

#2278

Trial Justice Court

Criminal Docket No. A-2728

Com'th

v.

Lawrance Dean J.K.H. P.D.

a.w. To 2-23-49 2 P.M.

To - 4-²¹~~21~~-49 2: P.M.

To - 5-24-49 2: P.M.

To - 6-27-49 2: P.M.

To 7-11-49 3 P.M.

Convicted:
\$50 & costs
60 days jail Susp
pay fine & costs

Appeal noted and granted 7-11-49.

Filed 7/21/49

WS- 2 Com
WS 2 Com

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA:

COMMONWEALTH

V.

CHARGE TO JURY

LAWRENCE DEAN

If you find the accused, Lawrence Dean, guilty of wounding H. E. Taylor or causing him bodily injury, by any means, with malicious intent, as charged in the indictment, you will say so and fix his 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 him guilty of malicious wounding or malicious bodily injury, as charged in the indictment, but find him guilty of unlawful wounding or unlawful bodily injury, as therein charged, you will say so and fix his 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 not exceeding twelve months and by a fine not exceeding five hundred dollars.

If you do not find him guilty of either of the felonies aforesaid, but find him guilty of assault and battery, as further charged in the indictment, then you will say so and fix his punishment by confinement in jail for a period not exceeding twelve months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

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

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wounding H. E. Taylor or causing him bodily injury, by any means,
with malicious intent, as charged in the indictment, you will say
that he is guilty of confinement in the penitentiary for
a term of not less than one year nor more than ten years.

If you do not find his guilty of malicious wounding or
malicious bodily injury, as charged in the indictment, but find
his guilty of unlawful wounding or unlawful bodily injury, as
charged, you will say so and fix his punishment by con-

finement in the penitentiary for a term of not less than
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punishment by confinement in jail for a period not exceeding twelve
months, or by a fine not exceeding five hundred dollars, or by
both such fine and imprisonment.

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

2nd trial

Present: All of the Justices.

LAWRENCE DEAN AND FLOYD SHIFFLETT

OPINION BY JUSTICE C. VERNON SPRATLEY,
-v- Record No. 3513. Richmond, Va., April 18th, 1949.

COMMONWEALTH OF VIRGINIA

FROM THE CIRCUIT COURT OF ROCKINGHAM COUNTY;
W. V. Ford, Judge.

At the April, 1948, term of the Circuit Court of Rockingham county, an indictment was returned against Lawrence Dean and Floyd Shifflett, which charged that they, "on or about the 1st day of May, 1948, in the County of Rockingham, did unlawfully and feloniously combine, conspire and confederate together for the purpose of committing an assault and bodily injury upon H. E. Taylor, with intent him, the said H. E. Taylor to maim, disfigure, disable or kill, and in pursuance of said conspiracy and confederation, they, the said Lawrence Dean and Floyd Shifflett, in and upon the said H. E. Taylor did make an assault and him the said H. E. Taylor unlawfully, feloniously and maliciously did beat and wound with their fists and cause him bodily injury; to-wit, a fractured nose, bruises and lacerations, with intent him,

10

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beat and wound with their fists and cause him bodily injury; to-
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the said H. E. Taylor, then and there to main, disfigure, disable or kill, * * *."

On June 17, 1948, the defendants demurred to the indictment and moved to quash it on the ground that it included charges of two offenses, one, conspiracy, a misdemeanor, and the other, malicious maiming, a felony, which demurrer and motion the court overruled. The defendants then moved to strike from the indictment the language relating to a conspiracy, which motion the court sustained. Thereupon the defendants were arraigned on the indictment as amended and each pleaded not guilty. A jury was impaneled and sworn. The defendants then moved the court to declare a mistrial because it had ruled upon the foregoing demurrer and motions when neither of the accused was present in person. The court sustained their motions, declared a mistrial, and discharged the jury.

Thereupon the defendants demurred to the original indictment on the grounds formerly assigned, and again moved to strike from the indictment the language relating to a conspiracy. The court overruled both the demurrer and the motion. The defendants were rearraigned and each pleaded not guilty. A new jury was then impaneled, sworn, and charged as follows:

the said H. E. Taylor, then and there to main, disfigure, dis-

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The court overruled both the demurrer and the motion. The de-

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"If you find the accused, Lawrence Dean, guilty of wounding H. E. Taylor or causing him bodily injury, by any means, with malicious intent, as charged in the indictment, you will say so and fix his 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 him guilty of malicious wounding or malicious bodily injury, as charged in the indictment, but find him guilty of unlawful wounding or unlawful bodily injury, as therein charged, you will say so and fix his 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 not exceeding twelve months and by a fine not exceeding five hundred dollars.

"If you do not find him guilty of either of the felonies aforesaid, but find him guilty of assault and battery, as further charged in the indictment, then you will say so and fix his punishment by confinement in jail for a period not exceeding twelve months or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

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

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"If you find him not guilty, you will say so and no

more."

