 1900, in the Town of Harrisonburg, in said County, did maliciously make an assault upon him, the said John Acker, and maliciously wound him the said John Acker, and cause him bodily injury, with intent to maim, disfigure, disable and kill him, the said John Acker. These are therefore, in the name of the Commonwelath, to command you to ~~summon~~ forthwith to apprehend and bring before me, or some other Justice of said County, the bodies of the said D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Deehert and S. A. Davis, to answer the said Complaint, and be farther dealt with according to law.

Given under my hand and seal this 27th day of March, in the year 1900.

D. Switzer Mayor, (L. S.)

Filed May 19 1900
C. L. Mauzy
Clerk

12

Executed March 29-1900 by Arresting the within named E. L. Dechert and Bringing him before Hon D M Switzer Mayor Town of Jehu Long Policeman

#:#:#:#:#:#:#:#:#

Virginia:
Rockingham County, to-wit:-

To All or any one of the Constables of said County:

Whereas, John Acker of the said County has this day made complaint and information on oath before me, D. M. Switzer, Mayor of the Town of Harrisonburg, in said County, and ex officio a Justice of the said County, that D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Dechert and S. A. Davis, of the said County, on the 17th day of March, 1900, in the Town of Harrisonburg, in said County, did maliciously make an assault upon him, the said John Acker, and maliciously wound him the said John Acker, and cause him bodily injury, with intent to maim, disfigure, disable and kill him, the said John Acker. These are therefore, in the name of the Commonwealth, to command you to ~~xxxxxx~~ forthwith to apprehend and bring before me, or some other Justice of said County, the bodies of the said D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Dechert and S. A. Davis, to answer the said Complaint, and be farther dealt with according to law.

Given under my hand and seal this 27th day of March, in the year 1900.

D M Switzer Mayor, (L. S.)

Executed the within warrant by arresting and delivering the body of John F. Lewis before D. M. Switzer ~~this 30th day of March, 1900~~ Mayor for the Town of Harrisonburg in the County of Rockingham, this 30th day of March 1900.

S. P. Coiner, Const.

Executed the within warrant by arresting and delivering the body of John F. Lewis before D. M. Switzer, ~~this 30th day of March, 1900.~~ Mayor for the town of Harrisonburg in the county of Rockingham, this 30th day of March 1900

G. R. Black, C. R. C.

Executed March 28th 1900 by delivering the within warrant to the within named John Acker

John A. M. Switzer Mayor of Town of Harrisonburg

Virginia:

Rockingham County, to-wit:-

To All or any one of the Constables of said County:

Whereas, John Acker of the said County has this day made complaint and information on oath before me, D. M. Switzer, Mayor of the Town of Harrisonburg, in said County, and ex officio a Justice of the said County, that D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Dechert and S. A. Davis, of the said County, on the 17th day of March, 1900, in the Town of Harrisonburg, in said County, did maliciously make an assault upon him, the said John Acker, and maliciously wound him the said John Acker, and cause him bodily injury, with intent to maim, disfigure, disable and kill him, the said John Acker. These are therefore, in the name of the Commonwelath, to command you to ~~xxxxxx~~ forthwith to apprehend and bring before me, or some other Justice of said County, the bodies of the said D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Dechert and S. A. Davis, to answer the said Complaint, and be farther dealt with according to law.

Given under my hand and seal this 27th day of March, in the year 1900.

D. M. Switzer Mayor, (L. S.)

b

Executed March 28th 1900 by serving the within
same on D S Lewis Jr and bringing him before
Hon D M Switzer Mayor Town of Harrisonburg
John Long Policeman

To All or any one of the Constables of said County:

Whereas, John Aker of the said County has this day made complaint and information on oath before me, D. M. Switzer, Mayor of the Town of Harrisonburg, in said County, and ex officio a Justice of the said County, that D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Deaver and S. A. Davis, of the said County, on the 17th day of March, 1900, in the Town of Harrisonburg, in said County, did maliciously make an assault upon him, the said John Aker, and maliciously wound him the said John Aker, and cause him bodily injury, with intent to maim, disfigure, disable and kill him, the said John Aker. These are therefore, in the name of the Commonwealth, to command you to forthwith to apprehend and bring before me, or some other Justice of said County, the bodies of the said D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Deaver and S. A. Davis, to answer the said Complaint, and be further dealt with according to law.

Given under my hand and seal this 27th day of March, in the year 1900.

D. M. Switzer (S.)

Executed the within warrant by arresting and delivering the body of John F. Lewis before D. M. Switzer, ~~this 30th day of March 1900~~ Mayor for the Town of Harrisonburg in the County of Rockingham, this 30th day of March 1900

G. R. Black, C. R. C.

#:#:#:#:#:#:#:#:#

Virginia:

Rockingham County, to-wit:-

To All or any one of the Constables of said County:

Whereas, John Asker of the said County has this day made complaint and information on oath before me, D. H. Switzer, Mayor of the Town of Harrisonburg, in said County, and ex officio Justice of the said County, that D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. W. Jarman, T. L. Dechert and S. A. Davis, of the said County, on the 17th day of March, 1900, in the Town of Harrisonburg, in said County, did maliciously make an assault upon him, the said John Asker, and maliciously wound him the said John Asker, and cause him bodily injury, with intent to maim, disfigure, disable and kill him, the said John Asker. These are therefore, in the name of the Commonwealth, to command you to ~~summon~~ forthwith to apprehend and bring before me, or some other Justice of said County, the said D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. W. Jarman, T. L. Dechert and S. A. Davis, to answer the said Complaint, and be further dealt with according to law.

Given under my hand and seal this 27th day of March, in the year 1900.

D H Switzer Mayor, (L. S.)

Executed Mar 29th 1900 by ~~[illegible]~~ Arresting the within
~~[illegible]~~ named S.A. Davis and bringing him before
Hon D. H. Switzer Mayor of Harrisonburg Va
on the day above written

Executed March 28th 1900 by Arresting ~~stating~~ the within ~~same~~
name ~~on~~ D S Lewis Jr and bringing him before
Hon D M

Executed March 28th 1900 by Arresting the within named D S Lewis and bringing him before Hon D M Switzer Mayor Town of Harrisonburg Va

John Long Policeman

Executed Mar 29th 1900 by Arresting the within ~~named~~ ~~Warrant~~ on S.A. Davis and bringing him before Hon D M Switzer Mayor Town of Harrisonburg Va

John Long Policeman

D M Switzer

#:#:#:#:#:#:#:#:#

Virginia:

Rockingham County, to-wit:-

To All or any one of the Constables of said County:

Whereas, John Acker of the said County has this day made complaint and information on oath before me, D. M. Switzer, Mayor of the Town of Harrisonburg, in said County, and ex officio a Justice of the said County, that D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Dechert and S. A. Davis, of the said County, on the 17th day of March, 1900, in the Town of Harrisonburg, in said County, did maliciously make an assault upon him, the said John Acker, and maliciously wound him the said John Acker, and cause him bodily injury, with intent to maim, disfigure, disable and kill him, the said John Acker. These are therefore, in the name of the Commonwelath, to command you to ~~xxxxxx~~ forthwith to apprehend and bring before me, or some other Justice of said County, the bodies of the said D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Dechert and S. A. Davis, to answer the said Complaint, and be farther dealt with according to law.

Given under my hand and seal this 27th day of March, in the year 1900.

D. M. Switzer Mayor, (L. S.)

Executed the within warrant by arresting and delivering the body of Charles W. Fletcher before D. M. Switzer, Mayor of Harrisonburg in the County of Rockingham this 30th day of March, 1900.

G. R. Black, C. R. C.

Virginia:

Rockingham County, to-wit:-

To All or any one of the Constables of said County:

Whereas, John Acker of the said County has this day made complaint and information on oath before me, D. S. Switzer, Mayor of the Town of Harrisonburg, in said County, and ex officio a Justice of the said County, that D. S. Lewis Jr., John T. Lewis, Charles W. Fletcher, Chas. W. Hammer, M. K. Jarman, F. L. Dechert and C. A. Davis, of the said County, on the 17th day of March, 1900, in the Town of Harrisonburg, in said County, did maliciously make an assault upon him, the said John Acker, and maliciously wound him, the said John Acker, and cause him bodily injury, with intent to maim, disfigure, disable and kill him, the said John Acker. These are therefore, in the name of the Commonwealth, to command you to summon forthwith to apprehend and bring before me, or some other Justice of said County, the bodies of the said D. S. Lewis Jr., John T. Lewis, Charles W. Fletcher, Chas. W. Hammer, M. K. Jarman, F. L. Dechert and C. A. Davis, to answer the said Complaint, and be further dealt with according to law.

Given under my hand and seal this 27th day of March, in the year 1900.

D. S. Switzer, Mayor, (L. S.)

Copy of warrant issued by Mayor D. S. Switzer in the case of John Acker vs. D. S. Lewis Jr., John T. Lewis, Charles W. Fletcher, Chas. W. Hammer, M. K. Jarman, F. L. Dechert and C. A. Davis.

John Acker

Executed this 31: day of march 1900
by arresting the within named Charles A. Hammer
and bringing him before D. M. Switzer M. J. P.

John Long Policeman

W A R R A N T

Virginia:

Rockingham County, to-wit:-

To All or any one of the Constables of said County:

Whereas, John Acker of the said County has this day made complaint and information on oath before me, D. W. Switzer, Mayor of the Town of Harrisonburg, in said County, and ex-officio Justice of the said County, that D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Dechert and S. A. Davis, of the said County, on the 17th day of March, 1900, in the Town of Harrisonburg, in said County, did maliciously make an assault upon him, the said John Acker, and maliciously wound him the said John Acker, and cause him bodily injury, with intent to maim, disfigure, disable and kill him, the said John Acker. These are therefore, in the Name of the Commonwealth, to command you to ~~XXXXXX~~ forthwith to apprehend and bring before me, or some other Justice of said County, the bodies of the said D. S. Lewis Jr., John F. Lewis, Charles W. Fletcher, Chas. A. Hammer, M. M. Jarman, E. L. Dechert and S. A. Davis, to answer the said Complaint, and be farther dealt with according to law.

Given under my hand and seal this 27th day of [illegible], in the year 1900.

D W Switzer Mayor. (L. S.)

Executed the within warrant by arresting and delivering the body of M. M. Jarman before D. W. Switzer, Mayor for the Town of Harrisonburg in the County of Rockingham, this 30th day of March, 1900.

H. B. Black, D. S.

ing Ham County, to wit: Be it Remembered
that the day of 1900 D. S. Lewis Jr., Jno. H. Lewis
and W. H. Fletcher, Charles R. Hammer, M. M. Jarman, E. L.
Dechert & S. A. Davis, were brought before me D. M. Switzer
Mayor of the town of Harrisonburg, Va. & ex officio justice of the
peace on the charge contained in the ~~appeal~~ within warrant, &
on motion of the said prisoners the hearing of the cause was
continued unto the 1st day of April 1900 when the hearing of the
cause was begun & said cause was concluded on the
28th day of April 1900 & the said ~~[illegible]~~ prisoners are by
me on the evidence on oath of the witnesses who testified in
the case, found guilty as follows: D. S. Lewis Jr. & Jno. H. Lewis are
found guilty of assault & battery on John Acker; Charles W.
Fletcher, Charles R. Hammer, M. M. Jarman, E. L. Dechert & S. A.
Davis are found guilty as aiders & abettors or principals
in the second degree to said assault & battery on
said John Acker; Wherefore I adjudge that D. S. Lewis Jr
be fined the sum of $50., ~~and costs~~ that Jno. H. Lewis be fined the
sum of $50. ~~costs~~, that Charles W. Fletcher, Charles R. Hammer,
M. M. Jarman, E. L. Dechert & S. A. Davis be each fined the
sum of $15. & in addition the said D. S. Lewis Jr., Jno. H. Lewis, Chas. R. Hammer, Chas. W. Fletcher, E. L.
~~costs~~. But the said D. S. Lewis Jr., John H.
Lewis, & Charles W. Fletcher, Charles R. Hammer, M. M. Jarman
& E. L. Dechert and S. A. Davis having prayed an appeal
from my said judgment, an appeal is hereby granted them
to the next term of the County Court of Rockingham County, except Chas. W. Fletcher they
having given bail for their appearance before said Court on the
1st day of the May term 1900, & the said judgment and conviction, as
well as said appeal and bail, are hereby certified to the
said Court.

Given under my hand & seal this 28th day of April 1900

D. M. Switzer (Seal)
Mayor of the town of Harrisonburg Va. & ex officio J. P.

Executed the within warrant by arresting and delivering the body of M. M. Jarman before D. M. Switzer, Mayor for the town of Harrisonburg in the County of Rockingham, this 30th day of March, 1900.

G. R. Black, C. R. A.

Executed the within warrant by arresting and delivering the body of M. M. Jarman & S. A. Davis

The Jury are instructed that the question as to which of the factions of the Republican party had a majority of delegates in the Convention of the 17th of March, 1900, or who was rightfully Chairman of said Convention, Webb or Acker, or which of said factions was entitled to the possession of the stage, is not for the Jury to determine, and any evidence upon this point is to be disregarded by them in coming to a conclusion as to the guilt or innocence of the defendants.

given

The jury are instructed that the question as to which of the factions of the Republican party had a majority of delegates in the convention of the 17th of March, 1900, or who was rightfully Chairman of said convention, Webb or Acker, or which of said factions was entitled to the possession of the stage, [illegible] the jury to determine, and any evidence upon this point is to be disregarded by them in coming to a conclusion as to the guilt or innocence of the defendants.

Before the introduction of my witnesses the jury accompanied by the Cont- and Attorney for the Commonwealth and for prisoner went to the upper room of the Cont-House in which the trial was being held and viewed the scene where the alleged offense was committed.

#S#M#S#S#C#S#S#S#

CHAS. M. KEEZEL.

I was Chairman of the Republican party for Rockingham County, and, as such, called the Convention of Mar. 17th, 1900, which met in the Assembly Hall, in the Court House in Harrisonburg, to order, and proceeded to the election of Temporary Chairman. For the past two years, until a short time befire Convention, there had been rival organizations, I being Chairman of one, and M. M. Jarman, Chairman of the other, but Jarman had resigned, and both came into Convention called by me. I placed on roll, and called, in taking the vote for Temporary Chairman, the prescincts whose delegations had been certified to me as provided in party regulations. There were contests from various prescincts, one of them being East Harrisonburg. Dr. J. B. Webb and John Acker were nominated. Botts Lewis and A. P. Funkhouser, at my request, acted as Tellers. Some times when a prescinct was called by me, a vote would be announded for each of the nominees, and Botts Lewis would record it one way and Funkhouser another. I never completed roll-call -- two or three prescincts which I had temporarily passed yet remained, when there were cries from all over the house, calling on Botts Lewis to announce the vote, and he, without announcing it to me, got up from the table, advanced to the front of the stage, held up his hands, and called out, "Webb 35, Acker 30, we've got them, boys." I announced that Acker was elected, knew it by mental count. Funkhouser did not tell me. There was instantly great confusion, and a voice in the crowd in the body of the house near the stage, which I recognized as that of James Sullivan, an anti-Ackerite, or Lewisite, called out,"Get the papers, get the papers, no matter how you get them." A number of peo-

CHAS. M. KEENER.

I was chairman of the Republican party for Rockingham county, and, as such, called the convention of May. 17th, 1900, which met in the Assembly Hall, in the court house in Harrisonburg, to order, and proceeded to the election for Temporary Chairman. For the past two years, until a short time before the convention, there had been two factions in the party, and, as such, called the convention to order, and Dr. L. B. Wepp and John Acker were nominated for Temporary Chairman, the Prohibitionists whose delegations had been certified to me as entitled to seats in the convention. There were contested from various precincts, one of them being Bank-Acker's to legislate, called out "get the papers, Ref. Mem." A number to peo-

L.

the papers on market now for them." Some time when a Prohibitionist was called, a be as Letters. Bowle lewis and A. P. Lunkenheimer, at the request, sof-ned. Bowle lewis and John Acker were nomi-nated as candidates for Temporary Chairman, the Prohibitionists agreed to the nominees, and Bowle lewis moved that the nominations be closed by acclamation. I nev-er completed roll-call -- two or three Prohibitionists which I had temporarily passed by remained, when there were votes cast that moved the house, calling on Bowle lewis to announce the all vote, and he, without announcing it to me, rose up from the table, advanced to the front to the stage, held up his hands, and called out, "Wepp 22, Acker 20, we've got them, boys." I announced that Acker was elected, knew it wd mean last contu-nuing Lunkenheimer did not tell me. There was instantly great confu-sion, and a voice in the crowd in the body of the house near me, nevertheless seemed to that as I recognized I which stage, the Prohibitionists called out, "get the papers, Ref. Mem." A number to peo-the papers on market now for them."

L.

