

Rockingham County to wit:

To. J. S. Messerley & R. E. Co.

I, D. M. Beam, a Justice of said County, do hereby certify that I have this day committed D. F. Runion, Aldine Spitzer, Jasper Cook and Walter Cook to the Jail of said County, that they may be tried before the County Court of said County, for a felony, by him committed, in this, that he, on the 2<sup>d</sup> day of Jan'y 1900 in the said County, did feloniously break and enter at night a certain barn the property of the said J. Preston Miller and not adjoining to or occupied with the dwelling house of the said J. Preston Miller with intent to commit larceny therein.

Given under my hand this 11<sup>th</sup> day of January 1900.

D. M. Beam J. P.

Commonwealth  
of

D. F. Rumion  
Aldine Spitzer  
Gasper book and  
Walter book

NO.1.

The Court instructs the jury, that in order to constitute breaking on a charge of house breaking, the bare opening of an outside door by the accused to affect an entrance will suffice to constitute a breaking.

No.2.

If the jury believe from the evidence beyond any reasonable doubt that the prisoner broke and entered the barn of J.P. Miller with intent to commit larceny therein in manner and form as charged in the indictment, and that he committed such act, uninfluenced by any arrangement made with him or inducement offered to him by the said J.P. Miller, or any person authorized to act for him, and that such act was committed without the consent of the said Miller given in person or by any one authorized to act for him, they must find the prisoner guilty, and the mere presence of said Miller and others watching in said barn at the time the act was committed with the ~~sa~~ knowledge that such act was to be committed is not proof of his consent.

No.3.

The jury are instructed that if they believe from the evidence that J.P. Miller the owner of the barn referred to in the indictment consented that Jacob Eaton should arrange with or induce the prisoner to come with him to the said barn on the night of the occurrence upon which said indictment is based, and that the prisoner and said Eaton in pursuance of such arrangement with said Eaton, or by reason of the inducement <sup>of</sup> said Eaton, entered said barn, while the said Miller and others watched the proceedings, then they should find the prisoner not guilty, and the mere presence of said Miller with others watching in said barn at the time the act was committed, with a knowledge on the part of said Miller, <sup>that such act was to be committed</sup> is not proof of his consent.

NO.4.

A person who is informed that another intends to break and enter his barn in the night time with intent to commit larceny therein, has a right to take steps to discover and apprehend the person committing such crime, provided he has not given either in person or by any authorized agent of his, any ~~sa~~ aid in, or inducement, or consent to, the commission of such crime.

The Court instructs the jury, that in order to constitute breaking  
of a charge of house breaking, the bare opening of an outside door  
by the accused to effect an entrance will suffice to constitute a

If the jury believe from the evidence beyond any reasonable doubt  
that the prisoner broke and entered the barn of J. P. Miller with

intent to commit larceny therein in manner and form as charged in

the indictment, and that he committed such act unaided by any

arrangement made with him or inducement offered to him by the said

J. P. Miller, or any person authorized to act for him, and that such

act was committed without the consent of the said Miller, then the

prisoner or by any one authorized to act for him, they must find the

prisoner guilty, and the mere presence of said Miller and others wil-

-ling in said barn at the time the act was committed with the

knowledge that such act was to be committed is not proof of his

and the jury are instructed that if they believe from the evidence that

J. P. Miller, or any person authorized to act for him, or any person

authorized to act for him, should arrange with or induce the prisoner

to come with him to the said barn on the night of the occurrence

upon which said indictment is based, and that the prisoner did and

did so pursuant to such arrangement with said Miller, or by reason

of the inducement of said Miller, entered said barn, while the said

Miller and others watched the proceedings, then they should find

the prisoner not guilty, and the mere presence of said Miller with

others watching in said barn at the time the act was committed, with

the knowledge on the part of said Miller, is not proof of his consent.

A person who is induced that another intends to break and enter

his barn in the night time with intent to commit larceny therein,

has a right to take steps to discover and apprehend the person ex-

-ecuting such crime, provided he has not given either in person or

by any authorized agent of his, any aid in, or inducement, or

consent to, the commission of such crime.

If you find <sup>the prisoner</sup> ~~him~~ not guilty you will say so and no more.

