

FEB

1930

#676

COMMONWEALTH

VS.) Felony (assault)

ORA MUMBERT and
CHARLES SHUEMAKER

Set
Feb 24

C. C. Huffman ✓
 Fred H. Berts ✓
 R. E. Ziller ✓
 R. P. Engenbriht ✓
 C. E. Shippelt ✓
 Hubert W. Wise ✓
 S. W. Lowry ✓
 Geo. G. Myers ✓
 B. H. Bitter ✓
 C. S. Shonwelter ✓
 Geo. H. Burner ✓
 W. H. Lineweaver ✓
 +

July - 72.00
 Wilt - 30.00

Shoffert
 over \$3.00
 Income 13 Miners 6.50
 9.50
 10 unit for Sept. 5.00

THE COMMONWEALTH OF VIRGINIA.

Mumbert

TO THE SHERIFF OF ROCKINGHAM COUNTY, GREETINGS:

We command you, that you take *Ora Mumbert* ----- if he be
found within your bailiwick, and him safely keep, so that you have his body forthwith before the
Circuit Court of Rockingham County, at the Court House thereof ~~on~~ -----
----- to answer us of a certain *Felony* ----- whereof he stands
indicted.

And have then and there this Writ. Witness *Robert Switzer*
J. F. Blackburn, Clerk of our said Court
at the Court House the *2nd* day of *January*, in the *154* year of
the Commonwealth.

Robert Switzer ----- Clerk.
J. F. Blackburn
P.C.

Execute the within Court Captures
by arresting & delivering the body
of Ora Mumbert. before St Benint
Bail Commission. the 3 day Jan 1930

B. O. Cooper D.S

For Chas R. Hawley S.C.C.

27-miles

COMMONWEALTH

vs.

Oris Mumbert

Carrying Prisoner & self. 27 miles @ .88
Each - 4.32. Making 27 miles @ .88 per mile
Total 1.50
7.98

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ROCKINGHAM COUNTY, GREETINGS:

We command you, that you take Charles Shumaker if he be found within your bailiwick, and him safely keep, so that you have his body forthwith before the Circuit Court of Rockingham County, at the Court House thereof ~~on~~ ----- to answer us of a certain felony whereof he stands indicted.

And have then and there this Writ. Witness J. Robert Switzer J. F. Blackburn, Clerk of our said Court at the Court House the 2nd day of January, in the 15th year of the Commonwealth.

J. Robert Switzer Clerk.
J. F. Blackburn
D.C.

Expects the within Court Captains
by arresting & detaining the body of
Charles Sheemaker before J.S. Brier
Bail Commission. This 3^d day Jan 1930
B. B. Cooper D.S.
For Chas. R. Hawley, S.C.

27 miles

COMMONWEALTH

vs.

Charles Sheemaker

432
216
130-0
798

and

Carrying measure to jail. + all 16.8 for
miles
Return - all 27 miles C.S.D.
and

Commonwealth of Virginia,
Rockingham County, To-Wit:

BE IT REMEMBERED, that on the 3rd day of January, 1930
Charles Shemake, principal and J. W. Shemake
surety, who justified to his sufficiency, came before me, Shepley L. Dewie
Bail Commissioner, of the said County of Rockingham,
(J. P. or Bail Commissioner)
and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of
Seven Hundred Eighty Dollars, (\$ 750.00),
to be levied of their respective goods and chattels, lands and tenements, for the use of the Common-
wealth of Virginia rendered, and they each severally waived their homestead exemption to their re-
cognizance; yet upon this condition:

That if the said Charles Shemake shall personally appear before
the Circuit Court of Rockingham County, at the Courthouse of said County, on the 1st day of the
February 1930 Term thereof, being the 17th day of February,
1930, and at such other time or times to which the proceedings may be continued or further
heard, and before any court or judge hereafter having or holding any proceedings in connection with
the said charge, and then and there answer the Commonwealth of Virginia concerning a certain
felony whereof the said Charles Shemake stands
charged, and be bound under said recognizance until the charge is finally disposed of or until it is
declared void by order of a competent court, then the above recognizance shall be null and void; other-
wise to remain in full force and effect.

IN WITNESS WHEREOF, I hereunto affix my signature this 3 day of

January, 1930.