Rockingham County, and, as such, called the convention of May. 17th, 1900, which met in the Assembly Hall, in the court house in Harrisonburg, to order, and proceeded to the election of Temporary Chairman. For the past two years, until a short time before the convention, there had been two factions in the party, and, as such, called the convention to order, and Dr. L. B. Wepp and John Acker were nomi-nated. Bowle lewis and A. P. Lunkenheimer, at the request, sof-ned. Bowle lewis and John Acker were nomi-nated as candidates for Temporary Chairman, the Prohibitionists agreed to the nominees, and Bowle lewis moved that the nominations be closed by acclamation. I nev-er completed roll-call -- two or three Prohibitionists which I had temporarily passed by remained, when there were votes cast that moved the house, calling on Bowle lewis to announce the all vote, and he, without announcing it to me, rose up from the table, advanced to the front to the stage, held up his hands, and called out, "Wepp 22, Acker 20, we've got them, boys." I announced that Acker was elected, knew it wd mean last contu-nuing Lunkenheimer did not tell me. There was instantly great confu-sion, and a voice in the crowd in the body of the house near me, nevertheless seemed to that as I recognized I which stage, the Prohibitionists called out, "get the papers, Ref. Mem." A number to peo-the papers on market now for them."

ple arose from their seats and started for the stage. I saw an attempt was being made to get the papers and turned to the table and began putting them in my overcoat pocket and got all but a few. While doing so, people were brushing against me all around, and other hands were reaching for the papers. No violence was offerred to me. I stayed on the stage all during the difficulties which followed, but did not see Acker knocked down. During the roll-call, I had seen Ed. Dechert in the East wing of the stage with stick in his hand, and he came out several times and accused me of cheating, and used insulting words to me, but I merely glanced at him over my shoulder, and paid no further attention to him. I think Mr. Acker was in the West wing of the stage when I called the Convention to order and during the roll-call. Before I turned to the table, I saw D. S. Lewis, Jr., jump on the stage from the East box. I did not see any of the others when they came on the stage. I first noticed Acker after he had been knocked down and was being taken off of the stage. He was walking and others were assisting him. [illegible]

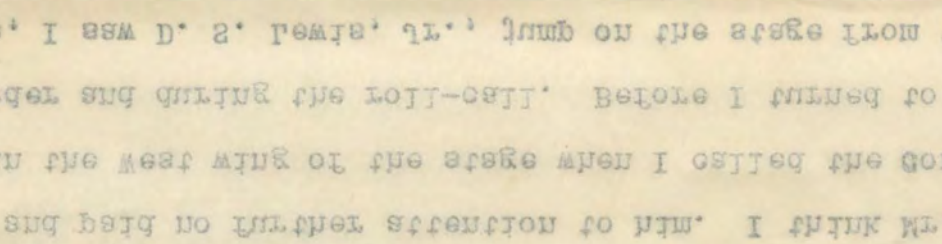
I was leaning over the table & shoving the papers down in my overcoat pocket

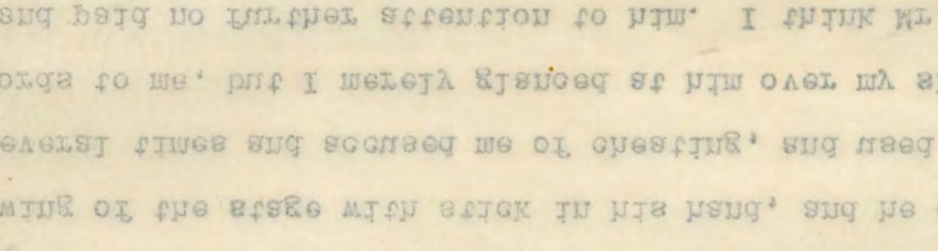
When I looked up from the papers Acker had been knocked down -

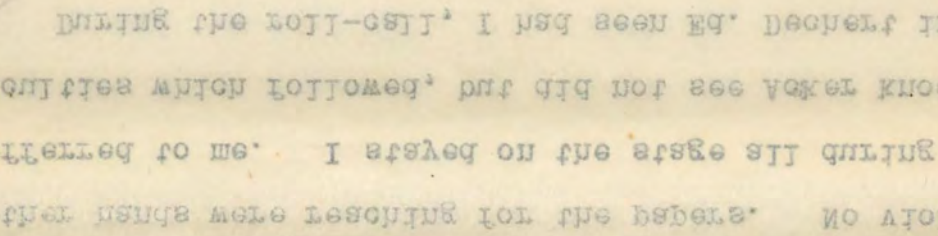
Add here written note on separate sheet, the portion of which not agreed upon is marked with blue pencil

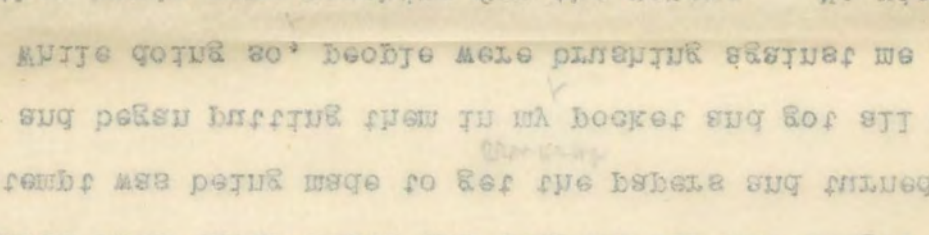
bye store from twelve years and started for the stage. I was an attempt was being made to get the papers and turned to the stage and began buffeting them in my pocket and by all put a two knocked down. I first noticed Baker after he had been knocked down. I did not see you to the office when they came on the pox. I saw Mr. Baker sitting on the stage. He was walking and often and was being asked to tie the stage and

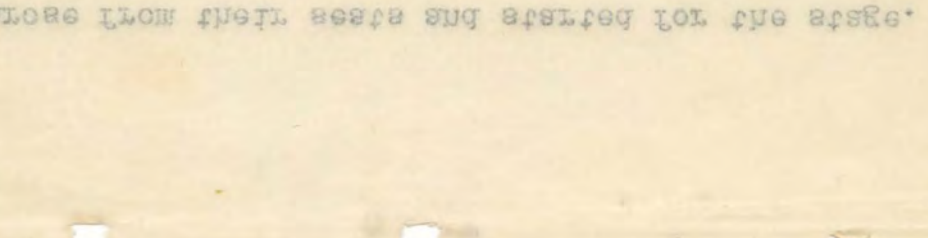
~~[illegible]~~ .mit ynitsetsses etow eta were











Witness further stated that he complied with the party regulations and placed before the convention the roll as certified to him from the various precincts of the County, as required by the party.regulations.

After Acker was down I saw Chas. Fletcher approach Acker with a chair raised. I do not know whether any one else than Philips was between Acker and Fletcher, and do not know whether Fletcher could have hit Acker without advancing a step or two.

I told Botts Lewis that I would announce the vote when ready, but he (Lewis) first announced Webb elected and I immediately announced that Acker was elected It was the duty of the chairman to announce and I knew from the responses that Acker had been elected.

Before the rush was made for the stage I saw Sam Davis take off his overcoat and nervously walking up and down in front of the stage; also saw John F. Lewis before the rush was made take off his overcoat and mov his position nearer to the stage

(To go in between pages 2 and 3)

Witness further stated that he completed with the party
registrations and proceed before the convention the roll
as certified to stenographic minutes of the meeting of the
committee, as reported by the Party.registrations.

Before Acker saw I had seen Afterwards Acker saw I was asked
the question where to the space
left position nearer to the space

(Is this a page numbered in or of)

Additions & Atkins Evidence

Dont think I told Boggs I was struck
my mee – may have she said that I
didnt mind being hit by a man but didnt
like being hit by that little cur Sheff Sims
During conversation with Boggs I had
been informed that I had been struck
by Sheff Sims – the only friends opposed
to the Stage law were hit one like Doing
cause houses and horses. I didnt express whether

Were other there or not

JOHN M. RODGERS.

I was in Dan O'Donnell's bar-room, shortly after the Convention, and heard S. A. Davis say that ,"We went there to seat our Chairman, and we did it."

JOHN ACKER.

I was at the Convention as an alternate from my prescinct of Edom. My principal was present, though I did not know it at the time. I am the Acker who is generally recognized as the head of what is known as the "Acker faction"of the Republican party in this County. Funkhouser, Keezel and myself were in the West wing of the stage before the Convention was called to order, ~~passing in and out~~. When Keezel went on the Stage to call the Convention to order, I may have been in the West wing, or it may be that I was in the box right in front of the door leading into the ~~daax~~.wing. When ~~Xaxxx Xexxx~~ Mr. Keezel announced ~~the vote,~~ as stated by Mr. Keezel, I went out on the Stage to call the Convention to order. Keezel's announcement was immediately after Botts Lewis had called out, "Webb 35, Acker 30, we've got them boys." Come on" Just before I went out, there had been a rush for the stage by a number of people -- I don't know who all they were. I went up to the

JOHN ACKER.

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tion" of the Republican Party in this county. Fundamental Keen-
ey and Wright were in the west wing of the space before the
convention was called to order. Immediately out. When
Keeney went on the stage to call the convention to order, I
was there seed in the west wing, or it was be that I saw it
the box right in front of the door leading into the main wing.
M. Keeney
When Mattie Kemp announced as stated by M. Keeney,
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ney's announcement was immediately after Boffa Lewis had called
out, "Mapp 22, Acker 20, we've got them poke." Just before
Gauran
out, "Mapp 22, Acker 20, we've got them poke." Just before
I went out, there had been a run for the stage by a number
of people -- I don't know who all they were. I went on

JOHN M. RODGERS.

I was in Dan O'Donnell's pool-room, shortly af-
ter the convention, and heard S. A. Davis say that "We went
there to beat our christmas, and we did it."

table that stood near the center of the stage and put my hand on the back of a chair. I think it was the one on which Funkhouser had been sitting. Just about that time, Ike Davis, who also belonged to our faction of the party, was knocked down over on the East side of the stage. I saw him fall, and started towards him. When I got to the East end of the table, I met John F. Lewis, and he caught hold of my arms. I don't know whether I grabbed him or not. Right after that, some one struck me in the face. I don't know who it was that hit me nor what I was struck with, but I have always thought it was a chair. The blow knocked me down. I don't know whether I fell on my back or not. I was confined to my house for a week and was in bed during that time. The blow paralyzed the muscles in the right side of my face and mouth and ~~my mouth is still that way~~ I was taken off of the stage and after washing my face and getting the blood off, which flowed freely from my nose, I returned to the stage and found that Dr. Webb had taken the chair and was presiding over a Convention. I said that I had been elected chairman and was going to act as such, and from that time, there were two Conventions, held side by side in the hall, Dr. Webb presiding over one and I over the other. There was no further violence or disturbance of any kind. During the time I was out, several policemen and Sheriffs had restored order, and during the rest of the Convention, some of them stayed on the stage. I was not carried off of the stage, after I was knocked down, but walked off, perhaps assisted by others. When I came out first time I did not state the Convention and the Mayor - I made such statement before the second time I came out

(Add additional evidence on separate sheet - ~~[illegible]~~

it may have been a club - think I was struck twice

There is a scar on my lip on the right side of my nose and depression of the nasal bone

table that stood near the center of the stage and put my hand on the back of a chair. I think it was the one on which Frank Webster had taken the chair. The blow knocked me down. I don't know whether I was stunk with fear I always thought it was a coward's blow. I felt on my back for not. I was conscious of my house for a week and was in bed during that time. The blow paralyzed the muscles in the right side of my face and mouth and messing my face and keeping the blood off, which flowed freely from the wound. I returned to the stage and found that Dr. Webb had taken the chair and was presiding over a convention. I also that I had been elected president and was going to see if I could get a convention, held as such, and from that time, there were two conventions. I and one two Webb presiding over one and the other. There was no unfriendly violence or disturbance to any kind. During the time I was out, several policemen and spectators had removed chairs and furniture to the back of the stage. I was not conventions, some of them stayed on the stage. I was knocked down, but was stricken off the stage, after I was assisted off. Perhaps assisted by others.

Dr. James Bowman.

I was called to see Mr. Acker the morning after th the convention and found extensive injuries. He had fould breath and tongue which follow severe injuries; there was depression of malar bone; slight paralysis - f upper lip; and there were blood clots from his nose indications ~~from~~ of a blow on the side of his head, and t the right side of his face. I visited Mr. Acker three times professionally--the Sunday, Monday and Wedensday after he was hurt; almost impossible to say just how many blows Acker received, but I think must have been more than one; think blow on face must have been from something flat, if by fist, it must have been powerful and hand would have needed dressing. On cross examination witness stated that the blood ~~clo~~ clots in the nose were evidence of the malar bone being depressed by a blow. Blows could have been inflicted by fist. I think blow must have been struck by a man standing in front of Acker and at Acker's right side

(page 5, after Simmons).

Dr. James Bowman.

I was called to see Mr. Acker the morning after the convention and found his extremities. He had ~~a~~ severe attack of pneumonia with delirium. Blood came from nose and mouth and he became very weak. Blood was found in urine and albumen was present. Pneumonia was diagnosed by a blood test. Blood was found in the urine and albumen was present. I think blood was found first. I think you will find a marked decrease in the amount of Acker's urine and he has to get up to Acker and get Acker's urine analyzed. I think you will find a marked decrease in albumen.

(Page 2, after examination).

C. C. Simmons.

I heard Jarman say, in my store at Elkton, shortly after the convention, that he reckoned if others had not hit Acker he would. The witness further stated on cross-examination that he thought Jarman also said he had a small plank in his hand which he had picked up and broken across his knee and held a piece in his hand to protect himself if attacked, and that Jarman also said that Acker had a stick also; think Jarman said he (Jarman) had a small plank.

(page 5)

Samuels, D. D.

I found Samuel Bright in Wm. Wise's store at Elkton, Protestant-
ville, Md. He seemed to be overcome with the excitement, that
had not hit Acker on Monday. The witness testified
. Samuel Bright said that Noftsinger-store no before
on cross-examination that he had a band on his one
arm with Elmer Blank, Elmer's band was cut off
a block and the same with scores of people who had
had broken up and taken across the knee and held
pieces in his hand with a piece of broken of Tilsmith Bros.
:ocle block a band Acker that bise ocle Samuel that
Blank. Elmer's band (Samuel) on bise Samuel bright

and the hand of the man who struck him, I should think, would have to have ~~his hand~~ his dressed after striking such a blow. I think the blow must have been struck by a man ~~striking~~ standing in front of Mr. Acker and to his -- Acker's -- right side.

W. C. SWITZER. I am a deputy sheriff for this county

I was in the gallery when the Convention was called to order and until Mr. Acker was knocked down. Just as he began to fall, I left my seat in the gallery and came downstairs, into the body of the hall. I heard Mr. Keezel call the roll, and there was a great deal of excitement while this was being done. During the roll-call, I think when West Harrisonburg had been called, there was considerable disturbance and some one in the audience, I think Mr. Orville Dechert, got up and said something about its not being fair, and said"off with your coats boys," and Mr. Sam Davis, who was sitting down near the front, got up and took off his over coat and laid it on the seat in front of him. He was the only one that I saw take off his coat. This was early in the roll-call, and some time before the trouble on the ~~xxx~~ stage. When Mr. Keezel had about finished the roll, there was a great deal of noise, people shouting, and some of them shouting to

and the hand to the man who struck him, I should think.

I think the blow must have been struck by a man **xxxxxxxx** absolutely
-- a'tight -- Acker and him to front of M. Acker, s

W. C. SMITHER.

I was in the Rattler when the convention was called to order and until M. Acker was knocked down. Just as he began to talk, I left my seat in the Rattler and came downstairs, into the body of the hall. I heard M. Keezel call the roll, and there was a great deal of excitement while that was being done. During the roll-call, I think when Westhaughnurg had been called, there was considerable disturbance and some one in the audience, I think M. Clayville De-Graff, got up and said something about its not being fair, and said "it will cost votes", and M. Sam Davis, who was sitting down near the front, got up and took off his over-coat and laid it on the seat in front of him. He was the only one that I was take off his coat. This was early in the roll-call, and some time before the finish on the **xxx** speech. When M. Keezel had spoken twice the roll, there was a great deal of noise, people speaking, and some of them speaking of

to Botts Lewis to announce the vote, and Mr. Lewis got up and walked to the front of the stage and held up to his hand, as if to command silence, and said "Webb 35, Acker 30,-- we've got them, boys," and Mr. Keezel denied it. I didn't hear what Keezel said. As soon as Mr. Lewis made this announcement, there was a rush for the stage. Some of them went up over the piano, which sat in front of the stage, and some of them went up through the wing. About the first on the stage were D. S. Lewis, Jr., S. A. Davis, Chas. A. Hammer and M. M. Jarman and John F. Lewis. Ed Dechert, I had seen on the stage before the Convention was called to order but during the roll-call, he was back behind some of the scenery, and I did not see him when the rush was made. He had a stick in his hand right after he I didn't see Fletcher on the stage until after the difficulty, nor did I see Jarman after he got on the stage. When D. S. Lewis, Jr., got on the stage, he faced towards the audience and waved his hat and hurrahed, and then turned and went towards the table where Funkhouser was sitting and grabbed something out of Funkhouser's hand, and about that time I saw Ike Davis on the West side of the stage coming from the East side with his hands up and going towards Charlie Hammer. When he got a little past the East end of the table, in front, Hammer struck at him and I thought hit him, and D.S. Lewis struck at just the same time and hit him in the face, and Davis fell. Sheff Lewis hit Davis once with his fist. I saw nothing else in his hand, don't think he had anything else. After Davis was knocked down, Lewis and Hammer went towards Acker and D. S. Lewis, Jr., struck Acker in the face with his fist and knocked him down. Lewis struck Acker twice. Just as Acker started to fall, I left my seat in the gallery. Acker was not struck with any chair or stick. I didn't see Acker attempt to hit any one, but when he was struck, his hands were down and people were between him and me so that I could not see his hands nor what he was doing with

to Boffa Lewis to announce, and Mr. Lewis got up and walked to the front of the stage and held up of his hand, as it of command silence, and said "Mapp 22, Jacket 20,-- we've got them, boys," and Mr. Keezer denied it. I didn't test myself Keezer said. As soon as Mr. Lewis made this announcement there was a run for the stage. Some of them went up over to the Ex Piano, which was in front of the stage, and some of them went up through the wing. About the first on the stage Mr. and Mrs. A. Hammer and Mr. A. Davis, Chas. A. Hammer and Mr. D. S. Lewis, Jr., Jr. Mr. Hammer went towards Jacket and D. S. Lewis, Jr., Mr. Hammer knocked him down. Lewis struck the face with his first and knocked him down. I felt as if Jacket had struck at Mr. Hammer as he was coming from the west side with his hand up and going towards the stage to the Hammer. When he got a little near the east end of the stage, in front, Hammer struck at him and I thought his hand, and D.S. Lewis struck at that the same time, and hit him, and D.S. Lewis struck at him in the face, and Davis left. Then Lewis hit Davis once with his fist. I was nothing else in his hand, don't think he had everything else. After Davis saw knocked down, Lewis and Hammer went towards Jacket and D. S. Lewis, Jr., struck him in the face with his first and knocked him down. Lewis struck Jacket twice. Just as Jacket started to left, I felt um hess in the ring. Jacket saw not strike with one fist to strike. Jacket saw he was trying of hit him one, but when he saw I didn't see Jacket attempt to hit him one, I see Mr. and Mrs. Lewis were down and people were between him and strike. His hands were down and he was going with his hands to me so that I could not see his hands.