If you find him guilty of breaking and entering in the day time or night-time, or entering without breaking in the night time the the said barn of J.P. Miller with intent to commit larceny in manner and form as charged in the inditement, you will say so, and then ascertain the term of his confinement in the penitentiary so that such term be not less than two nor more than ten years, or in your discretion confinement in the County jail not exceeding twelve months and fine not exceeding five hundred dollars.

If you find him not guilty you will say so and no more.

If you find him guilty of breaking and entering in the day time

or night-time, or entering without breaking in the night time the

the said J.P. Miller with intent to commit larceny in manner and form

as charged in the indictment, you will say so, and then ascertain

the term of his confinement in the penitentiary so that such term

be not less than two nor more than ten years, or in your discretion

confinement in the County Jail not exceeding twelve months and

fine not exceeding five hundred dollars.

COMMONWEALTH OF VIRGINIA,  
ROCKINGHAM COUNTY,

TO-WIT:

To E. R. Neff, a Constable of said County:

WHEREAS, J. Preston Miller of the said county, has this day made

complaint and information on oath before me, D. M. Beam a Justice of the said county, that

D. F. Runion, Aldine Spitzer, Jasper Cook & Walter Cook

of the said county, on the 2<sup>nd</sup> day of January 1890, in the said county, did

feloniously break and enter <sup>at night</sup> a certain barn the property of the  
said J. Preston Miller and not adjoining to or occupied  
with the dwelling house of the said J. Preston Miller  
with intent to commit larceny therein

These are therefore, in the name of the Commonwealth of Virginia, to command you forthwith to apprehend  
and bring before me, or some other Justice of the said County, the body of the said

D. F. Runion, Aldine Spitzer, Jasper Cook and Walter Cook

to answer the said complaint, and to be farther dealt with according to law. And you are required to summon

to appear and give evidence in behalf of the Commonwealth, on the examination touching the said offence.

Given under my hand and seal this 3<sup>rd</sup> day of January in the year 1890.

D. M. Beam J. P. [SEAL.]

Commonwealth

vs.

} Arrest Warrant.

D. F. Russion, Aldine Hitzu

Jasper Cook & Walter Cook

Executed the within warrant by arresting and delivering the

body of D. F. Russion, Aldine Hitzu  
Jasper Cook & Walter Cook  
before

a Justice of Rockingham County and by summoning the within named witnesses in person, this

4 day of Jan 1900 189

S. A. Russell

Constable of Rockingham County.

Filed Jan 10 1900  
J. S. Mansley

Rockingham County to wit: said County, to hereby certify that I Dm Glenn Justice of said County, do hereby certify that I have this day examined the D. F. Russion, Aldine Hitzu, Jasper Cook and Walter Cook to the said County that they may be tried before the County Court of said County and that they may be tried in this that on the 27th day of January 1900, did feloniously break and enter at night a certain house the property of Preston Miller and not obtaining the consent of the dwelling house of the said Preston Miller with intent of committing larceny therein given under my hand this 4th day of Jan'y 1900 Dm Glenn J. D.



Commonwealth of Virginia, } To-wit :  
Rockingham County, }

Be it Remembered that on the 9<sup>th</sup> day of January ~~189~~ 1900

Aldine Spitzer, J. H. Whisen and Noah Spitzer  
came before me Judge of the County Court

of the said county of Rockingham, and severally and respectively acknowledged themselves to be indebted to the Commonwealth of Virginia, in manner and form following, that is to say : the said Aldine

Spitzer in the sum of Five Hundred Dollars,

good and lawful money of the United States, and the said J. H. Whisen & Noah Spitzer  
in the sum of Five hundred Dollars of like good and lawful money, to be

respectively made and levied of their several goods and chattels, lands and tenements, and they severally waived the benefit of their Homestead Exemption as to this obligation, and also waived any claim or right to discharge any liability to the Commonwealth arising under this recognizance with coupons detached from the bonds of this State,

to the use of the Commonwealth of Virginia if the said Aldine Spitzer  
shall make default in the performance of the conditions underwritten.