Shepley L. Dewie
(J. P. or BAIL COMMISSIONER)

Charles Hornaker
\$730.00

To 1st day Febru-
ary 1930 Term

Commonwealth of Virginia,
Rockingham County, To-Wit:

BE IT REMEMBERED, that on the 3rd day of January, 1930,
Ora Mumbert, principal and Ben Mumbert
surety, who justified to his sufficiency, came before me, Sheep L. Devier
Bail Commissioner (J. P. or Bail Commissioner), of the said County of Rockingham,
and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of
Seven Hundred Fifty Dollars, (\$ 750⁰⁰),
to be levied of their respective goods and chattels, lands and tenements, for the use of the Common-
wealth of Virginia rendered, and they each severally waived their homestead exemption to their re-
cognizance; yet upon this condition:

That if the said Ora Mumbert shall personally appear before
the Circuit Court of Rockingham County, at the Courthouse of said County, on the 1st day of the
February 1930 Term thereof, being the 17th day of February,
1930, and at such other time or times to which the proceedings may be continued or further
heard, and before any court or judge hereafter having or holding any proceedings in connection with
the said charge, and then and there answer the Commonwealth of Virginia concerning a certain
felony whereof the said Ora Mumbert stands
charged, and be bound under said recognizance until the charge is finally disposed of or until it is
declared void by order of a competent court, then the above recognizance shall be null and void; other-
wise to remain in full force and effect.

IN WITNESS WHEREOF, I hereunto affix my signature this 3 day of
January, 1930.

Sheep L. Devier
(J. P. or BAIL COMMISSIONER)

~~\$750.00~~

1st day

January 1932

Pen

COMMONWEALTH

:

v.

:

CHARGE TO THE JURY

ORRIE MUMFORD & CHARLES SHUMAKER

:

If you find the accused, Orrie Mumford and Charles Shumaker, or either of them, not guilty, you will say so and no more.

If you find them guilty, or either of them, of malicious striking as charged in the indictment, then you will say so and fix ~~their~~ punishment by confinement in the penitentiary for a period of not less than one year nor more than ten years.

If you do not find them guilty, or either of them, of malicious striking as charged in the indictment, but find them guilty, or either of them, of unlawful striking as therein charged, then you will say so and fix ~~their~~ punishment by confinement in the penitentiary for a period of not less than one year nor more than five years, or, in your discretion by confinement in jail for a period not exceeding twelve (12) months and a fine not exceeding five hundred dollars (\$500.00).

If you do not find them guilty, or either of them, of either of the felonies aforesaid, as charged in the indictment, but find them guilty, or either of them, of assault and battery as therein charged, then you will say so and fix ~~their~~ punishment by confinement in jail for a period not exceeding twelve months, or by a fine not exceeding five hundred dollars (\$500.00), or by both such fine and imprisonment.

COMMONWEALTH OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of said County:

The grand jurors of the Commonwealth of Virginia in and for the body of the county of Rockingham and now attending said Court at its December term, 1929, upon their oaths do present that Ore Mumbert and Charles Shumaker, on or about December 18, 1929, in said county and upon one W. M. Phillips did make an assault, and him, the said W. M. Phillips feloniously and maliciously did strike over the head with a gun, with intent him, the said W. M. Phillips, then and there to maim, disfigure, disable, and kill, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of W. M. Phillips ✓ and Ward Turner ✓, witnesses sworn in Court and sent before the grand jury to give evidence.

Assault

Commonwealth

v) Indictment

Ora Humbert -

Ed.

Charles Shumaker

Felony

December term, 1929

A True Bill:

FOREMAN

J. J. McArthur

D. W. Eberman
Commonwealth's Attorney

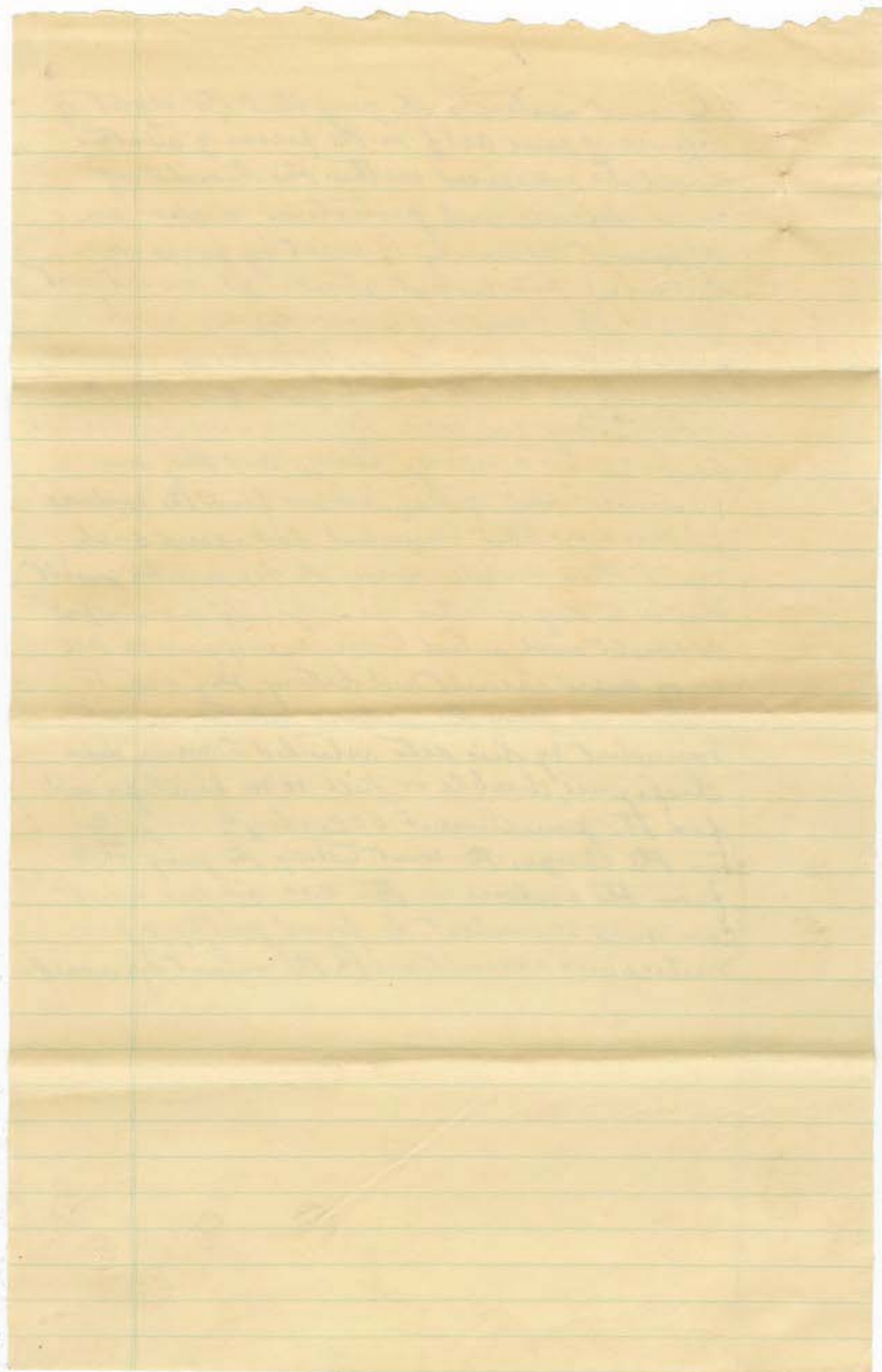
We the jury find the accused Charles Shumaker and
Ora Humbert guilty of assault and battery, in
changed in the indictment and give the punishment
of Charles Shumaker at a fine of \$25.00 and the
punish more of Ora Humbert at a fine of \$5.00.