2.

When I got on the stage there were fully a hundred people there, some of them belonging to ~~both factions~~ each faction, and some democrats. I didn't see Hammer strike anybody or attempt to strike anybody, after the blow he struck at Davis, nor was he close enough when Acker was struck to have struck him. After S. A. Davis got to the stage, I saw no more of him until I got on the stage, and when I got there, the fighting was over. I did not hear Acker say anything after he came on the stage. I thought he was trying to get to somebody,- maybe Mr. Ike Davis.

as if separate them, only two I noticed close enough to hit Acker were pro. and Sheffield, Tenio. -

There was something in Acker's way when he was coming along back of table; he seemed like trying to get back. Don't know whether it was a chair or a person.

After I got on stage and after the fight, I told Ed. Deckert to put down his stick, he replied, "They've cheated us out of this thing before and we don't intend they shall do it again."

I saw pro. Tenio with stick raised. Tenio grabbed it, or pro. Tenio on back. Acker was struck by chair or table.

When I got on the stage there were twelve a hundred people there, some of them belonging of ~~xxxxxxxxxxxx~~ each tag-
ation, and some democrats. I didn't see hammer strike anybody
to attempt to strike anybody, that the blow he strick is Day-
ia. not saw he alone enough when Acker saw strick to have strick
Mr. Victor S. A. Davis got of the stage, I was no more to him
nnth I got on the stage, and when I got there, the fighting
saw over. I did not hear Acker use anything that he came
on the stage. I thought he saw fighting of leg of somebody.-
Mr. Ike Davis.

[illegible]

DR. J. B. AMISS,

I was at Acker's house on Wednesday after the Convention. My visit was one of friendship, only, and not professional. As I sat talking to Acker, something about his face, which I had not noticed before, attracted my attention and I got up and walked over to him and examined it and found his maler bone depressed. I can't say whether he was born that way or not. If it was depressed by a blow, I should think it must have been done with a stick or some instrument, because it would require a very powerful blow with the fist to depress it, though it could be done with a blow from the fist. I also noticed that the marks on his face indicated that he must have been struck two blows with the fist, or with a flat stick. It may be that the depression of this bone had existed from Acker's birth and I may have just noticed it on that occasion because of the position in which we sat relative to each other. The paralysis of the muscle extending down from side of nose to upper lip was the natural result from the depression of the malar.

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raised the chair to hit ~~him.~~ me Some one caught the chair and he put it down without striking any one. ~~And~~ This attempt hit me with the chair was after the statement that he tried to hit "Lewis" with a chair.

JOHN LOWMAN.

I was sitting in the gallery at the Convention, and saw Sheff Lewis hit John Acker in the face with his fist. He only hit him once -- had nothing in his hand that I saw. He was not hit with ~~any~~ any sticks or chairs. I only saw one stick on the stage. That was the one Ed. Dechert had. I saw him with it after the Convention was called to order, before there was any difficulty, and when I saw him, he was standing on the side of the stage leaning on the stick. There was no one near S. Lewis when he struck Acker, except Joe Davis, and I saw no one else strike Acker.

raised the chair to hit him. Some one caught the chair and he put it down without striking any one.

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Time was never seen Stevens when the chairs being broken, the clerks, and reporters are also getting down

GEORGE W. RICKARD.

I went on the stage, after Acker was knocked down. I saw Fletcher there then. He raised a chair and tried to hit Otis Cooley, my nephew whom I had raised, and I told him if he hit Cooley, I would kill him right there. Some one caught the chair and he didn't hit any body with it.

and turn off the stage

JACOB W. DEPUTY.

I was at the Convention, and I placed Acker in nomination for Temporary Chairman. At that time, I was sitting back near the gallery, on the East side of the house, but I changed my place, and when the difficulties occurred on the stage, I was ~~o~~ in the West box. I heard Botts Lewis make the announcement of the vote and saw the rush for the stage. I recognized a good many of them at the time, but can't name them all now. I saw Mr. Sheff Lewis jump from the box ~~from~~ on which I was standing on to the stage. I saw Sheff Lewis ~~[illegible]~~ pushing Acker, & John had hold of him & John Lewis ~~Acker~~ and then I went around on the stage and helped Acker off. I was talking to Jarman several days after the Convention and he said that he had a piece of a board on the stage for the purpose of protecting himself. I believed that he had it to protect himself, because Jarman is a truthful man, and I would believe anything he told me.+ When I saw Sheff and John Lewis with Acker, there was nobody else near Acker that I saw.

Saw Acker go down grunt as a deaf.

Saw Fletcher with chair up. When Acker came out on the stage such was made at him

+ I saw the boarder Jarman, had one on stage. It was about as wide as your hand + 1/2 in. thick

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W. H. Keister.

I am principal of public schoool of Harrisonburg. I was in the East box and saw Ed. Dechert with a stick in his hand before the convention was called to order. It was just a little stick, about a half an inch thick and two feet long and maybe three or four inches wide. He came off of the stage into the box where I was and I asked him who had a majority in the convention--the Ackerites or the Lewisites, and he said the Lewisites and they are going to hold the convention. "We are going to have our rights today if we have to do it by blood. Acker and Funkhouser have run this County long enough" I saw the rush for the stage when Botts Lewis made some announcement, either that Acker was elected or that Webb was elected I don't know which--that Webb had thirty and Acker thiry-five or that Acker had thirty and Webb thirty-five, I don't know which. In that rush I saw Mr. Hammer and Mr. John Lewis and Mr. Orville Dechert, and I saw Sheff Lewis jump from the box opposite me onto the stage. I went onto the stage myself, I am a democrat. I don't know why I went there. I was not at all excited. I went to keep some of my friends from getting hurt. I went because I thought I might be of use in helping somebody get off the stage if they got hurt. I really don't know why I went. I am sorry I am here. I saw Mr. Acker come on the stage. I thought he was coming to preside over the convention. I saw Acker make no demonstration. I saw Acker wlking up and down in the West wing of the stage when the

conv

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room

convention was called to order and ruing the roll call. I said to somebody that Acker was holding his aces. I don't know what that means, I saw it in the newspaper. When Acker was back there in the wing, before the convention, Keezel and Funkhouser were with him; I thought he was giving Keezel instructions. I saw John Lewis catch Acker's hands as if to press them down and I saw Sheff Lewis hit Mr. Acker with his fist and Acker sank down. Just after Acker was knocked down I saw a thin stick go down in the air from the West toward and near him, but it did not hit him; afterwards I heard John Lewis say he held Acker's hands and "Sheff hit him a devil of a crack". After the difficulty between Jarman and Lam, and before the convention was called to order Charlie Hammer came to me and offered me his pistol, asking me to keep it, saying that he feared there might be trouble and he didn't want his pistol on him if there was, but I declined to take it.

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James Coxer

I was at the convention and saw Sheff Lewis hit Acker with his fist. I saw a stick strike Acker from the other side at the same time that Sheff Lewis hit him, but did not know who had the stick. I saw Acker come on stage. He walked out, picked up a c chair, carried it a piece, set it down and walked on with his hands out.

Jos. Carver.

When Botts Lewis made his announcement the crowd rushed for the stage. I saw Mr. Acker on the ~~xax~~ stage, coming in peaceably, and saw him put his hand on the back of a chair, ~~xxdxxxx~~ but ~~xxxxi~~ I didn't see him carry it, and he seemed to be going to sit on it. I saw John Lewis go up and grab Acker's arms. It looked like Acker was trying to get to Ike Davis. While John Lewis had hold of Acker's arms Sheff Lewis ran in and struck Acker and knocked him down. I couldn't see Acker's hands, and don't know whether he had hold of John Lewis or not. I saw Ed. Dechert walk out on the stage from the East wing towards Acker with a stick in his hand, raised, after Sheff Lewis had hit Acker, but don't know how close he got to him and did not see him strike withthe stick at anybody I saw two chairs raised, but don't know who had them. After it was over I met Ed. Dechert on the stage and asked him who had hit John Acker; he said a chair hit him and I said; "But who had the chair?", and he said

James Carver

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"That's something else". Shortly after the roll call began I heard Orville Dechert call for coats off, but nobody but Sam Davis took off his coat;-that was an overcoat that he took off. That was a good while too before the rush for the stage. The stick that Ed. Dechert had looked like a garden pailing. I did not see Fletcher or Jarman until after the fight was over. Sam Davis was on the front of that stage with his cane in his hand--that was the only place I saw him and I didn't see him attempt to strike anyone.

On Cross-Examination he said: Botts Lewis said "Thirty-five to thirty; come on boys, we've got them". Ed. Dechert's approaching with stick was after Sheff Lewis had struck Acker once. Acker was not down, though Sheff had hit him once. Dechert was ten or twelve feet from Acker when the stick was up. Everybody seemed eager to get to Acker. Acker had no time to advance towards Davis before John Lewis grabbed him

"That's something else". Shortly after the roll call began I heard Orville Deobert call for coats off, but nobody but Sam Davis took off his coat--that was an overcoat that he took off. That was a good while too before the rush for the stage. The stick that Ed. Deobert had looked like a garden paling. I did not see Fletcher or Jarman until after the fight was over. Sam Davis was on the front of that stage with his cane in his hand--that was the only place I saw him and I didn't see him attempt to strike anyone.

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Jasper Hamm

Hammer responded: No, there is no chance of our getting together, there is going to be a fight. I thought perhaps he meant simply a contest and I asked him What do you mean by a fight? a contest before the Convention? He replied No, (they are trying to steal from us and) there is going to be a fight and on C. of Executive he further stated that Hammer said (~~I am hoping to steal them right~~) and ~~there is going to be a Revolution or regular fight~~

JASPER HAWSE.

I met Charlie Hammer at the ~~front door~~ East entrance of the Court ~~House~~ Yard on the day of the Convention. I knew that there had been a sharp contest between the factions at the primaries, and that Hammer was a prominent worker, and I asked him, "Are you going to getbtogether today," meaning that, as I supposed the Convention was for the purpose of harmonizing the differences between the factions, I wanted to know whether that result was likely. On X-examination, witness ~~Hammer responded,~~ "I shouldn't be at all surprised if we do get together." I shouldn't be surprised if there was a knock-out or regular fight. After this conversation, thinking it was best to remain away, I did not go to the Convention. I had no particular interest in it at any rate, as I am not a Republican.

B. F. RALSTON.

On the ~~afternoon of~~ Monday after the Convention, ~~after it was over, when I was on my way home,~~ I saw S. A. Davis, at Gay's stable, in the North end of Town, and referring to the trouble at the Convention, he said, "We didn't get the game we were after. We were after Funkhouser and Keezel." Asker and Sue Davis are good men. After the fighting on the stage, I heard John F. Lewis talking to some one, whom I didn't know and don't know now, down in

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the body of the house near the stage, and I heard him say, "I held John Acker's arms ~~with~~ and Sheff knocked him down."

I saw Acker came on stage in a peaceable manner so far as I saw. I saw no more of him. Saw Ed. Decker on stage with stick, Sam. Davis was there with cane uplifted. Didn't see either of them use the stick.

JOHN C. BEERY.

I was present as a spectator at the Convention, and saw Ike Davis knocked down. He was not attacking any one when I saw him, which was just before he was knocked down. Sheff Lewis hit him on one side and Charlie Hammer on the other at the same time, and he fell to the floor.

In rebuttal, this witness repeated the statements just detailed, and added that Mr. Davis came in from the West side of the stage directly after the rush. Mr. Davis was making an attack on nobody. Don't think Mr. Davis saw Sheff Lewis at all. Saw Sheff Lewis, John Lewis and Charles Hammer go on the stage at the time of the rush.

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"I held John Acker's arms ~~while~~ but Sheff knocked him down."

Then came on stage in a tremendous manner before dawn, then no word of him, then Sh. attacked on stage and after, then, down was the word came unexpected, doesn't see either getting near the other,

JOHN C. BERRY.

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In rebuttal, this witness repeated the statements just detailed, and added that Mr. Davis came in from the West side of the stage directly after the row. Mr. Davis was making an attack on nobody. Don't think Mr. Davis saw Sheff Lewis at all. Was there when John Berry came out before the row on the stage at the time of the fracas -

ED. KOONTZ.

I was not at the Convention, being then in Hagerstown, where I now live, having moved from here there, some time before. I was in Harrisonburg some time after the Convention and had a Conversation with S. A. Davis with reference to the happenings at the Convention. He told me that the Lewisites had determined to have their rights that day if they had to go through blood, that it had all been arranged on the morning of the Convention, at a meeting held at the Spirit of the Valley office. He said he was sorry that they had hurt Acker and Davis, that they were good men, but that they were after Funkhouser and Keezel. Davis said he didn't like anybody.

JOHN PHILLIPS.

I am the janitor of the CourtHouse and went into the hall on the day of the Convention about the time the people began to arrive, or a little before. I saw Ed. Dechert there before the Convention was called to order and before many people had arrived. It may be that I met him at the door of the hall. Dechert was, at that time, acting as manager of the Opera House(for which purpose the hall is also used), I had arranged the stage for the Convention by placing the table out near the front and running out the first scene, the scene nearest the front of the stage. Mr. Dechert remarked to me that he thought there was hardly room enough with the scenery that way, and he and I went up on the

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stage, pushed back the first scene and ran out the third one from the front. I thought too that that was better. I went back off of the stage, ~~and after Acker was knocked down, came back on and saw Mr. Fletcher with a chair raised over on the East side of the stage and trying to get to some one.~~ I ~~caught the chair and told him to put it down and he put it down very quietly.~~ I saw no sticks on the stage except one in the hands of Mr. Ed Dechert, which looked like a little lathe. He had that before the convention was called to order. Ed Dechert was standing back near the East Wing of the stage when Fletcher had the chair up.

JEHU LONG.

I am a policeman of the town of Harrisonburg. I was in the hall during the Convention and before it was called to order. Before the Convention was organized there was some difficulty between Mr. Marion Lamb, from down near Elkton and Mr. Jarman. Lam had been drinking a good deal and insisted on trying to have a difficulty with Mr. Jarman. My attention was called to it and I went to Mr. Lam and tried to get him quiet. He wouldn't behave, and I started totake him out of the hall.. I was going up the aisle with him towards the door, getting along very slowly, when I heard the disturbance on the stage, and turning around, saw the fight going on. I at once went up to keep order. When

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I got there, Acker had been knocked down. I didn't see him when he was struck... He was going off of the stage when I got there. I saw Charlie Fletcher on the East side of the stage with a chair in his hand, raised as if to strike some one, and he was facing in the direction of Mr. Acker. He was not within a closer distance of Mr. Acker than ~~six~~ 5 or ~~eight~~ 6 feet, and he would have had to have stepped forward several steps in order to have struck him, and he was standing still at the time. I was between Fletcher and Acker, and if the blow had been delivered, it would have struck me and not Acker. There may have been other people between Acker and Fletcher. I heard some one behind me say, "Damn, him, I'll get him," and turning saw Fletcher with the chair, and reached up and caught hold of it and took it out of his hands. I arrested, or rather I summoned several of the parties who were engaged in the difficulties on the stage, to appear before the Mayor, after the Convantion was over. I arrested everybody that I could find had been engaged, who were, D. S. Lewis, Jr., Charles A. Hammer, Mr. Fletcher, John Acker and Ike Davis. When I told Mr. Hammer to appear before the Mayor, he said to me, "What are you arresting me for, I didn't hit John Acker," and I said, " I am not arresting you for Acker. I am arresting you for hitting Ike Davis." Hammer said, "That's right." I wasn't paying much attention to what the parties were saying to me.-- What I was after was stopping the row and summoning the parties before the Mayor. When I summoned Sheff Lewis, Sheff asked me, "Who else are you arresting?" and I told him I was arresting everybody that was in the row. I arrested Sheff Lewis after he was on the stage while I was on the stage, night after the fighting, Ed. Deckert asked me who left Acker. Wilup further said that he asked who struck Acker & no one named to

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(At end of John Philips). Page 19

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A. U. WISE. I am a member of the Board of Supervisors of Rockingham Co

I am an adherent of Mr. Acker's in the party. I was at the Convention and heard Botts Lewis make the announcement that has been testified to, and immediately there was a rush for the stage by parties sitting down near the stage. ~~The delegation from Harrisonburg and others.~~ I recognized in the rush, ~~xxxxxxxxxxxxxx~~, a number of parties I could not now remember. The only one I recall now was D. S. Lewis, Jr., who jumped on the stage from the ~~East~~ West box. Mr. Acker came on the stage just after the rush began. I didn't see him make any hostile demonstrations towards anybody. I only saw Acker put his hand on back of chair as though to sit down. I saw him fall backwards - saw three fists go to his head, on right and left - but did not see who struck him, and just before he was struck, I saw some one step in front of him, but don't know who it was. I did not see the parson catch hold of Mr. Acker -- they seemed to be backing. I saw no sticks nor chairs. There was a great deal of confusion. There was about a dozen in the crowd around Mr. Acker at the time he went down.

JAMES. E. ROLLER.

I was at the Convention, back near the Gallery, heard Botts Lewis make his announcement and saw the rush for the stage. I recognized in the rush, John F. Lewis, and M. M. Jarman, S. A. Davis, who had a stick in his hand, -- his walking cane, I think, -- and Charlie Hammer. After they got on the stage, I saw a crowd go towards Mr. Acker -- about a

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that were on the stage. Charlie Hammer, D. S. Lewis, Jr., John F. Lewis, Luther Burke, and Charlie Zettie, and Harry Vorhees, and there were others, all mixed up. Acker had a paper in his hands. I saw Acker falling. He was down. I saw John F. Lewis, just after Acker was down. He seemed to be behind Acker, with Acker's head in his lap, and he had a hold of Acker's elbows. I couldn't tell whether Acker had pulled him down with him in the falling or whether he simply had hold of Acker and continued to hold him when he fell. I saw a number of sticks in the air at the time Acker fell, -- sticks and chairs. I didn't see any of them come down and can't say that any of those who had them tried to hit Acker.. Ed Dechert was walking up and down, flourishing his stick, but I didn't see him make any effort to hit anybody. I saw John F. Lewis that same afternoon in Ott's drugstore, and heard him say that He held John Acker's arms when Sheff Lewis struck him. It may be that Otis Cooley and George W. Rickard were on the stage.