The condition of the above recognizance is such that if the above bound Aldine

Spitzer do and shall personally appear before the County Court of Rockingham on the first day of the February Term next thereof, being the 19<sup>th</sup> day of February 1900 ~~189~~, at the Court-house thereof, and then and there answer a bill of indictment to be preferred to the Grand Jury in and for said County against him the said Aldine Spitzer

for a felony by him committed, for unlawfully and feloniously breaking and entering in the night

time of the second day of January 1900, in the  
said County of Rockingham, a certain barn the  
property of J. Preston Miller with intent to commit  
larceny therein Aldine Spitzer stands charged, and shall not depart thence without the leave of said Court, then the above recognizance shall be void and of no effect, otherwise to remain in full force and virtue.

Taken and acknowledged before me, the day and year first above written.

Geo. E. Brattain  
Judge of the County  
Court of Rockingham County

Commonwealth

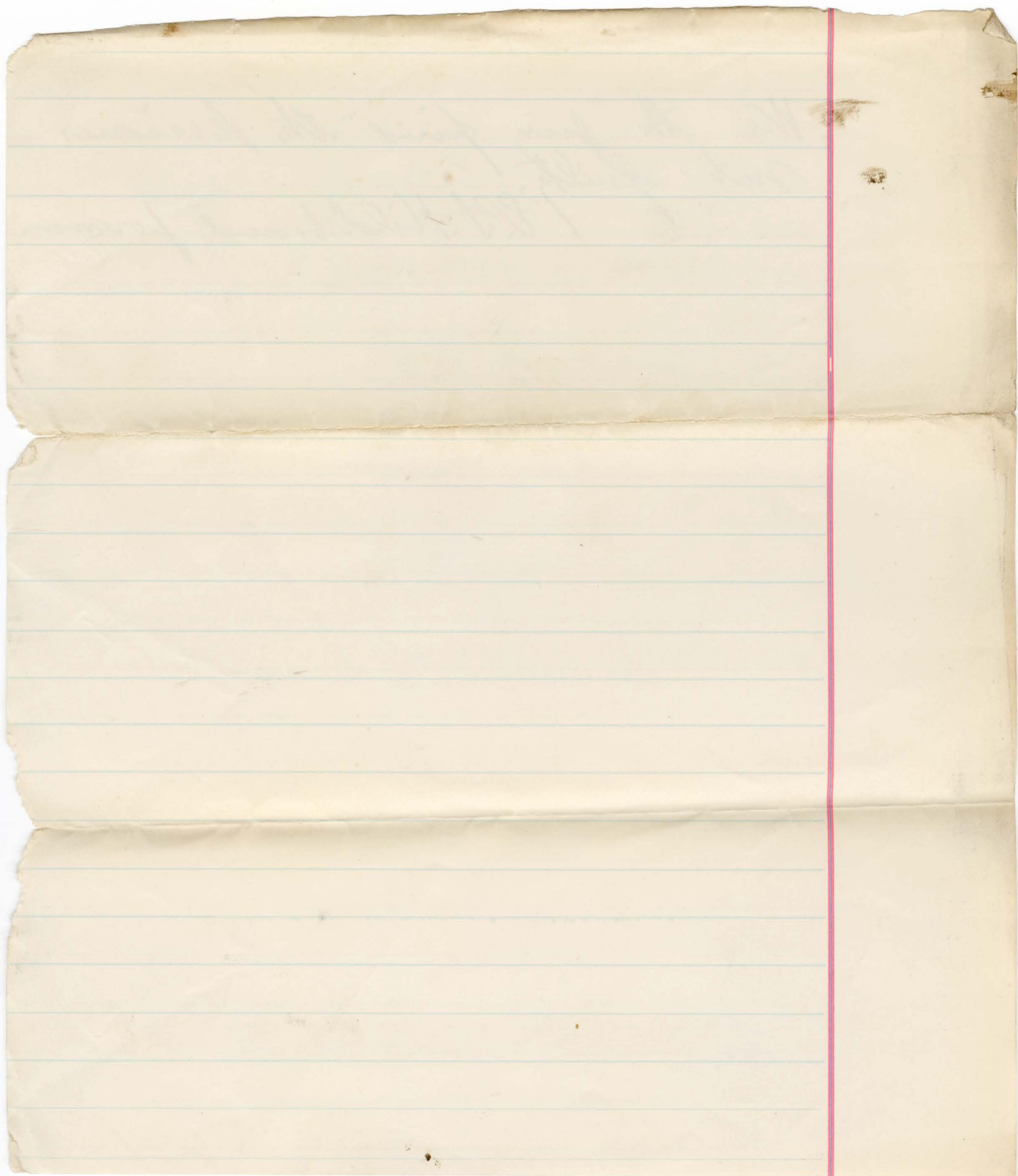
J. P. Ferguson

Alma Shippen

Filed January 9. 1900  
J. S. Mendenhall

We the jury find the prisoner  
not guilty.