Wm. J. Little

foreman

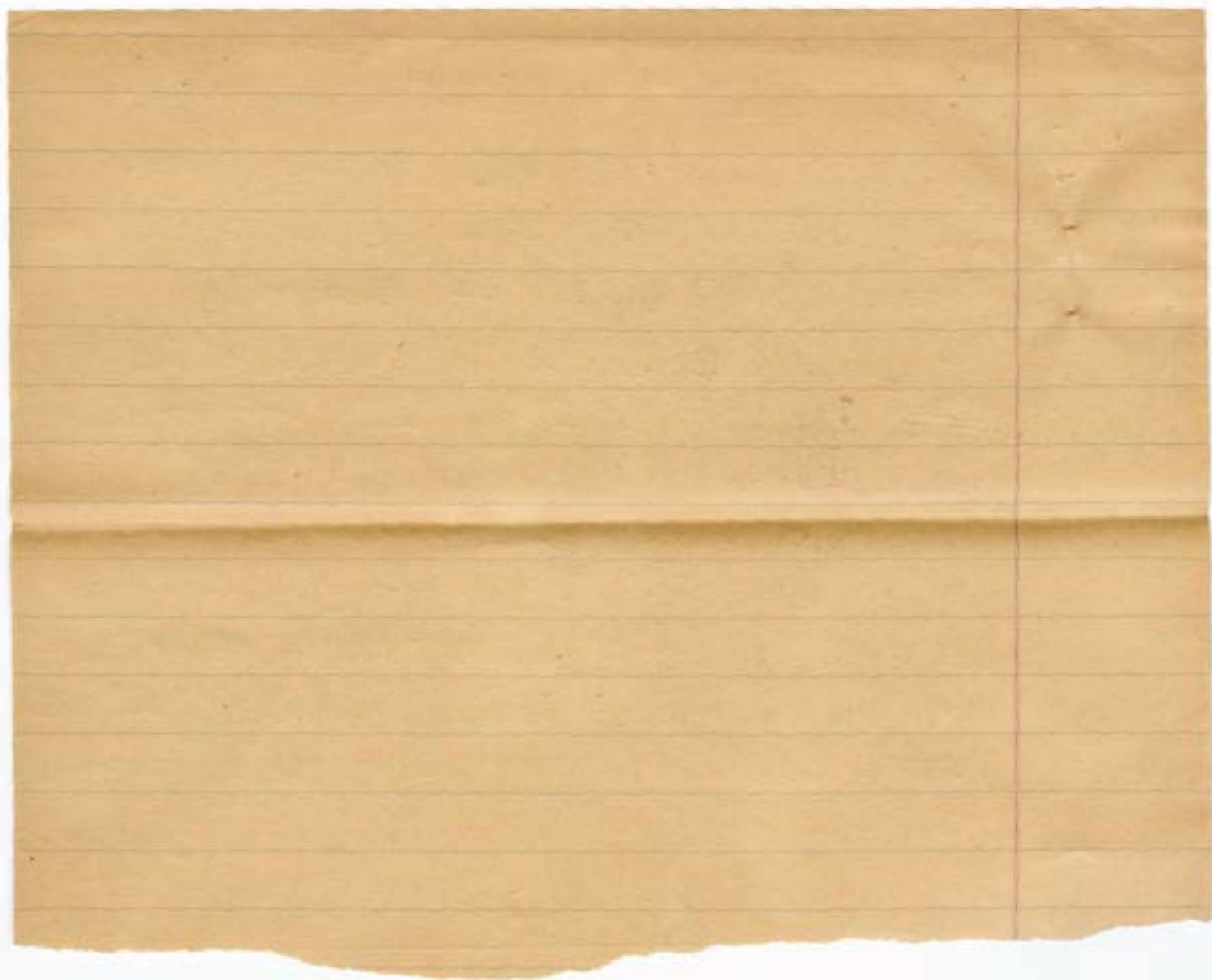
1

The court instructs the jury that the right of defense of ones self or the person of another must be exercised within the limits of mere defense and protection under an apparent necessity to avert by force an unlawful and violent attack. It must not exceed the bounds of mere defense and protection. If one is justifiable in defending himself or another but goes further than ^{is reasonably} necessary for such defense and protection he becomes a wrong doer; and they are instructed that if they believe from the evidence in this case that Mumbert did exceed such right then in determining the degree of his guilt that is to say whether he is guilty of unlawful assault with intent to maim, disfigure or kill or of mere assault and battery, they are to determine from the evidence whether or not Mumbert by his acts intended to maim, ~~disfigure~~ disfigure, disable or kill so M. Phillips and fix the punishment accordingly as given in the charge, the court telling the jury that from the evidence in this case an honest man could Mumbert be found guilty of malicious assault with the intent aforesaid.



2

The Court instructs the jury that
the accused are both presumed
to be innocent and before they
or either of them can be convicted
their guilt must be proven
beyond all reasonable doubt.
~~And~~ If after hearing all the evidence
you have any reasonable doubt
as to the guilt of the accused you
will acquit them ~~but~~ if you have
any reasonable doubt as to the grade
of the offense, if any, you will resolve
that doubt in favor of the accused.



The Court - instructs the jury that
if they believe from the evidence that
the defendant - Sherman made no attack on
~~himself~~ nor any attempt to shoot - W^m Phillips
then you will find said Sherman not guilty.