Am pretty certain Fletcher was on the stage when Acker was struck. Saw Sam Davis with stick or cane but didn't see him use it. Dechert had his stick up before Acker was hit.

W. C. FUNK.

I was at the Convention sitting back under the Gallery; I was sitting with my brother, Joseph, When Ike Davis was knocked down we left our seats and went into the East box. Just then we saw Mr. Acker going off of the stage; I did not see Mr. Acker when he was hit. I didn't know he was hurt. My brother and I then went around on the stage and there were a great many people there when we arrived, but the fighting was all over. I saw John

that were on the stage. Charlie Hammer, D. S. Lewis, Jr., John F. Lewis, Luther Burke, and Charlie Zettle, and Harry Vorhees, and there were others, all mixed up. I ~~[illegible]~~ Aoker until he was ~~down~~ I saw John F. Lewis, just after Aoker was down. He seemed to be behind Aoker, with Aoker's head in his lap, and he had hold of Aoker's elbows. I couldn't tell whether Aoker had pulled him down with him in ~~the~~ falling or whether he simply had hold of Aoker and continued to hold him when he fell. I saw a number of sticks in the air at the time Aoker fell, -- sticks and chairs. I didn't see any of them come down and can't say that any of those who had them tried to hit Aoker.. ~~Ed~~ Deckert was walking up and down, flourishing his stick, but I didn't see him make any effort to hit anybody. I saw John F. Lewis that same afternoon in Ott's drugstore, and heard him say that He held John Aoker's arms when Sheff Lewis struck him. It may be that Otis Cooley and George W. Rickard were on the stage. ~~[illegible]~~.

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Lewis and Sheff Lewis, each with a stick in his hand, after I got on the stage. The time I saw John Lewis with a stcik was after both conventions had b en organized and were in session. I heard John Lewis talking to P. O. Sullivan on the East side of the stage, after the difficulty was over, and heard him say that he held Acker's arms when Sheff Lewis hit him. I saw Fletcher raise the chair facing Acker - (~~[illegible]~~ Acker)

Joseph Funk.

I was at the convention sitting back under the gallery with by brother, W. C. Funk. We left our seats and went into the East box just after Davis was knocked down. We saw Acker going off of the stage. I did not see Acker when he was hit. My brother and I when we saw Acker go off of the stage went around onto the stage andsaw a good many people there, but there was no more fighting. I saw Sheff Lewis and John Lewis while I was on the stage with sticks in their hands. I though at first that Sheff had a base-ball bat, and I looked again and saw it was only a slat. John Lewis had been in a committee room on the side of the stage, and when he came out he threw the stick away, Jim Sullivan spoke to him--I did not hear what he said--before he threw the stick away.

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J. L. Long.

I saw Sheff Lewis jump on the stage, and he went right back of the scenery---ran back---and came out again with a stick in his hand, and came to the front of the stage and there he met Ike Davis and hit him in the face with a stick and knocked him down. I didn't see Acker knocked down. When Botts Lewis made his announcement he made a motion with his hands, and a half dozen rushed up on stage, and toward Keezel. ~~I was on stage, too, when the rush took place.~~ I am accurate.

A. P. Funkhouser. I am Post Master at Hanover

I belong to the same party organization with Mr. Acker and Mr. Keezel. On the day of the convention I acted as one of the tellers and Botts Lewis as the other. There was a great deal of confusion during the roll call. When it was about completed there were a num ber of persons calling on Botts Lewis to announce the vote and he got up and went to the front of the stage and called out"Webb 35; Acker 30; we've got them boys". I had not yet completed my addition.When he made this announcement a number of people started for the stage. I rose from my seat and stood there trying to add up the columns. I did not see who came upon the stage except that D. S. Lewis, Jr., came running up to me, on the opposite side of the table and grabbed the paper from my hands and s started off with it. I followed him around the table, saying "Seehere, young man, that doesn't belong to you," and he turned and tore the paper in two and threw it upon the floor. I went and picked it up, and proceeded with my figures. I remained on the stage throughout the entire difficulty and except when D. S. Lewis, Jr., took the paper from my hand, which he did, without saying anything to me. No violence was offered to me. I glanced up from my paper at one time, and in that glance, I saw Jarman ~~coming~~ come on the East side of the stage,

J. L. Long.

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with a stick raised on in his hand, and continuing to glance around, I saw Sheff Lewis' fist apparently going into Acker's face. Then I looked down again at my paper. In the glance up, I saw a chair raised in the hands of young Phillips, the cigar maker. The chair was not raised up, because some one pulled it down. Just when I saw this chair, I started to go to Mr. Acker. I don't know whether Sheff Lewis hit him or not. I know that I am very much disliked by the members of the Lewis Faction of the party, and that I am somewhat unpopular in the town of Harrisonburg where I live, though I don't think everybody in h the town dislikes me. When I got to Acker, he was down and there were quite a number of ~~xxxxxxxxxx~~ persons around him and he was assisted off of the stage. So far as I know, at the time Mr. Acker was knocked down, there were no political friends of his upon the stage, except Mr. Keezel and myself. There might have been others, but I didn't see them.

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D. P. Shifflett.

I was at the convention and saw Mr. Davis ~~knocked down~~. He was going towards Mr. Hammer with his hands stretched out in front of him, like he was going to put his hands on Hammer's shoulder. I don't know whether he touched Hammer or not, but I think he did put his hand on his shoulder. He didn't say anything. Hammer hit him on the left side and some body else, whom I didn't know, hit him at the same time on the right side. I don't know whether Davis fell or not; I didn't see him fell. Neither of the men who struck Davis had any thing in his hand, but they struck him with their fists There was a great deal of confusion at the time in the hall and on the stage. Davis was going towards Hammer at the time - After Mr Davis was struck, a rush was then made towards Mr Wilkes and Hamm and Sheff Lewis were in the rush - Saw a chair up but don't know who had it - Sam. Davis had a stick flourishing it -

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J. R. LONG.

I was at the Convention and saw the rush for the stage when Botts Lewis announced the vote. I knew a good many of them at the time but can't say who were in the rush now. I saw Sheff Lewis and Charlie Hammer on the stage. When Sheff Lewis went towards Mr. Acker, Charlie Hammer was behind him. I didn't see Ed. Dechert nor Fletcher on the stage. I saw Sam Davis. He had a cane in his hand -- looked like the stick he walks with. About the time Acker was knocked down, Davis was on the front of the stage and looked like he was looking for a place to get off. I didn't see Acker try to strike anybody. John Lewis caught Acker by the arms and Sheff went toward Acker - Some one came from behind with stick and struck at John Acker but did not hit him. -

B. F. RODEFFER.

I was in Ott's drugstore on the day of the Convention, after it was over, and overheard John F. Lewis talking about it. He said that he had held John Acker's arms while Sheff Lewis hit him.

which he was struck

J. R. LONG.

I was at the Convention and saw the rush for the stage when Botts Lewis announced the vote. I knew a good many of them at the time but can't say who were in the rush now. I saw Sheff Lewis and Charlie Hammer on the stage. When Sheff Lewis went towards Mr. Acker, Charlie Hammer was behind him. I didn't see Ed. Deobert nor Fletcher on the stage. I saw Sam Davis. He had a cane in his hand -- looked like the stick he walks with. About the time Acker was knocked down, Davis was on the front of the stage and looked like he was looking for a place to get off. I didn't see Acker try to strike anybody.

Later Sworn Caught that Were Never Alive - Sworn Come Your Lying Cuff Sure Guys Shot at Fitter Phone Not Hit Him, -

H. F. ROBERTER.

I was in Ott's drugstore on the day of the convention, after it was over, and overheard John F. Lewis talking about it. He said that he had held John Acker's arms when Sheff Lewis hit him.

WM. M. MYERS.

I was sitting in the fifth or sixth row back from the stage at the Convention and saw the difficulties on the stage. I did not see who hit Mr. Acker, because my attention was turned to Ike Davis, on the front of the stage, and when I looked again, there was a crowd on the front of the stage in front of Mr. Acker, and I didn.t see who struck him. At that time, there were on the stage, Mr. Sheff Lewis, Mr. D O. Dechert, Mr. Ed. Dechert, Mr. Sam Davis, Mr. Hammer and of course Botts Lewis and Funkhouser and Keezel were there. There may have been others, but I don't recollect. The majority of the crowd went over the front of the stage. I didn't see Acker when he was knocked down, nor did I see him when he first came on the stage. There was a great deal of excitement, and I can't tell who it was, for certain, that went up over the front of the stage -- they had their backs to me. I saw Sheff Lewis and Hammer strike at Davis at the same time-- one on each side of him. Sheff Lewis struck him with his fist and I thought Hammer did too, and he fell. When I saw Acker, there was a crowd around him, and I only caught a glimpse of him through the crowd. I don't know who were around him. I saw a man with a chair to the right of where Acker was standing, but didn't see him strike anybody with it.

Sheff Lewis, Sam Davis, and Orville Dechert ~~and Ed Dechert~~ were in the rush -

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Sheff Lewis, Sam Davis, Funkhouser and Deobert ~~were~~ were in the Crowd.

WM. A. HERRON.

I got to the Convention late and sat back near the gallery. When Botts Lewis made his announcement, there was a rush for the stage, mostly from down towards the front.. When they got on the stage, the crowd seemed to go right in the direction of Mr. Acker. I didn't see Acker attempt to hit any one. I didn't see Davis knocked down at all, and didn't know he was hurt. I saw Acker come out and lift up his hands and then there was a crowd pressed around him and the first thing I knew he was down. I didn't see who strike him -- I don't know who hit him. There were several people on the stage at that time with sticks and clubs, but I didn't see any of them hit him. During the roll-call, I noticed that John F. Lewis, who was sitting down near the front, appeared to be very nervous, and he got up and stepped across the back of the seat in front of him and sat down there. John Lewis is of a nervous temperament. I don't know whether John Lewis had been sick before the Convention or not. I do know that he and Mr. Jarman live in same district and are good friends. I didn't know that there had been any difficulty before the Convention between Jarman and Marion Lam. I didn't get into the Convention until after it was called to order and the roll-call had begun. Marion Lam is an Ackerite. I saw Sheff Lewis sitting straddle of the rail of the West box. Just then John Lewis jumped up and somebody hollered go ahead or come ahead, I don't know which, and I don't know whether it was him or not, and Sheff Kewis jumped over from the box on to the corner of the stage, and Jarman went up over the piano. I didn't see Jarman after he got on the stage. After that, I don't know who got on the stage,

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the first thing I knew, it was full of people.

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M. BOTTS LEWIS.

I was at the Convention and at the request of Mr. Keegel, acted as one of the tellers. Keegel called the roll of precincts for the vote on temporary chairman, and said that completes the roll, and then there were cries from all over the house for me to announce the result. I got up walked to the front of the stage, held up my hands for silence, and announced, "Webb 35, Acker 30, We've got 'em boys!" Then I turned around and went back to the table and didn't see any body come on the stage at all. As I stood beside the table, at the East end, Charlie Hammer passed me going around the table, and in about a second, I saw him standing in front of Mr. Acker with his hands up in a defensiv e attitude, and Acker with his arm drawn back ready to strike a blow. Acker was within striking distance of Hammer. I pushed him between them and just as Acker struck at Hammer, I struck his arm with my right hand and warded off the blow and at the same time, with my left hand caught Hammer just under the chin and pushed him back in the opposite direction. Hammer went back eight or ten feet, I suppose, towards the front of the stage. I said to Acker, "Why don't you hit a man your size?" Just after I warded off the blow from Hammer, Acker turned and struck behind him in the air, as though some one had hit him on that side. I saw no one strike Acker from there. I didn't see Davis knocked down at all. After I separated Acker and Hammer, I turned round and separated two other couples, who were fighting on the stage, and after I had separated the other two couples, I saw Fletcher on the stage. That was the first time I had seen Fletcher! H e was on the East side of the stage when I saw him. The blow that Acker struck at Hammer was what started the row on the stage. The next time I saw Acker after separating him and Hammer he was down. I didn't

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On Cross Examn, he said:-

There was an informal meeting of members of our faction of the party at the office of the Spirit of the Valley, of which my father is the publisher, on the day of the Convention, before the Convention. It was not at all a secret meeting. The office of the Town Treasurer is also there, and various people having business with him came in and out during the time this meeting was in progress. The door was not locked and while it was not expected that any Ackerites should participate in the discussion, I think that at least one of the Ackerites was in the room for a part of the time. There was nothing at all unusual in the holding of this meeting. Such meetings or caucuses have been held in that office before every Convention which has been held in the last few years, to discuss plans for proceeding in the Convention, and that is what this meeting was for. The meeting was informal and no organization was gone into at all and no vote was taken on any subject. There was simply a discussion of the methods of procedure to be used in the convention. We concluded that if we had a majority of the delegates, as we believed we had, from reports we had heard from the various prescincts of the County, in the event the delegation from Timberville got here in time for the Comvention, the train upon which they would come was reported late, that we would not leave the Hall, as we had done two years ago when we had a majority of the ~~dele-~~

see him attack

Mr Geo Evans, Is. Sent:-

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(Add to M. B. Lewis, page 31). X-Examination.

Our faction had determined to hold their convention in that hall and if anybody left it was to be the other side. This was reached at the informal meeting held in the "Spirit of the Valley" office in Harrisonburg. on the day of the convention, and just before the convention. We had determined, from reports we had received that if the delegates from Timberville arrived, we did have a majority. We had also determined, in the meeting at the office of the "Spirit of the Valley", the morning of the convention, not to abide by the certificates from precincts which had been certified xxxxxxxxx to Chairman Keezel. I acted as teller and I did not record the vote in all cases as announced by Mr. Keezel, but I decided the question myself between certain contesting delegates as to how to record their votes

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~~of the~~ delegates, and when, at the District Convention, upon the contest between the two factions, for the delegation from this County, the argument was used against us, that nobody ever heard of the people having a majority in the Convention, leaving the minority in the possession of the Hall. If we found that we had a minority of the legally elected delegates, we determined to submit quietly and let the other faction take control of the Convention. There was no determination or agreement to use any force towards anybody, and there was no discussion of the use of force. There were present in and out at various times during the morning, Mr. Jarman, Dr. Webb, D. Washington, W. L. Dechert, D. O. Dechert, Charlie Hammer, John F. Lewis, D. S. Lewis, Jr., and a number of others, of our faction, but neither S. A. Davis nor E. L. Dechert was at that meeting at all, nor was Charles Fletcher.

(Rule of addition by Liggett is already other fact objected to).

P. O. SULLIVAN.

I was at the Convention as one of the uncontested delegates from West Harrisonburg. During the first proceedings, I stood back behind the last row of seats at the head of the Western aisle, which is near the door of the Hall. I saw Mr. Acker come out upon the stage, and advance to the table. There I saw him strike out in front of him at some one -- I did not see who it was when he struck, but immediately afterwards thought it must have been Charlie Hammer, because I s

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wards thought it must have been Charlie Hammer, because I saw

him ~~stagger~~ totter back, with his face upturned. Just after Hammer tottered back, I saw a tall, slender young man, a very lithe active fellow, whom I did not recognize, and whom I do not know, and who was standing on the opposite side of Acker from me, strike a blow at Acker's head. Whether that blow landed, I could not tell, but from Acker's action, I believed that it did, and that the blow dazed him, for he immediately turned and lunged out behind him, as though intending to return a blow. ~~I saw Ike Davis come upon the stage with his arms uplifted and brandishing them, and approaching Charlie~~ The next I remember was The striking of Ike Davis and his falling. One of the men who struck him I can't possibly identify. The other Was D. S. Lewis, Jr. After Davis fell, I started to go upon the stage. I walked down the aisle at the head of which I had been standing. I am a lame man, and it would take me somewhat longer than other men to cover the distance to the stage, and in addition, the aisle was obstructed by people standing ~~int~~ in it. When I got to the stage I started to climb upon it, over the railing in front, and as I did so, I heard some one say, "Let me help you up, Mr. Sullivan,"and looking around, I saw that it was Charlie Fletcher. He did help me up, and I got upon the stage before he did. I did not see Acker when he was knocked down, but I am satisfied that this took place before I got upon the stage, because when I got there, the fighting seemed to be all over, though there was some slight disturbance afterwards. Before I got upon the stage, I called for the police to help ~~quiet~~ quell the disturbance. I had a conversation with John F. Lewis on the stage thatbday after the difficulty which was the only conversation I had with him. I met him there and asked him how he was, and he told me that he had been confined to the house for several days.

I then asked him what mission he had on the stage, to which he replied that he didn't have any, except that Acker had rushed at him with arms extended and that he had caught hold of Acker's arms, near the elbows, and that at about that time Sheff Lewis had struck him. I saw James have a stick four or five feet long. Saw Davis has a stick and Pat Dechert also has a stick — I saw these sticks after I was on stage & difficulty over,

BENJAMIN BILLHEIMER.

I was at the Convention in the East box, When Botts Lewis made his announcement, there was a rush for the stage. I saw Sheff Lewis and Hammer om the stage, ~~XXXX~~ they were the first I saw. Davis came in with his arms raised, and seemed to be striking at Hammer, and then Sheff Lewis struck him. Davis was in a striking position at the time he was hit. ~~Then~~ I saw Mr. Acker come in on the Westbside of the stage with his arm raised and his fist closed, as though he was going to strike some one. He came on towards the table, and when he got there, he laid his handon the back of a chair and lifted it up a little piece off of the floor, as if he was going to lay some one, and then put the chair down .