E. H. Hildebrand foreman



Rockingham County, to wit.

Be it remembered that on this 4<sup>th</sup> day of January 1900 Walter Cook and A. F. Miller personally appeared before me D. M. Beam a Justice of the said County, and severally acknowledged themselves to owe to the Commonwealth of Virginia, as follows; That is to say the said Walter Cook in the sum of One hundred dollars, and the said A. F. Miller the sum of One hundred dollars of their respective goods and chattels, lands and tenements to be levied and for the use of the Commonwealth rendered.

Yet upon this condition, that if the said Walter Cook shall personally appear before the County Court of said County on the first day of the <sup>next</sup> Grand Jury term thereof then and then to answer the Commonwealth for a bill of indictment to be preferred to the Grand Jury in and for said County against him the said Walter Cook for felony by him committed in this that he did on the 2<sup>nd</sup> day of January 1900 break and enter at night a certain barn the property of J. Preston Miller with the intent to commit larceny therein, whereof the said Walter Cook stands charged.

And shall not depart Thence without  
the leave of the said court.

Then this recognizance shall become  
void otherwise to remain in full force  
and virtue. Taken and acknowl-  
edged before me in said county  
the day and year first above written  
D. M. Beam J.P.

Filed Jan'y 10. 1900  
J. S. Messerly Clerk

Commonwealth of Virginia,

COUNTY OF Rockingham, TO-WIT:

IN THE COUNTY COURT OF SAID COUNTY:

The jurors of the Commonwealth of Virginia, in and for the body of the County of

Rockingham, and now attending the said Court at its February term, in the year 1900, upon their oaths present that

D. F. Runion, Aldine Spitzer, Jasper, Cook and Walter Cook

on the 2<sup>d</sup> day of January, in the year 1900, in the said County,

<sup>in the night-time of that day</sup> feloniously did break and enter a certain barn, the property of J. P. Miller and not adjoining to or occupied with the dwelling house of the said J. P. Miller, with intent to commit larceny therein, against the peace and dignity of the Commonwealth.

And the jurors aforesaid, upon their oaths aforesaid, do further present that the said D. F. Runion, Aldine Spitzer, Jasper Cook and Walter Cook on the 2<sup>d</sup> day of January in the year 1900 in the said County, feloniously did enter without breaking, in the night-time of that day, a certain barn, the property of the said J. P. Miller and not adjoining to or occupied with the dwelling house of the said J. P. Miller, with intent to commit larceny therein, against the peace & dignity of the Commonwealth.

And the jurors aforesaid upon their oaths aforesaid do further present that D. F. Runion and Aldine Spitzer, on the 2nd. day of January 1900, in the said County, in the night time ~~of~~ of that day, feloniously did break and enter a certain barn the property of J. P. Miller, with intent to commit larceny therein.

And the jurors aforesaid upon their oaths aforesaid, do further present, that Jasper.....Cook and Walter Cook before the said felony was committed in form as aforesaid, to wit: on the said 2nd. day of January 1900 in said County aforesaid, did feloniously counsel, hire, procure, aid and abet the said D. F. Runion and Aldine Spitzer to do and commit the said felony in manner and form aforesaid, against the peace and dignity of the Commonwealth.

#6

No. 33.

Commonwealth

INDICTMENT FOR A

188. } *Moses Buckley re*

*D. F. Quinn, Stevie Spizer,*

*Jasper Coak and Walter Coak*

A TRUE BILL.

*W. H. McArthur*  
Foreman.

*Wednesday*



Commonwealth. 7

© } Papers.

D. J. Rumri. Aldine Spitzer  
Jasper Cook Walter Cook.