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If I had been in Acker's place, I would have used the chair, the way they were crowed around him.

If I had been there and they had rushed up on me that way I would have used it.

JAMES B. POINTS.

I was at the Convention and saw a part of the difficulties on the stage. I heard Botts Lewis announce that Webb was elected and saw Sheff Lewis jump from the box on to the stage. I then went up on the stage myself. I had a special object in view in going there which was to look for a certain person. After Sheff Lewis jumped on the stage, I saw Acker come out with his arms up and extended in front of him, -- appearing to be very aggressive in his manner, and he then put his hand upon John F. Lewis' shoulder. I was in a line with Mr. Acker as we both came upon the stage, from the West wing. When I glanced around, I saw Acker with his hand up and he took hold of Mr. John F. Lewis. I saw Mr. Sullivan come on the stage and try to quiet the parties there.

Don't recollect whether hands were on each other

I didn't see Acker make an attack upon the person of Mr. Lewis or anybody else. I was on the West side about 25 feet from the stage. Answers a delegate from Park County.

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I came on the stage from the West and entered at the same time Acker did - and the left side of the latter behind Acker & myself when he came on stage -

W. M. BUCHER.

I am a Democrat, but was present at the Republican Convention as a spectator. I saw Acker on the stage and saw him strike at some one, I didn't know who, and ~~xxxx~~ don't know whether he hit anybody. I didn't see anybody strike at him. Before the Convention was called to order, I was standing in the extreme Western aisle, with Mr. Jacob N. Liggett, and saw Acker come down into the body of the house from the stage. He came up to some men, near where I was standing and spoke to them and as he was about to leave them, I heard him say, "Come on up here you fellows," and ~~xxxxxxxxxxxxxx~~ a man right there said, "Yes, go on up there with John, you fellows," and Mr. Acker then left and went back on the stage, into the West wing. At that time, I left the place where I was standing and went and sat down in one of the seats. And was sitting down when the Convention was called to order.

(when Acker was talking to these men I don't know whether he was ~~[illegible]~~ in an angry mood) or not

ISAAC HOLLANDER.

I was sitting on the West side of the Hall during the Convention, about half way back from the stage. I was not a delegate, but an innocent sight seer, and a Democrat. I saw Acker come out on the stage from the East side, and saw him striking away two blows, first with one hand and then with the other. I didn't see who it was that he was striking at. Acker came in from the East and went towards the Table -

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P. M. ROUHOF.

I was at the Republican Convention. I saw Acker come on the stage. He came in an aggressive manner, coming fast and hands drawn back. Would not say positively whether open or closed. Made a demonstration as though he was going to strike some one = Saw Sheff Lewis strike Acker. (~~Acker [illegible] doing anything~~) ~~Could say~~ Did not see Acker doing anything when Lewis hit him —

R. H. BRIDGES.

I was at the Convention and saw part of the trouble on the stage. The first time I saw Mr. Acker he was already on the stage and was throwing his arms around as if to hit some one or to push them out of the way' I ~~w~~ saw him grab John Lewis by the Arms, and then John Lewis grabbed him. And then Sheff Lewis struck him, while he had John's arms. There was great confusion in the Hall, people shouting and jumping up from their seats, and rushing on the stage over the front and through the wings, and immediately after I saw Acker grab Lewis, followed by Lewis grabbing Ackers arms, and Sheff's striking Acker, my view was cut off by people getting between me and them.

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J. L. ~~RIDER.~~ Ritter.

I was sitting in the East side of the gallery, at the Convention, and saw part of the trouble. I saw Acker draw back to ~~xxxxxxxxxxxxxxxx~~ hit Hammer, and Hammer went back. Then Ike Davis came running after Hammer, with his arms up, and followed him down the stage. He followed Hammer some distance and struck at him and then at Sheff Lewis, and they both struck back at him, and Davis went down under the table, or by the table.

W. R. BOWMAN.

I was at the Convention, but am a Democrat, and was present as a spectator, on the East side of the house, in the box. I saw Acker come on the stage -- may have said something, but I didn't hear it. He came with uplifted hands, as though he was going to hit some one or defend himself. When he got to the table, he took hold of the chair and picked it up a little way, then put it down and drew back as though going to hit Hammer, and then Botts Lewis came in between them and separated them. Botts pushed Hammer back, and he went back eight or ten feet. Ike Davis came in from the West and struck first at some one, whom I didn't recognize, and then at Sheff Lewis, and Sheff Lewis struck Davis., and he fell.. Fletcher did not seem to be in that fight, but af-

J. L. ~~RIDER.~~ Rider

I was sitting in the East side of the gallery, at the convention, and saw part of the trouble. I saw Acker draw back to ~~xxxxxxxxxxxxxx~~ hit Hammer, and Hammer went back. Then Ike Davis came running after Hammer, with his arms up, and followed him down the stage. He followed Hammer some distance and struck at him and then at Shelf Lewis, and they both struck back at him, and Davis went down under the table, or by the table.

W. R. BOWMAN.

I was at the convention, but am a Democrat, and was present as a spectator, on the East side of the house, in the box. I saw Acker come on the stage -- may have said something, but I didn't hear it. He came with uplifted hands, as though he was going to hit some one or defend himself. When he got to the table, he took hold of the chair and picked it up a little way, then put it down and drew back as though going to hit Hammer, and then Botts Lewis came in between them and separated them. Botts pushed Hammer back, and he went back eight or ten feet. Ike Davis came in from the West and struck first at some one, whom I didn't recognize, and then at Shelf Lewis, and Shelf Lewis struck Davis., and he fell.. Fletcher did not seem to be in that fight, but af-

terwards, he and Mr. Cooley seemed to have some difficulty, and George Rickard took it up. It looked like Rickard and Fletcher wanted to fight.. Before the fighting began, Acker and the two Mr. Funks and Jake Deputy and maybe others that I didn't see, were back in the West wing together . I was appointed a Special Policeman by the Mayor, who was in the Hall, and went on the stage and helped in restoring order. There must have been a hundred people on the stage. While I was up there, I saw the two Funks with sticks in their hands. They were the only people I saw on the stage with sticks .

On cross examination, the witness said that he might have been mistaken as to the two Funks having been in the West wing with Acker before the Convention was called to order. but that they were on the stage with the sticks during the time that he was helping to quiet the disturbance. From the way the Court reacted upon this I thought some are needed to defend themselves.

WINFIELD LIGGETT, JR.

I was in the East box with Mr. Keister and Mr. Payne, both of whom were teachers in the Public-School. Mr. Ed Dechert came off of the stage into the box where we were, and I noticed he had a little stick in his hand and I jestingly said to him , "What are you going to do with that stick," and then Mr. Keister said, "Whose's got the Convention to-day, the Ackerites or the Anti-Ackerites," and Mr. Dechert replied "The Anti-Ackerites," I am pretty certain and then either Mr. Keister or myself said, laughingly, "And you are going to have your rights, if you have to have them by blood," to which Mr. Dechert, also laughing, replied, "Yes."

By a good majority

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On X-exam. he said: —

The whole conversation was a jocular one, and I am certain that it was not Dechert, but Keister or myself, who made the reference to the blood. The more I think of it the more certain I am of this. I saw the Davis difficulty, Ike Davis rushed across the stage with his arms raised and rushed at Hammer, and Hammer kept going back until he was very near the front of the stage. When Davis was hit, his arm was right up over Sheff Lewis, and Hammer's arm was out toward Ike Davis, but I don't know whether he was striking at him or not. I think my memory is a great deal better than Keister's — he is absent minded. The Conversation with Dechert referred to was about 10 minutes before Cassmeier called to me and the stick he had was a piece of goods box — and couldn't have hurt anybody much.

S. W. LAUCK.

I sat on the West side of the dress circle, five or six rows back from the stage. I was a delegate from East Harrisonburg. I saw part of the difficulty. I saw Sheff Lewis jump upon the stage and turn round and wave his hat and cheer, and then some one was calling for Webb to go upon the stage and I turned around and went and joined several gentlemen who were escorting him there. I think there were with me D. S. Lewis, Sr., and James Sullivan, and others whom I do not now remember. When I got up into the West wing and could see out on the stage, There seemed to be a clamor towards the table, and Mr. Acker started towards Charlie Hammer with a blow. Some one rushed between them and shoved Hammer back and shoved Acker back the other way. I could not see who it was that separated them. Then Ike Davis started towards Hammer with his hands up, and Hammer backed from him. I didn't see Davis knocked down' I saw Acker knocked down. At that time, there was some person slightly to Acker's left, and Acker was advancing

Mr. Lauck, it seems! -

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on him. And then Sheff Lewis came from in front of Acker and to his right and struck him with his fist and Acker sank down. That was the only lick I saw Acker receive. At that time I was in a place where I could see well. I was on the stage then. After Acker was knocked down, I saw Orville Dechert on the West side of the stage and two men had hold of him dragging him off into the back corner of the stage, on the West side. I pushed one of them away from him and he got loose from the other one himself, in some way

GEORGE WILLIS.

I am a policeman of the town. I was at the Convention. Directly after the row on the stage, I started and went up on the stage. Mr. Acker was down when I got on the stage -- went immediately to him. He was helped out. Then my attention was called to Otis Cooley, C. W. Fletcher and George Rickard. Cooley and Fletcher were having a difficulty. Fletcher had a chair raised and Rickard said ,"If you strike Cooley with that chair, I will kill you." I said,"Mr. Rickard, let's stop this fighting," and Rickard said, "I don't want it stopped." Mr. Rickard is generally understood to be a follower of Mr. Acker. When I got on the stage, both factions of the Republican party were pretty fully represented there." Did not see any one with sticks

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immediately around Mr. Acker. I did see, afterward, Mr. E. L. Dechert and Mr. Jarman on the stage with sticks. Mr. Dechert was over in the East corner of the stage. When I got on the stage Acker was down - I took hold of him and helped him out into parties on either side of him

SANDY BOWMAN.

I was at the Convention but did not see the fighting. I saw Ed Dechert over by the East wing of the stage leaning on a small stick. (I think it was immediately after Acker was knocked down I saw Dechert on East side of the stage)

D. S. Lewis, Sr.

I was at the Convention and when Botts Lewis announced the vote, I started to go upon the stage as one of several gentlemen who were excorting Dr. Webb to his chair. Our going with him was for the oridinary purpose of forming an escort of courtesy, such as is usual on such occasions, in Conventions. Before I started for the stage, I saw a number of persons from both factions of the party, running upon the stage over the front. Before the Convention was called to order, I had seen Acker and a number of his adherents in

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the West wing of the stage. I, with Webb and the other gentlemen, went on to the stage through the West wing, and as we passed through there, I again saw quite a number of Ackerites in that wing. When I got into the wing, or just as I was coming on the stage proper, I saw Acker and John Lewis have hold of each other and tussling, and I started towards them, intending to separate them if I could. I didn't know which had grabbed first. If I had known that it was Acker, I would probably have gone with the intention of striking him, and if I had known that it was John Lewis, I would have let them alone. John had been sick for about a week, before the Convantion, and got out of his bed to come to the Convention . Before I got to Acker and John Lewis, Sheff Lewis ran in and hit Mr. Acker a powerful blow with his fist. It was one of the hardest blowx I ever saw delivered. Acker at once sank to the floor. John Lewis is my brother and Sheff Lewis is my son. Botts Lewis is also my son. I did not see the difficulty which resulted in the knocking down of Ike Davis. If I had known that there had been fighting already going on, my feeling of separating Acker and John Lewis might have been different.

I am the Editor and Publisher of the Spirit of the Valley, and was present at the informal conference or meeting of members of our meeting held at that office and referred to by my son Botts Lewis.. As he stated, the meeting was in no sence a secret one, all of the doors being open and people coming in and going out freely, just as on any other day, transacting their business with the Town Treasurer, and such other business as they might have at that office. The meeting wasone such as usually been held before every Convention for a number of years. People from the various precincts came in and reported the results of their primaries, and we dis

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had ever heard of a majority leaving a minority in possession of the hall. We intended to abide by our returns, regardless of the certificates of the precinct chairmen to Keezel, unless we believed the Ackerites to be entitled to the delegations, and not accept Keezel's decision as to contested precinct if he decided against us where we were right. It was not at all contemplated that we would eject the others from the hall if they also determined to remain there. They m might if they choose go on peaceably and hold a convention of their own there, just as was done in fact after the fighting was over, when Dr. Webb presided over one convention and Acker over another held side by side

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Dr. J. B. WEBB.

I am the Dr. Webb who was nominated for Temporary Chairman of the Convention and who in fact presided over one Convention, while Mr. Acker presided over another, both of us seated upon the same stage, and the two Conv ntions being carried on side by side in the same Hall. I did not see the difficulties in which Acker and Davis were knocked down. When Botts Lewis announced my election, and there were calls for me to go upon the stage, I left my seat for that purpose and went up there, accompanied by D. S. Lewis, Sr. James Sullivan . S. W. Lauck, and other gentlemen of my friends. I had been at the caucus or informal meeting of Anti-Ackerites held at the Spirit of the Valley office before the Convention. There was simply an informal discussion of our plans for action at the convention. No secrecy, whatever, ~~what~~ was sought to be had, the doors were left open, and various people having business to transact in the office came in and out while we were there. It was determined that if we had a majori ~~that if we had a majorit~~ of the legally elected delegates of the ~~xxxxxxxxxxxxxxxxxx~~ Republican Party of the County of Rockingham, that we would not withdraw from the Convention Hall as we had done when two years before we had had a majority of the legally elected delegates, but that we would remain in the Hall and hold our Convention there. There was no suggestion of the use of force as against anybody, and if such a thing had been mentioned, I would have opposed it with all my force. We believed from the information we had as to the result of the various primaries held over the County the day before, that we would have a majority of the legally elected delegates, but we believed also that there would be , as there had been before, and as it turned out that ~~thet~~ there was, bogus contests from some of the prescincts, for the purpose

There was no definite conclusion as to what we would do if we were in the minority.

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of defeating us in our rights at the Convention, and we would not have been willing to submit and would not have submitted ~~but it was not intended that we should use force in resisting it,~~ to any decision of either Funkhouser or Keezel, adverse to us, if it turned out at the Convention, as we believed it would, but it was not intended that we should use force in resisting it. that we were entiled to control it. I am and have always been friendly with Acker, personally, though he has gotten into very bad hands in the party. I roomed with Acker when we were both members of the House of Delegates of Virginia, from this County, and each has often been at the home of the other, and eaten meals there. Funkhouser never ate a meal at my house and he never will. I don't feel the same towards Funkhouser that I do towards Acker. I think he is responsible for most of Acker's misdoings.

ANDREW BAZZEL.

I was at the Republican Convention and occupied a seat in the Hall on the West side if the West aisle, h the third or fourth row of seats from the door. I occupied the first seat next to the aisle, my son, L. A. Bazzle, occupied the next seat to me, and C. W. Fletcher occupied the third seat. Mr. Fletcher remained in that seat until Isaac Davis had been knocked down on the stage. Mr. Davis was down on the floor of the stage when Chas. Fletcher started from his seat. He then passed down the West aisle to the stage. I do not

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think he could have possibly gotten on the stage before Mr. Acker was knocked down. I saw Mr. Acker on the evening of the Convention, about dark, or thereafter, up near the post office in Harrisonburg, and I spoke to him and asked him whetherhe was much hurt, and he replied that he had gotten one lick, and that he wouldn't have minded it if a man had struck him, but he didn't like to be struck by that damned little cur, Sheff Lewis.

"Who hit you?" Acker replied "I don't know but they say it was Sheff Lewis."

E. M. Harnesberger.

I was at the Convantion as a delegate from Elkton. I am a comparative stranger in this part of the County and didn't know many of the people whom I saw on the stage. Didn't know Acker at the time. After Acker had been knocked down, I saw Fletcher on stage with chair in his hand. The chair never came down while I saw it. I saw Jarman ~~after the difficulty~~ I think after Acker had been knocked down, pick up a stick and break it across his knee. I saw Sam Davis on the stage but he was just walking around flourishing his stick.

Our Y-man, he said I think it was just after Acker was knocked down. I saw Fletcher with chair,

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G. G. HERRING.

I am a Democrat and a member of the Harrisonburg bar. I was present at the Republican Convention as a spectator. I first saw Acker at the West end of the table, and then my eyes left him and followed Ike Davis, who came upon the stage and went at Charlie Hammer, with his hands upraised in an aggressive manner and Hammer retreated, Davis following him up. Hammer backed almost to the front of the stage and Sheff Lewis was just about to cross Hammer's path going in the opposite direction. Davis struck at Hammer and then at Sheff Lewis, with what is called a chop lick, both Hammer and Lewis struck at Davis and Sheff hit him. I thought Hammer did too, but couldn't be positive. He fell in the direction of Lewis' blow. When I next saw Acker, he was at the East end of the table, and grabbed at somebody, first with one hand, and then with the other, and seemed to be shaking him. The crowd was all around in front of Acker by that time, and he seemed to be pushing them back, they surged backwards and forwards. Davis was the first man I saw strike, He was advancing rapidly.

+ W. I next saw Acker fall.

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R. W. HARRISON.

I was at the Republican Convention and sat on the Eastern side of the Hall, just back of the railing. I ~~xxxx~~ know C. W. Fletcher and have known him from his childhood. I saw Mr. Acker's heels fly up when I suppose he was knockeddown, and I saw Fletcher at the piano on the floor of the Hall in front of the stage, after Acker was knocked down. I saw Mr. Acker and Mr. Davis before they were struck and did not see them making any hostile demonstrations.

A. H. SNYDER.

I am the Editor and Publisher of the Rockingham Register, a Democratic newspaper, published in Harrisonburg, and was present at the Comvention held in the Court House in Harrisonburg as a spectator, and was seated in the West box. I have a distinct recollection as to some of the occurrences on the stage, and but an indistinct recollection as to others. I should be unwilling to testify as to some of the occurrences, because of the indistinctness of my recollection. There is no doubt of the fact that Ike Davis came upon the stage in a very aggressive way, and that he attacked Charlie Hammer and Sheff Lewis, who returned his blows, Sheff hitting him and it seemed to me that Hammer's blow also landed. Ike Davis was the first man I saw in an aggressive attitude. I don't recollect that I saw Acker make any demonstration to hit anybody, but my view of the stage

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I was at the Republican Convention and sat on the Eastern side of the Hall, just back of the railing. I ~~xxxxx~~ know C. W. Fletcher and have known him from his childhood. I saw Mr. Acker's heels fly up when I suppose he was knocked down, and I saw Fletcher at the piano on the floor of the Hall in front of the stage, after Acker was knocked down. I saw Mr. Acker and Mr. Davis before they were struck and did not see them making any hostile demonstrations.

A. H. SNYDER.

I am the Editor and Publisher of the Rockingham Register, a Democratic newspaper, published in Harrisonburg, and was present at the Convention as a spectator, and was seated in the West box. I have a distinct recollection as to some of the occurrences on the stage, and but an indistinct recollection as to others. I should be unwilling to testify as to some of the occurrences, because of the indistinctness of my recollection. There is no doubt of the fact that Ike Davis came upon the stage in a very aggressive way, and that he attacked Charlie Hammer and Sheff Lewis, who returned his blows, Sheff hitting him and it seemed to me that Hammer's blow also landed. Ike Davis was the first man I saw in an aggressive attitude. I don't recollect that I saw Acker make any demonstration to hit anybody, but my view of the stage

was not complete, part of it being cut off by the West wing, in front of which I sat. I saw Acker come out of the West wing and go up to the table on the stage as if to take charge of the meeting - after that I saw Acker surge back towards and Charles Hamms, Sheff Sears in certain in the crowd that surged toward Acker - Acker was knocked down immediately after the surging of the crowd

W. T. HENTON.

I was at the Republican Convention and sat on the East side of the Hall in the second seat from the stage. About the time Mr. Botts Lewis announced the vote, or directly after, Mr. Acker came in and was walking rapidly from the West wing of the stage. I do not know when he came in whether he had a chair or not, but when he reached the table, I noticed he had a chair in his hand. According to my recollection, when he went up to the table, he put his hand on the Chair. Mr. Ike Davis run in then and cut off my view from Mr. Acker and drew my attention to Mr. Davis, and when Mr. Davis was struck and fell, I turned back and went back to the window, on the East side of the Hall where I could see across. When I got to the window, Mr. Acker, I suppose, was past the middle of the table. Of course there were a good many around him, he made two passes one with each hand, and almost instantly, he was knocked down. After I got back to the window, I saw Charlie Fletcher, who did not go up on the stage until after Acker I went back. He got on the stage about the time Acker fell. Crowd surging around Acker to hold him waist & his arms - Saw Sam Davis leaning on the table using his stick - Acker was then back of the table - it was before Acker was knocked down -

W. T. HEWTON.

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Jno. W. Bryant.

I was at the Convention, but not as a delegate--I am a Democrat--. I saw Ike Davis rushing at Charlie Hammer, with his hands up--can't say whether they were closed or not; his manner was very aggressive. I saw Acker as he passed along behind the table, walking briskly, with his hands up and in front of him, looking aggressive. I don't know whether his hands were closed or open.

L. A. Bazzle.

I was sitting in the convention three or four seats from the back, between my father, Andrew Bazzle, and Charlie Fletcher. Fletcher did not leave his seat until after Davis was knocked down; I am certain he could not have gotten on the stage before Acker was down--he couldn't have had time. I saw Acker and Davis come on the stage; Davis came a little in front of Acker. Davis made a rush, with his hands up like he was making at some one. When I last saw Acker (before Davis was knocked down) he had his hands up like he was going to strike some one. When Acker was struck he was bend-

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ing foward, (as if he had hold of some one.) Then Sheff Lewis struck him with his fist. There were not more than five or six people on the stage when Acker and Davis came out. – On x-ex. cutting states that Acker was bending when he was hit but could not tell what he was doing when he was hit

Chas. G. Herring.

I was sitting beside my brother, Geo. G. Herring, at the Republican Convention. I am a Democrat and a member of the Harrisonburg Bar. When the troubles began on the stage and people began jumping up on their seats all over the house my brother and I climbed up on the backs of the seats on which we had been sitting, holding to a post which supports the gallery, so that we had a very good view of the stage, except when it would be cut off by people going up over the front of the stage, or the crowd getting between us and anything at which we might be looking. I saw a number of Mr. Acker's friends and supporters in the West wing of the stage before the convention was called to order and during the roll call, and when the rush for the stage was made the two factions of the party were about equally well represented. I knew quite a

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a number of the Ackerits who were there at the time, ~~bu~~ but it has been some time and I do not recollect very distinctly now just who they were. I think I recollect Mr. J. W. Deputy, Mr. Abe Paul and Mr. Charlie Masters, and there were quite a number more. Davis and Acker came out on the stage about the same time, Davis somewhat ahead of Acker. Davis came in with his arms up and flourishing his fists and advanced on Charlie Hammer who retreated before him for some distance, until, just as Davis struck at Hammer, Sheff Lewis was just about to cross their path, going the other way, and Davis, after striking at Hammer, turned and struck at Sheff and both Sheff and Hammer returned his blow, Sheff striking him with his fist, but whether Hammer's blow landed or not I don't know--I couldn't see--he was on the opposite side of Davis from me. I thought though that Hammer's lick did land. Davis was the first man on the stage whom I saw making any hostile demonstrations. After Davis was knocked down my eyes went back to Mr. Acker. He had passed the East end of the table at that time and there were people between us so that I could not see his hands, but his face was very angry and his bearing indicated that he was about to attack some one. He reached out in front of him, as if grabbing some one; who was in front of him I could not see. The crowd got pretty thick between us then and I did not see ~~xxxxxxx~~ Mr. Acker strike anybody, nor

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did I see any one strikeat him, but I saw him fall. I think Acker said something when he first came in, but I could not hear what it was. I saw ~~Kletscherxwithxxx~~ someone raise a chair on the East side of the stage after Acker was knocked down, and also saw Ed. Dechert with a slat under his arm after Acker was knocked down. I don't pretend to have seen everything that happened, and I don't think anybody else did. There were certainly twelve or thirteen of Acker's followers that came on the stage so close to him that they must have been already in the wing with him and came on the stage with him. Don't think Acker struck at anybody - the crowd ~~xxxxxx~~ on the stage in front of Acker was facing Acker - Hammer went into the crowd towards Acker after striking Ike Davis -

Ed. C. Martz.

Just before the Convention I went up into the lobby outside of the room in which it was held and met Charlie Hammer who had just come out of the room, and Hammer gave me the pistol which he usually carries as a Deputy Collector of Internal Revenue for the United States and I kept it until the next morning for him.

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J. H. Skelton.

I saw Davis knocked down. He rushed at Charlie Hammer and Sheff Lewis with both hands up, Can't say whether his fists were clinched

D. S. Lewis, Jr.

I was standing in the West Box during the roll call, and when it was announced that we had elected Webb I stepped across on the corner of the stage and turned around to the audience and cheered. Then I turned around and went to the table where Funkhouser was and took the paper out of his hand and turned away, tore it in two and dropped it on the floor and went on the away, and just about that time Ike Davis, with whom my relations were entirely friendly, he having been a customer of my father's printing office, and having been to various places with the fire company of which I am a member, coming towards me with his arms raised, Hammer backing in front of him. He struck at Charlie Hammer and then turned towards me and struck at me. I returned his blow and hit him in the face with my fist and at the same time some one struck him from the other side; whom that was I do not know. I didn't know that it was Ike Davis at the time, and would have struck my brother if he had come at me in the same way. I struck him once only, and after he fell I turned around and saw Mr. Acker grab ahold of my uncle, John F. Lewis, and

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and then my uncle grabbed him. I thought Acker was pushing my uncle off of the stage, and knew that my uncle had just gotten out of bed where he had been confined by sickness for some time before, besides my uncle is a small weak man, and Acker is a very large and I thought a very powerful man. Seeing him have hold of my uncle and pushing him back, as he was, I ran towards him and struck him in the face with my fist. I had no stick or any other instrument in my hand when I struck either Acker or Davis. Acker fell back when I hit him. I struck Acker to protect my uncle, whom I believed to be in danger of bodily harm at his (Acker's) hands; and I struck Davis to protect myself. I did not see anybody come upon the stage and didn't know who was there when I struck these men, except, of course, that I knew Keezel and Funkhouser and Acker and Ike Davis, Botts Lewis, Charlie Hammer and my uncle, John Lewis, were there, and I didn't know what anybody else was doing. I didn't see Fletcher there until after Acker was knocked down, nor Ed. Dechert, nor Sam Davis, nor Jarman. I was at the meeting at the "Sp "Spirit of the Valley" office. There was no mention even at the meeting of the use of force or violence of any sort at the Convention. If we were in a minority, we intended to submit quietly and let the Ackerites control the convention. (If we had, as we believed we had, a majority of the people we thought of the legally elected delegates, we determined not to leave the hall but to stay there and hold our meeting there,) and if anybody left the other

I struck Acker because he had attacked my uncle

(a) Sentiment of the people he thought he represented, he had not worked the Convention in that way

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side would have to do it, but we never contemplated ejecting them by force, nor contemplated the use of force in order to hold our own convention, or for any other purpose. Neither Ed. Dechert, nor Sam Davis nor Charlie Fletcher was at that meeting. The stick I had in my hand that has been mentioned by some of the witnesses I did not get until after Acker had been knocked down and the fighting had ceased. I met Ed. Dechert on the stage with this stick under his arm, and just took it out from under his arm and carried it in my hand. I could say why I went on the stage.

M. M. Jarman.

I was a delegate to the convention from Elkton and was there. Marion Lam was there as a contesting delegate. He had been drinking considerably, and before the convention was called to order he used insulting words to me, although I continued to tell him that I wanted to have no difficulty with him. Finally I pushed him on the head, or perhaps slapped him, and a po-

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liceman came and tried to quiet him, but failing to do so started to take him out of the hall. I went upon the stage, but did not go right at first. I was not at all excited, but suppose I went for the same reason that men gather around a dog fight, or anything of that sort--from curiosity just to see what was going on. After I got on the stage I saw Acker pick up a chair and he seemed to weigh it just as if to see if it would make a good weapon, and he seemed to be looking at me. The space between us was clear and I thought that if that was his game I had better be prepared to protect myself and looked around to see if I couldn't get a chair too, but my eye fell on a piece of board behind the scenery, so I just went back there and got a piece of a thin board and broke it across my knee and held a piece in my hand. I did not hit anybody, nor try to hit anybody. If anybody had attacked me I would have struck them to protect myself. When I got back on the main part of the stage with the stick in my hand I saw Acker have hold of Jno. F. Lewis by the arms and I saw Sheff Lewis run in and hit ~~him~~ Acker and knock him down. Directly after the difficulty I met Jno. F. Lewis on the stage and he asked me if I had seen Jno. Acker grab him. I told him I had not, and he said: "Well, he did grab me by the arms, and then I grabbed him by the arms, and then Sheff, when we had each other that way, struck him"

+ I left my seat about the time of the disturbance on the platform

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I was at the "Spirit" office meeting which has been referred to. It was an open meeting--that is no one was prevented from coming in; the doors were not locked, and people did come in and go out freely, attending to various wattters of business which they had to atten to there. Such a thing as force was not even suggeste We determined that if we had, as we believed we did have, a majority of the legal delegates to the convention, that we would not withdraw as we did two years before, but that we would hold our convention in that hall. If the others wanted to hold one there they could do so too, but we were going to hold ours there. We had no idea of resorting to violence, either for the purpose of holding our own, or for the p rpose of preventing the others from holding theirs. Of course, if they had attempted to put us out by force we would have resisted force by force, but such a possibility wa not even mentioned. Before the convention was called

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to order I saw Acker, Funkhouser and Keezel back in the West wing together. If Acker and Davis had not come out as they did and struck at other persons on the stage, I don't believe that there would have been the slightest trouble. I didn't go on the stage with any intention of taking possession of it, or holding it by force. I ~~didn't know~~ went up over the piano - I saw John Lewis and Sam Davis go on the stage ahead of me - At the meeting at the Spirit Office we decided if the delegates from Limberville attend we would have a majority - in the County Convention because of the reports we had received

Chas. A. Hammer.

Hammer

I came into the convention hall about one o-clock, the hour which had been fixed for its convening, and while there I saw the difficulty between Lam and Jarman , which has been referred to already in this testimony. I had with me my pistol, which I carried as a United States Officer, and knowing that the feeling b between the factions was quite intense, and in view of the fact that this difficulty had already taken place, I feared that there might be further trouble and in that event did not want to have the pistol about me, so I offered it to Mr. Keister, askinghim to take care of it for me until after the convention. He declined to receive it, and I immediately went outside and met E. C. Martz just outside of the door and gave it to him and he kept it for me until the next morning.

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I came into the convention hall about one o-clock, the hour which had been fixed for its convening, and while there I saw the difficulty between Lam and Jarman, which has been referred to already in this tes-timony. I had with me my pistol, which I carried as a United States Officer, and knowing that the feeling between the factions was quite intense, and in view of the fact that this difficulty had already taken place, I feared that there might be further trouble and in that event did not want to have the pistol about me, so I offered it to Mr. Keister, asking him to take care of it for me until after the convention. He de-clined to receive it, and I immediately went outside and met W. C. Marts just outside of the door and gave it to him and he kept it for me until the next morning.

Before I left the room I had ascertained that the calling of the convention to order had been postponed to await the arrival of the delayed train from Elkton, whic was expected to bring some of the delegation, among them that of Swift Run, which I had been informed would vote for the anti-Ackerites. After I had given the pistol to Martz I went out of the building and down street, desiring to see the Swift Run delegation on its way from the depot and talk with its members. On returning to the convention, just as I got to the East entrance to the Court yard I met Jasper Hawse and he asked me if the factions were going to get together, and I told him that I didn't think so and it wouldn't surprise me if there was a fight. This was after the Lam and Jarman difficulty and it was because that had already occured and because of the intense feeling that I knew existed that I so expressed myself. I had no other reason to expect a fight. I went on up into the convention again and found that it had been called to order and that the roll call was in progress. When Oak Grove was reached, a precinct, from which Col. Roller had been elected a delegate, as I knew, a man by the name of Custer, an Ackerite, got up and announced t the vote of Oak Grove for Acker. I was near him and went up to him, and I believe that I told him that he was a damned thief, then I went on down the aisle and spoke to several other gentlemen. And finally I was

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standing talking to Col. Boller when Botts Lewis announced the vote, and seeing the others go upon the stage I went too. I went up to the table at which Funkhouser and Botts Lewis, the tellers, had been seated and when I got there Mr. Acker was just coming in from the West side back of the table and put his hand on a chair and I thought he was going to use it, and I went up to him and said: "Don't do that, Mr. Acker", ~~an~~ and he put the chair down and drew back his fist and struck at me. Fornutately for me, owing to the disparity in our size and strength, Botts Lewis interposed between us and struck off Acker's blow with his right hand and with his left caught me under the chin and threw me backwards, and just as I was recovering my balance I saw Ike Davis making at me with his hands up. He struck at me with his left hand, and with my left hand I ~~waved~~ pushed his arm aside and warded off his blow and struck at him with my right hand, but that blow did not land. In warding off his blow the position of his body was turned somewhat towards the right and just then Sheff Lewis was standing there, or passing there, and Davis struck at him with his right hand, and Sheff Lewis struck him in the face, and at the same time some man, whom I cannot identify, struck him from the side that I was on and he fell down. I was at no time, after that, within ten feet of Mr. Acker. I did not strike him and I made no effort to strike him.

asked Botts Lewis how he got the result - "see you counted otto bine for ragansh Acker" - he said, for Acker."

standing talking to Col. Roller when Botts Lewis announced the vote, and seeing the others go upon the stage I went too. I went up to the table at which Punkhouser and Botts Lewis, the tellers, had been seated and when I got there Mr. Acker was just coming in from the West side back of the table and put his hand on a chair and I thought he was going to use it, and I went up to him and said: "Don't do that, Mr. Acker", ~~an~~ and he put the chair down and drew back his fist and struck at me. Fortunately for me, owing to the disparity in our size and strength, Botts Lewis interposed between us and struck off Acker's blow with his right hand and with his left caught me under the chin and threw me backwards, and just as I was recovering my balance I saw Ike Davis making at me with his hands up. He struck at me with his left hand, and with my left hand I ~~waved~~ knocked his arm aside and warded off his blow and struck at him with my right hand, but that blow did not land. In warding off his blow the position of his body was turned somewhat towards the right and just then Sheff Lewis was standing there, or passing there, and Davis struck at him with his right hand, and Sheff Lewis struck him in the face, and at the same time some man, whom I cannot identify, struck him from the side that I was on and he fell down. I was at no time after that, within ten feet of Mr. Acker. I did not strike him and I made no effort to strike him.

Sub. If we found that we had a man, witter, swearing not have an effect a decision for Kengel and serve Gees. —

I think I saw Jacob Deputy, Charlie Masters and Abe Paul, who are Ackerites, in the wing when I got on the stage. I may have stepped toward Acker after the Davis affair — ~~[illegible]~~ ~~not from a pacified Kengel's decision~~ ~~it is not been that he died with [illegible]~~ — I saw Fletcher on the stage just after Ascenlow knocked down

I was at the "Spirit of the Valley" meeting. Neither Ed. Dechert, nor Sam Davis, nor Charlie Fletcher was there. There was no discussion of the use of force in the convention, nor was there a suggestion of any that I heard. The discussions and determinations of the meeting have all been described by other witnesses. It may be that I had a conversation with Mr. Hooke just before the convention in Abe Loewener's store, but if I did, I don't remember it. I did not tell Jno. Rogers on the train on the way to Richmond that I had hit Ike Davis and that Sheff Lewis had hit John Acker.

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E. L. Dechert.

At the time of the convention I was acting as manager of the opera house,-my brother, W. L. Dechert was the manager in fact, but I attended to it for him. I came into the convention when scarcely any one had arrived and met Mr. Philips, the janitor of the building at the door of the hall and suggested to him that his arrangement of the scenery could be improved by giving more room for the persons who would be upon the stage, and he agreed with me and we went together to the stage and changed the scenery so as to make more room. While up there I picked up a thin piece of board, about ~~xxxxxxxxxxxxxxxx~~ a half inch thick and about two and a half feet long, and perhaps two or three inches wide which was a part of a crate in which theatrical goods had been packed, and carried it in my hand. Before the convention was called to order I went out into the East box and there had a joking conversation with Mr. Keister and Winfield Liggett, Jr., and perhaps some others in the box about who had the majority of the convention. I don't remember anything at all about any reference to blood, though I don't deny it was made, though it would be impossible for me to say who made it

T. L. Deckert.

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Whoever said it, it was said in jest, just like the rest of the conversation. After that I went back on the stage and stayed there throughout the roll call. I think when it was finished I came out of the East ~~win~~ wing, where I had been standing, and told Botts Lewis t to announce the vote, which he did. Just after that the people began to come on the stage and Acker came out of the West wing, where I had seen him with a number of his followers, during the roll call, with the most venemous look I ever saw on the face of a man. I saw Acker draw back and strike at Charlie Hammer, and saw Botts Lewis rush in and separate them, and then~~xxas~~ I turned and walked away. As I did so, looking back over my right shoulder, I saw Acker fall. I didn't see who hit him. I ~~was~~ did not strike Acker; I did not strike at him, and when he was knocked down I was fully ten or fifteen feet away, and could not have struck him if I had tried. Neither did I strike any one else, nor did I make any effort to use the stick which I had in my hand. After the fighting was over I met Shefff. Lewis on the stage and I had the stick under my arm and Sheff just reached up and took it. I deny most positively that I ever had any conversation with Jos. Carver on the stage that day. ~~Ixdidnx~~ I was not in the "Spirit of the Valley" meeting. I had been sick the day before and been unable to go to the

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primaries and was still sick that day and did not leave my house until nearly the time for the convention.

I was not examined on the former trial but was present & heard Keisler's Evidence - Nobody came on the stage with Acker as far as that I saw

primaries and was still sick that day and did not leave my house until nearly the time for the convention.

W. H. Keister.

There is no doubt that it was not I or Winfield Liggett, Jr., but Ed. Dechert who made the reference to holding the convention by blood. I did not see any one back in the wing with Acker except Funkhouser and Keezel, but I am not prepared to say they were not there. I could not see the whole wing. Did not see any one with Acker when he came on stage. I was impressed with the fact that no one of Mr. Acker's friends was there for the reason that every one was attacking him. Ed Dechert and I had conversations several times after my evidence at call trial, about the case, and Dechert never suggested that I had been mistaken in my statement, but I never talked to him on the subject of what I had testified to, or any special subject in the case. I told him I was sorry to have to testify. On Cross examination the witness admitted that the whole conversation with Ed Dechert was a jocular one and that, as Winfield Liggett, Jr., had testified, he, (witness), was absent-minded. He admitted that on one occassion having gone with a party of young ladies and gentlemen to Rawley Springs, he had gone into the river to bathe and that upon coming out of the water he had started to rejoin the ladies of the party without resuming his trousers, and that upon another occassion having come home from school to his dinner at midday he had gone to his room for the purpose of retiring, thinking it was evening and forgetful of the after-

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noon session of his school which was yet to take place

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J. D. Rogers.

I saw Charlie Hammer shortly after the convention here, on the train goingto Richmond, and asked him about Acker and Davis, both of whom I had heard were right badly hurt; and then I asked him who hit them and he said: "I hit Davis and Sheff Lewis hit John Acker".

John Acker.

When Oak Grove precinct was called Col. Roller cast the vote for that precinct and I went back to seek Mr. Custer to see why he hadn't voted and found him back in the hall--he had started to leave-- and told me that Hammer had cursed him, and I told him to come on up there and attend to his duty. That was when the roll was about a third complete and I don't remember having gone out into the body of the house at any other time. Don't know that I said "fellows". It was the second time that I came out on the stage that Mr.Herring saw my friends in the West wing, and that I said I was elected Chairman and was going to be Chairman.

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J. C. Sibert.

I was standing back in the aisle, right under the edge of the gallery and saw Mr. Acker came on the stage--I saw him strike at nobody ~~and I didn't think it was possible for him to strike at any body.~~ and I was impossible for him to have struck at ~~any one~~ Hammer as described by Butts Lewis & Hammer in their testimony

H. S. Hooke.

About an hour or an hour and a half before the convention I saw Charlie Hammer in Loewener's restaurant and he said to me: "We are going to claim our rights in the convention; you may call it revolutionary, or not."

J. C. Sibert.

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H. S. Hooke.

About an hour or an hour and a half before the convention I saw Charlie Hammer in Loewner's restaurant and he said to me: "We are going to claim our rights in the convention; you may call it revolutionary, or not."

Charlie Masters.

I was not in the West wing with Acker, except that before the roll call I went up there for a little while to speak with Jacob Deputy, and then went back and sat down in the hall. When the racket was about over I went up on the stage. When Mr. Acker came out the second time, to preside over the convention, Mr. Orvill Dechert stood up behind him, hollering, and I heard him say:- "Come on boys, lets drown him out". I have known Orville Dechert and all of his brotherswell ever since they were children and there can't be any mistake about its having been he. (

beside Capt Lentz and that his son Walter was standing near them and did not go on stage until after difficulty began

After another witness had been examined this witness returned to the stand to make a correct~~xxxx~~ion and said it was not Orville Dechert whom he had seen on the stage behind Mr. Acker, but one of his brothers who resembles him somewhat, and that he knew it was not Orville Dechert, but his brother, because when he left the stand the first time Chas. M. Keezel had told him ~~so.~~ that it was Burton Dechert

Charlie Masters.

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~~that it was Beckert Beckert~~

Abe Paul.

I was not on the stage until after Acker was knocked down. I was sitting to the left of the west-aisle. When I got on the stage they were taking Acker off

I. D. Davis.

When I was knocked down it is not true that I was making an assault upon either Charlie Hammer or Sheff. Lewis. Hammer and I have always been good friends. ~~and~~ ~~xxxxxxxxxxxx~~

C. M. Keezel.

Orvile Dechert and his brother, Burton, do resemble each other a good deal. I told Mr. Masters, after he left the stand a few minutes ago that it was Burton,.and not Orville, Dechert, because I thought it was ~~liable~~ likely that he was to be contradicted. I heard Acker say the second time he came out that he was elected and was going to preside, but heard no such statement the first time.

Abe Paul.

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ed down.

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~~xxxxxxxxxxxx~~

C. M. Keenel.

Orville Deckert and his brother, Burton, do resemble each other a good deal. I told Mr. Masters, after he left the stand a few minutes ago that it was Burton, and not Orville, Deckert, because I thought it was ~~little~~ that he was to be contradicted. I heard Aoker say the second time he came out that he was elected and was going to preside, but heard no such statement the first time.

Jos. Funk.

Did not hear Acker make any statement the first time he came out on the stage, but I did the last time. I had forgotten that I and my brother had picked up any sticks until Mr. Bowman testified to it. We were examing them to see if we could find any blood on them.

W. C. Funk.

I had lost sight of examining the sticks until Walter Switzer called my attention to it. My brother and I were looking to see if we could find any blood on them.

Joe. Funk.

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I had lost sight of examining the sticks until Waiter Switzer called my attention to it. My brother and I were looking to see if we could find any blood on them.

W. C. Switzer.

I was with the two Funks when they were examining the sticks to see if they could find any blood on them. One of them picked upthe stick that Jno. Lewis had thrown down.

J. C. Beery.

Mr. Ike Davis came in from West side of stage directly after rush. Mr. Davis was making an attack on nobody; don't think that,Mr. Davis saw Sheff. Lewis at all.

C. C. Herring.

I was at the convention. I saw Mr. Isaac Davis struck. I did not see him until in the position in which he was when struck--both arms were up. Sheff. Lewis struck him on the right side of the face, and at about the same time Harry Voorhees struck him on the other side, and Davis fell down by, or under. the table

W. C. Swetzer.

I was with the two Funks when they were examining the sticks to see if they could find any blood on them. One of them picked up the stick that Jno. Lewis had thrown down.

J. C. Beery.

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Jehu Long

~~Jehu Long~~ Sas Davis just as he was struck. Some one had told me they were fighting on the stage, and just then Hammer struck him on one side and Sheff. Lewis on the other. I don't know whether Davis had attacked them or not. I couldn't swear that Hammer could not have said that's "all right" when I arrested him and told him to appear before the Mayor, but I thought he s said that's "right", when I told him he was arrested for striking Davis. I didn't arrest Sheff Lewis on the stage, but down on the body of the house.

D. S. Lewis. Jr

I was on the stage when arrested. Mr. Long, the policeman, said he did not know who did the hitting, but he just arrested me for being in the "furse". If Mr. Davis was not making an assault on me when I struck him, I thought he was.

W. M. Bucher.

It was before the roll call had begun, while I was still standing on the Western side of the hall, that Acker came out and told those men of whom I spoke

John Long

~~John Long~~ Davis just as he was struck. Some one had told me they were fighting on the stage, and just then Hammer struck him on one side and Shaff. Lewis on the other. I don't know whether Davis had attacked them or not. I couldn't swear that Hammer could not have said that's "all right" when I arrested him and told him to appear before the Mayor, but I thought he s said that's "right", when I told him he was arrested for striking Davis. I didn't count stuff going on the stage, but I saw as the body yields time.

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It was before the roll call had begun, while I was still standing on the Western side of the hall, that Acker came out and told those men of whom I spoke

to come on up there, and I don't know what he meant by "up there", unless he meant for them to come on up ther on the stage with him--he went back up on the stage, in to the West wing.

Harry Voorhees.

It is not true, as stated by Chas. C. Herring, that I struck Ike Davis. I did not strike him.

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Commonwealth
vs
Ike Davis

GEORGE W. ALTAFFER.

I was sitting on the rail of the East box near the stage at the Convention when the difficulties transpired on the stage. I saw Mr. Acker after he got on the stage, come up to the table and take up a chair with both of his hands. I don't know whether he raised it or not. He said, "Gentlemen, I am elected Chairman of this Convention, and I am going to be Chairman." He said this just about the same time he picked up the chair. Then there was a general melee. Acker rushed at the crowd and they gave back from him. I didn't see any sticks or chairs used. I did see one stick in the air about the time Acker was knocked down, but it was a little thin stick that bent inthe air as it waived, and that stick didn't come down at Acker. Acker's manner when he came on the stage was very aggressive, ~~and I think he started the row.~~ The whole thing happened very quickly. Davis was knocked down just about the time or immediately after Acker took hold of the chair.

Eliminate Substitute

See substitute all this is new air

Ok

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On Cross-exam. he said:

~~Geo. W. Altaffer.~~

Acker came to table and put his hands on a chair; said: "I've been elected Chairman and am going to preside." Ike Davis came to front of stage; saw two men strikearound between Davis' arms. Next saw Acker hit or push at some one and crowd went back. Saw chair raised East and back of table. Can't say Acker raised chair; think he ~~were~~ may have put his hands on ~~xxxx~~ chair to have hands on some thing.

Think both Hammer and Lewis struck ~~xxxix~~ Davis down. Acker had done nothing up to the time that Davis was ~~xx~~ thrown down; crowd was facing Acker. Don't know whether Hammer went towards Acker when Davis was knocked down; think he did.

Geo. W. Aitaffer.

Aoker came to table and put his hands on a chair; said: "I've been elected Chairman and am going to preside." Ike Davis came to front of stage; saw two men strikearound between Davis' arms. Next saw Aoker hit or push at some one and crowd went back. Saw chair raised East and back of table. Can't say Aoker raised chair; think he put his hands on chair to have hands on some thing.

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CHARLES CLATTERBUCK.

I was at the Convention and sat near the stage in a seat next to one of the aisles. After the difficulty on the stage was over, I overheard John F. Lewis, who was standing in the aisle near me, talking to another man, whom I did not know, and heard him say, "I had hold of Acker's arms when Sheff, (meaning D. S. Lewis, Jr.,), struck him."

O. B. COOLEY.

I was at the Convention. Did not see Acker or Davis knocked down. I went upon the stage and got there just as Acker was going off. I saw Charlie Fletcher on the East side of the stage, and heard him talking to some one and say, "Damn him, I tried to hit him with a chair, but couldn't get to him." I don't know to whom he referred by "him," and don't know who the man was that he was talking to. I had never seen him before and have never seen him since. Fletcher and I have not been on good terms for a couple of years. Fletcher saw me and raised a chair as if he was going to hit me and called me a "Damned son of a bitch." I didn't answer him, but my uncle, George Rickard, who was on the stage with me, told him, "If you hit Cooley, I'll kill you." Fletcher, undoubted-

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Commonwealth.

D. A. Lewis & others.

G. N. Hale
~~R. J. Hagar~~
James A. Fry
Jacob L. Harlin
G. F. Sanger
Daniel W. Buedler
M. J. Arehart.
Jacob W. Fawley
E. P. Myers.
Daniel Myers. Jr.
Robert J. Millin
Jacob V. Lago
Charles F. Armentrout.

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ~~ROCKINGHAM~~ Augusta COUNTY---GREETING:

You are hereby commanded to summon Jno D Rodgers

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 *o'clock, a. m., on the* 2nd *day of the* November *Court next, being the* 20 *day of* November 1900 189 *, to testify and the truth to say in behalf of the Commonwealth against*

who stands charged with ~~*and indicted for*~~ Misdemeanor.

And this he *shall not omit under the penalty of £*100. *And have then and there this Writ.*

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 13 *day of* November 1900, 189 *, and in the* 125th *year of the Commonwealth.*

J. S. Messerley, *Clerk.*

Form 68—Beilin.

Jno W Rodgers.

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ROCKINGHAM COUNTY---GREETING:

You are hereby commanded to summon Jim D. Rodgers

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 *o'clock, a. m., on the* 2 *day of the* December *Court next, being the* 20 *day of* November 1907 ~~189~~ *, to testify and the truth to say in behalf of the Commonwealth against* D. A. Lewis Jr. & others

~~*who stands charged with and indicted for*~~

And this he *shall not omit under the penalty of £*10. *And have then and there this Writ.*

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 12 *day of* November 1907, ~~189~~ *, and in the* 126th *year of the Commonwealth.*

J. S. Messerley, *Clerk.*

Form 68—Berlin.

J. D. Rendger

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ROCKINGHAM COUNTY---GREETING:

You are hereby commanded to summon John Rodgers

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 *o'clock, a. m., on the* 20th *day of this* November *Court ~~next,~~ being the* 20th *day of* November 1900 ~~189~~ *, to testify and the truth to say in behalf of the Commonwealth against*

D. S. Lewis Jr. & C. A. Hammer

who stands charged with ~~and indicted for~~ Misdemeanor

And this he *shall not omit under the penalty of £*100. *And have then and there this Writ.*

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 20th *day of* November 1900, ~~189~~ *, and in the* 125th *year of the Commonwealth.*

, Clerk.

Form 68—Berlin.

John Rodgers

3 – 52-208 358

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ROCKINGHAM COUNTY---GREETING:

You are hereby commanded to summon J. M. Wintermyer, W. A. Herron, G. L. Long, J. E. Lowman, D. P. Shifflett, C. C. Kenney, B. F. Rodeffer, John Wolfe, J. S. Carver, Chas. G. Slatterbuck, J. W. Deputy, A. C. Kinsley, B. Frank Ralston, W. J. Linsweaver, O. B. Cosley, Geo. W. Rhead, J. R. Long, Dr. J. L. Bowman, Dr. J. B. Ruis, M. H. Kaister, C. C. Simmons, G. R. Funk, Wm. C. Funk, James E. Roller, John VanPelt, James Cox

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 o'clock, a. m., on the 2nd day of the November Court next, being the 20th day of November 1900 ~~189~~, to testify and the truth to say in behalf of the Commonwealth against D. S. Lewis & others

who stands charged with ~~and indicted for~~ Misdemeanor

And this they shall not omit under the penalty of £100. And have then and there this Writ.

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 13th day of November 1900, ~~189~~, and in the 125th year of the Commonwealth.

J. S. Messerley, Clerk.

Form 68—Berlin.

Commonwealth.

vs. Jas. 1028

D. S. Lewis & others

J. W. Wintermyer, James E. Roller
W. A. Kerron, John Long
J. L. Long, Van Pelt.
J. E. Lowman
D. P. Shellbett, James Cox
L. le Kenney
B. F. Rodeffer
John Hollar
J. S. Carver
Chas. L. Glatterbock
J. W. Deputy
James R. Rhodes.
R. le Kinney
B. Frank Roleton
W. J. Luiewever
O. B. Langley
Geo. W. Rehard
J. R. Long
Dr. J. L. Bonman
Dr. J. B. Angis
W. H. Kerstes
L. le Simmons.
J. P. R. Funk
Wm le Funk:

To the day of November let
being November 20. 1900

Executed
J. H. Swartzer S.A.B.

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ROCKINGHAM COUNTY---GREETING:

You are hereby commanded to summon Jno D Rodgers

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 *o'clock, a. m., on the* 2 *day of the* November *Court next, being the* 20 *day of* November 1900 ~~189~~ *, to testify and the truth to say in behalf of the Commonwealth against* D. P. Lewis Jr. & others

~~*who stands charged with and indicted for*~~ M

And this he *shall not omit under the penalty of £*100. *And have then and there this Writ.*

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 12 *day of* November 1900, ~~189~~ *, and in the* 125*th year of the Commonwealth.*

J. S. Messerley, *Clerk.*

Form 68—Berlin.

Code Demurrer

The Commonwealth
vs
D. S. Lewis et al

Jno D Rodgers

To the 2 day of November
term being Nov. 20,
1900

Executed Nov 13-1900 as to D S Rodgers
by delivering a true copy of the within
D's a true in hand
Thos A Dawson Sheriff
for Nicholas Co

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ROCKINGHAM COUNTY---GREETING:

You are hereby commanded to summon H. S. Hooke

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 *o'clock, a. m.,* ~~*on the*~~ ~~*day of the*~~ Forthwith ~~*Court next, being the*~~ ~~*day of*~~ ~~189~~, *to testify and the truth to say in behalf of the Commonwealth against* D. S. Lugs & others

who stands charged with ~~*and indicted for*~~ Misdemeanor.

And this he *shall not omit under the penalty of £*100. *And have then and there this Writ.*

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 24 *day of* November 1900, ~~189~~, *and in the* 125*th year of the Commonwealth.*

J. S. Messerley, *Clerk.*

Form 68—Berlin.

Executed Nov 24 - 1700
E. J. Breckenridge D.S.
for Jas. Y. Smith & Co

Commonwealth.

Ⓒ Jas. 181

D. S. Lewis & others

H. S. Hooke

Forthwith.

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ~~ROCKINGHAM~~ Augusta COUNTY---GREETING:

You are hereby commanded to summon Jno D. Rodgers

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 *o'clock, a. m., on the* 2nd *day of the* November *Court next, being the* 20 *day of* November 1900 ~~189~~, *to testify and the truth to say in behalf of the Commonwealth against* D. S. Lewis & others.

~~*who stands charged with and indicted for*~~ Misdemeanor

And this he *shall not omit under the penalty of £*100. *And have then and there this Writ.*

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 13 *day of* November 1900, ~~189~~, *and in the* 1 *th year of the Commonwealth.*

J. S. Messerley, *Clerk.*

Form 68—Berlin.

Executed Nov. 15-1900 as to Jno
Rodgers by delivery a true copy
of the within Capias & having
Thos Dawson Deputy
for Nicholas Doe

69 Augusta County

Commonwealth.

181

vs

Jas.

D. S. Lewis & others

Jno D Rodgers

To 2nd day of November let
being November 20-1900.

IN THE NAME OF THE COMMONWEALTH OF VIRGINIA,

TO THE SHERIFF OF ROCKINGHAM COUNTY---GREETING:

You are hereby commanded to summon Bernard Heck

to appear before the Judge of the County Court of Rockingham County, at the Court-House, at 10 *o'clock, a. m., on the* 21st *day of the* November *Court* ~~next,~~ *being the* 20th *day of* November 1902 ~~189~~ *, to testify and the truth to say in behalf of the Commonwealth against*

D. S. Lewis Jr. & others

who stands charged with ~~*and indicted for*~~ Misdemeanor

And this he *shall not omit under the penalty of £*100. *And have then and there this Writ.*

Witness, JOSEPH S. MESSERLEY, Clerk of our said Court, at the Court-House, the 19th *day of* November 1902, 189~~ *, and in the* 125th *year of the Commonwealth.*

J. S. Messerley, *Clerk.*

Form 68—Berlin.

1 X
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11 X
12 X

Commonwealth

vs

Spas.

D. S. Lewis Jr. voltiers

Bernard Heck.

To 2nd day November Ct.
Being November 20th. 1900.

Executed
J. A. Hurtzer J.A.B.

✓ 5

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Be it remembered that upon the trial of this cause, after the Commonwealth, to maintain the issue upon its part, had introduced all of its evidence in chief, as set forth in Bill of Exceptions No. 1, which is here referred to and made a part of this Bill of Exceptions, including the testimony of W. H. Keister, in chief, as set out in said Bill of Exceptions No. 1, and had rested its case, and after the defendants, to maintain the issue upon their part, had introduced all of their evidence in chief, including the testimony of Winfield Liggett, Jr., and ~~Chas. E. Herring~~ as set out in the same Bill of Exceptions, the Commonwealth to further maintain the issue upon its part, in rebuttal, called said W. H. Keister, to whom it propounded the following question: "Winfield Liggett, Jr., has testified that it was either you or himself, and not Ed. Dechert, who stated before the convention was called to order in the conversation referred to in your examination in chief that the Lewisites proposed to have their rights if they had to have them by blood. State whether or not his statement is true" To the propounding of which question the defendants, by counsel, objected, upon the ground that this matter ~~had~~ been fully developed by this witness upon his examination in chief, and that the question now propounded did not seek to bring out any evidence properly admissible in rebuttal, but the Court overruled said objection and permitted the witness to answer the same as follows: "It is not true; there is no doubt that it was Mr. Dechert who made ~~th~~ the reference to blood." To which action of the Court, in

stated that Chas. E. Herring was present when the statement was made

so permitting the asking of said questions in so overruling said objections and in so permitting the questions to be answered, as set forth above, the defendants, by counsel except and pray that this, their Bill of Exceptions No. 51 may be sealed, signed and enrolled and made a part of this record, which is accordingly done.

Geo. Gantt (SEAL)

6 ~~7~~. The jury are instructed that in considering the evidence in this cause they are only to pass upon the guilt or innocence of the defendants upon the charge of assault and battery upon John Acker, and the evidence touching the circumstances of any other affray in which any of the defendants were involved are to be considered only so far as the same may tend to prove an unjustifiable assault and battery upon John Acker, or tend to exculpate the defendants from the charge of assault and battery upon said Acker.

7 ~~8~~. The jury are instructed that if, upon the evidence in this cause, either of two or more theories as to the affray under investigation may be true, and that upon any of such theories the defendants may be innocent, it is their duty to acquit the defendants, or any of them as to whom such theory may apply, and that however great may be the probibility of guilt raised by the evidence, they must still acquit the defendants, unless they believe that the evidence establishes their guilt beyond every reasonable doubt.

8 ~~9~~. The jury are instructed that a party assaulted may strike without first retreating, and is entitled to use ~~suc~~ such force to repel the attack as, from his point of view, may be reasonably necessary.

To the granting of the third, fifth, ~~sixth~~ and Eighth ~~ninth~~ of which instructions the Commonwealth, by counsel, objected, and the Court sustained said objection and refused to give said third, fifth, ~~sixth~~ and Eighth ~~ninth~~ instruc-

7. The jury are instructed that in considering the evidence in this cause they are only to pass upon the guilt or innocence of the defendants upon the charge of assault and battery upon John Acker, and the evidence touching the circumstances of any other affray in which any of the defendants were involved are to be considered only so far as the same may tend to prove an unjustifiable assault and battery upon John Acker, or tend to exculpate the defendants from the charge of assault and battery upon said Acker.

8. The jury are instructed that if, upon the evidence in this cause, either of the more theories as to the affray under investigation may be true, and that upon any of such theories the defendants may be innocent, it is their duty to acquit the defendants, or any of them as to whom such theory may apply, and that however great may be the probility of guilt raised by the evidence, they must still acquit the defendants, unless they believe that the evidence establishes their guilt beyond every reasonable doubt.

9. The jury are instructed that a party assaulted may strike without first retreating, and is entitled to use such force to repel the attack as, from his point of view, may be reasonably necessary.

To the granting of the third, fifth, ~~sixth and ninth~~ and ninth of which instructions the Commonwealth, by counsel, objected, and the Court sustained said objection and refused to give said third, fifth, ~~sixth~~ and ~~ninth~~ eighth instructions

tions, or any of them, but gave the first, second, fourth, ~~seventh~~ sixth and ~~eighth~~ seventh of said instructions, and in lieu of said ~~third, fifth, sixth~~ third fifth and ~~ninth~~ eighth instructions prayed for by the defendants, gave the following instructions, to-wit:

Instruction given by Court in lieu of the third instruction prayed for by the defendants.

The jury are instructed that any admission, or declaration made by one of the defendants cannot be considered as evidence against any of the other defendants, unless the jury believe from the evidence that all of the defendants had conspired to commit some unlawful act, and that in the commission thereof, and in ~~the~~ pursuance of ~~sus~~ such conspiracy an assault and battery was made upon John Acker, and such admission, or declaration, was made ~~while~~ when they were in the act of committing such unlawful act, or when in its way of commission.

Instruction given by the Court in lieu of the fifth instruction prayed for by the defendants.

The jury are instructed that if they believe from the evidence that under the circumstances of the difficulty between John Acker and John F. Lewis (the uncle of D. S. Lewis, Jr.), viewed from the standpoint of said D. S. Lewis Jr., said D. S. Lewis, Jr. reasonably believed that said John F. Lewis was in imminent danger of receiving serious bodily harm at the hands of said Acker, then said D. S. Lewis, Jr. had a right to, and was justifiable in, inter-

tions, or any of them, but gave the first, second, fourth, ~~seventh~~ and ~~eighth~~ of said instructions, and in lieu of said ~~third, sixth, ninth and tenth~~ instructions prayed for by the defendants, gave the following instructions, to-wit:

Instruction given by Court in lieu of the third instruction prayed for by the defendants.

The jury are instructed that any admission, or declaration made by one of the defendants cannot be considered as evidence against any of the other defendants, unless the jury believe from the evidence that all of the defendants had conspired to commit some unlawful act, and that in the commission thereof, and in ~~the~~ pursuance of such conspiracy an assault and battery was made upon John Acker, and such admission, or declaration, was made ~~while~~ they were in the act of committing such unlawful act, or when in its way of commission.

Instruction given by the Court in lieu of the fifth instruction prayed for by the defendants.

The jury are instructed that if they believe from the evidence that under the circumstances of the difficulty between John Acker and John T. Lewis (the uncle of D. S. Lewis, Jr.), viewed from the standpoint of said D. S. Lewis Jr., said D. S. Lewis, Jr. reasonably believed that said John T. Lewis was in imminent danger of receiving serious bodily harm at the hands of said Acker, then said D. S. Lewis, Jr. had a right to, and was justifiable in, inter-

fering in said difficulty for the protection of said John F. Lewis, and in the use of such force to prevent such injury as was reasonably necessary from his point of view, if they further believe from the evidence that said John F. Lewis was without fault in bringing on said difficulty between himself and said John Acker.

Instruction given by Court in lieu of the ~~ninth~~ Eight instruction prayed for by the defendants.

The jury are instructed that a party assaulted may strike without first retreating, and is entitled to use such force to repel the attack as, from his point of view, may be reasonably necessary, if he is without fault in bringing that necessity upon himself.

To which action of the Court in sustaining the objection of the Commonwealth, by counsel, to the said third, fifth, ~~sixth~~ and ~~ninth~~ Eight instructions prayed for by the defendants, and refusingto give the same, or any of them, and in modifying the third, fifth and ~~ninth~~ Eight of said instructions so prayed for by the defendants, and in giving in lieu of the said third, fifth and ~~ninth~~ Eight of said instructions prayed for by them the instructions aforesaid so given in lieu thereof by the Court, the defendants, by counsel, except and pray that this, their 9th Bill of Exceptions, may be signed, sealed and enrolled and made a part of the record in this cause, which is accordingly done.

Geo. Shattan (SEAL)

fering in said difficulty for the protection of said John T. Davis, and in so the use of such force to prevent such injury as was reasonably necessary from his point of view, if they further believe from the evidence that said John T. Davis was without fault in bringing on said difficulty between himself and said John Baker.

Instruction given by Court in lieu of the ~~ninth~~ instruction proved for by the defendants:

The jury are instructed that a party assaulted may strike without first retreating, and is entitled to use such force to repel the attack as, from his point of view, may be reasonably necessary, if he is without fault in bringing that necessity upon himself.

To which action of the Court in sustaining the objection of the Commonwealth, by counsel, to the said third, fifth, ~~sixth~~ and ~~ninth~~ instructions proved for by the defendants, and refusing to give the same, or any of them, and in modifying the same third, fifth and ~~ninth~~ of said instructions so proved for by the defendants, and in giving in lieu of the said third, fifth and ~~ninth~~ of said instructions proved for by them the instructions aforesaid so given in lieu thereof by the Court, the defendants, by counsel, except and pray that this, their Bill of Exceptions, may be signed, sealed and enrolled and made a part of the record in this cause, which is accordingly done.

(SEAL)

And that counsel for the Commonwealth also propounded ~~to~~ the following question, to-wit: "State whether or not any one was with Acker when he came on the stage"? to the propounding of which question the defendants, by counsel, objected, on the ground that the testimony sought to be elicited was not proper to be introduced inrebuttal, but the Court overruled said objection and permitted the witness to answer, which he did, as follows: "I did not see any one with Acker when he came on the stage."

And that the Commonwealth, by counsel, also propounded to the witness the following question, to-wit: "State whether or not there was any fact which impressed upon you that none of Acker's friends was with him", to which question the defendants, by counsel, objected, but the Court overruled said objection and permitted the witness to answer, which he did as follows: "I was impressed with the fact that none of Mr. Acker's friends was there for the reason that every one was attacking him."

And that counsel for the Commonwealth also propounded to the following question, to-wit: "State whether or not any one was with Acker when he came on the stage"? to the propounding of which question the defendants, by counsel, objected, on the ground that the testimony sought to be elicited was not proper to be introduced inevidence, but the Court overruled said objection and permitted the witness to answer, which he did, as follows: "I did not see any one with Acker when he came on the stage."

And that the Commonwealth, by counsel, also propounded to the witness the following question, to-wit: "State whether or not there was any fact which impressed upon you that none of Acker's friends was with him", to which question the defendants, by counsel, objected, but the Court overruled said objection and permitted the witness to answer, which he did as follows: "I was impressed with the fact that none of Mr. Acker's friends was there for the reason that every one was attacking him."

Given

The jury are instructed that, in considering the evidence in this cause, they are only to pass upon the guilt or innocence of the Defendants upon the charge of assault and battery upon John Acker, and the evidence touching the circumstances of any other affray in which any of the Defendants were involved, are to be considered only so far as the same may tend to prove any unjustifiable ~~at-tack~~ assault & Battery upon John Acker, or tend to exculpate the defendants from the charge of assault and battery upon said Acker.

7

The jury are instructed that, in considering the evidence in this cause, they are only to pass upon the guilt or innocence of the defendant upon the charge of assault and battery upon John Acker, and the evidence touching the circumstances of any other affray in which any of the defendants were involved, are to be considered only so far as the same may tend to prove any unjustifiable [illegible] or malice, or tend to exculpate the defendants from the charge of assault and battery upon said Acker.

8

✓ The jury are instructed that if, upon the evidenc in this cause, either of two or more theories as to the affray under investigation, may be true, and that upon any of such theories the defendants may be innocent, it is their duty to acquit the defendants, or any of them as to whom such theory may apply; and that however great may be the probability of guilt raised by the evidence they must still acquit the defendants, unless they believe that the evidence establishes their guilt beyond every reasonable doubt

given

The jury are instructed that if, upon the evidence in this cause, either of two or more theories as to the effect under investigation, may be true, and that upon any of such theories the defendants may be innocent, it is their duty to give the defendants, or any of them, the benefit of such theory may apply; and that however great may be the probability of guilt raised by the evidence they must still acquit the defendants, unless they believe that the evidence adduced shows their guilt beyond every reasonable doubt

9

#:#:#:#:#:#:#:#:#

Be it remembered that upon the trial of this cause the defendants prayed the Court to give the jury ~~nine~~ Eight several instructions, as follows:-

1. The jury are instructed that the defendants are presumed to be innocent until their guilt is proven beyond every reasonable doubt.

2. The jury are instructed that the question as to which of the factions of the Republican party had a majority of the delegates in the convention of the 17th of March, 1900, or who was rightfully chairman of said convention, Webb or Acker, or which of said factions was entitled to the possession of the stage is not for the jury to determine and any evidence upon this point is to be disregarded by them in coming to a conclusion as to the guilt or innocence of the defendants.

3. The jury are instructed that any admission or declaration made by one of the defendants cannot be considered as evidence against any of the other defendants.

4. The jury are instructed that in this cause the burden of proving every material fact necessary to establish the guilt of the defendants rests upon the Commonwealth and that each and every such material fact must be proven beyond every reasonable doubt; and if the jury shall have any reasonable doubt as to any material fact necessary to establish the guilt of the defendants, or any of them, they

::*:*:*:*:*:*

As it remembered that upon the first to this cause the defendants proved the court to give the full time seventy days allowed by the statutes, as follows:-

1. The full are instructed that the defendants are presumed innocent unless this this is proven beyond a reasonable doubt.

2. The full are instructed that the question to be determined by you is not that of guilty or not guilty of the defendants but the question of the existence of the conspiracy as charged in the indictment.

3. The full are instructed that the question as to whether the defendants or any of them were members of the Pennsylvania Anti Trust Association is a fact to be determined by you from the evidence in the case.

4. The full are instructed that the question as to whether the defendants or any of them were members of the Pennsylvania Anti Trust Association is a fact to be determined by you from the evidence in the case and if you find that any of the defendants were members of the association at any time during the period covered by the indictment, then the defendants are liable for the acts and declarations of the other members of the association while they were members of the association and in furtherance of the common purpose and design of the association.

give the defendants the benefit of such doubt and are to acquit them ~~defendants~~, or any of them as to whom such doubt applies.

5. The jury are instructed that if they believe from the evidence that under the circumstances of the difficulty between John Acker and John F. Lewis (the uncle of D. S. Lewis, Jr.,) viewed from the standpoint of said D. S. Lewis Jr., said D. S. Lewis, Jr., reasonably believed thatsaid John F. Lewis was in danger of receiving bodily harm, then said D. S. Lewis, Jr. had a right to, and was justifiable in, interfering in said difficulty for the protection of said John F. Lewis, and in the use of such force to prevent such injury as was reasonably necessary from his point of view.

6.

give the defendants the benefit of such doubt and are to acquit the defendants, or any of them as to whom such doubt applies.

5. The jury are instructed that if they believe from the evidence that under the circumstances of the difficulty between John Acker and John T. Lewis (the uncle of D. S. Lewis, Jr.,) viewed from the standpoint of said D. S. Lewis Jr., said D. S. Lewis, Jr., reasonably believed that said John T. Lewis was in danger of receiving bodily harm, then said D. S. Lewis, Jr. had a right to, and was justifiable in, interfering in said difficulty for the protection of said John T. Lewis, and in the use of such force to prevent such injury as was reasonably necessary from his point of view.

6.