A similar charge was given in the case of Floyd Shifflett.

The defendants objected to the charge to the jury because of its failure to include a direction to make a finding as to the offense of conspiracy. This objection the court overruled, holding that the indictment solely charged the commission of a malicious assault, and that the language which referred to a conspiracy was but a matter of inducement or a part of the felony charged. The trial then proceeded upon the theory that the defendant was charged with the felony only.

After hearing the evidence and instructions of the court, the jury returned a verdict finding "Lawrence Dean, guilty of wounding H. E. Taylor with malicious intent, as charged in the indictment," and fixed "his punishment by confinement in the penitentiary for two years." They further found "Floyd Shifflett, guilty as charged in the indictment, of aiding and abetting the defendant, Lawrence Dean," and fixed "his punishment by confinement in the penitentiary for fifteen months." The defendants duly moved the court to set aside the verdict and grant a new trial for reasons assigned.

The court overruled the exceptions and entered judgment

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guilty as charged in the indictment, of aiding and abetting the

defendant, Lawrence Dean," and fixed "his punishment by confine-

ment in the penitentiary for fifteen months." The defendants

did not move the court to set aside the verdict and grant a new

trial for reasons assigned.

The court overruled the exceptions and entered judgment

according to the verdict.

We are asked to reverse the judgment, and set aside the verdict on the grounds, first, that the court erred in failing to sustain the demurrer to the indictment and the motions to quash and amend the indictment; second, that the court erred in failing to strike the Commonwealth's evidence, as insufficient to establish Shifflett as an aider and abetter of Lawrence Dean, or that Dean was guilty of the offense charged; and, third, that the court erred in admitting improper evidence as to the character and general reputation of the defendants.

An indictment should state, with as much certainty as the nature of the case will permit, the facts which constitute the crime intended to be charged, so as to clearly apprise the accused of the crime with which he stands charged, and thus enable him to prepare his defense thereto, and further that the conviction or acquittal may be pleaded in bar of any future prosecution for the same offense.

As a general rule, a defendant cannot be charged in one and the same count with two or more independent offenses, as such, subject to different penalties. The reason of the rule is to prevent confusion, multiplication of issues, and prejudice to

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a defendant. Hatcher v. Commonwealth, 106 Va. 827, 55 S. E. 677; Pine v. Commonwealth, 121 Va. 812, 93 S. E. 652; Digest of Va. & W. Va. Reports, (Michie), Vol. 5, page 633, and cases cited; 42 C. J. S., Indictments and Informations, page 1112, section 162.

We have many times held that indictments for statutory offenses should be couched in the language of the statute. Virginia Code, 1942, (Michie), section 4402, sometimes called the maiming act, is purely statutory. It is not requisite to charge in an indictment for a violation of that section any more than is necessary to accurately and adequately charge the felony.

In 11 Am. Jur., Conspiracy, section 9, page 549, it is said:

"The rule appears to be well settled in most jurisdictions that a conspiracy to commit a crime is not merged in the commission of the completed offense, but is a distinct offense of itself and punishable as such, notwithstanding its object, the attempted crime, has been accomplished. This is the universal rule where the conspiracy and the executed act are crimes of equal grade, and also seems to be generally true now regardless of whether the conspiracy or its object is regarded as the same grade of offense or the one is regarded as of a higher grade than

a defendant. Hatcher v. Commonwealth, 106 Va. 827, 55 S. E. 677;

Pine v. Commonwealth, 121 Va. 812, 93 S. E. 622; Digest of Va.

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equal grade, and also seems to be generally true now regardless

of whether the conspiracy or its object is regarded as the same

grade of offense or the one is regarded as of a higher grade than

the other, as where one is a felony and the other a misdemeanor. Some of the cases have stated--mostly by way of dictum--that where a conspiracy is a misdemeanor and its object, the substantive crime, a felony, the conspiracy would merge in the substantive crime; but this doctrine has seldom been actually applied and seems now to have been generally abandoned."

The minority rule was followed in Anthony v. Commonwealth, 88 Va. 847, 850, 14 S. E. 284. There it was said:

"But although the conspiracy is a complete offence by itself before it is carried into effect, yet if the act conspired to be done be a felony, and it is carried into effect, and the felony is committed, the conspiracy is merged in the felony, and the indictment should be for the felony, and not for the conspiracy." (Citing cases.)

In State v. Wisman, 93 W. Va. 183, 116 S. E. 698, an indictment in almost the identical language of the one before us was held good upon demurrer, the West Virginia court holding that the lesser crime of conspiracy therein charged was included in the greater crime of malicious assault.

The indictment before us, according to the contention of the Commonwealth, merely sets out the preliminary stages of

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cluded in the greater crime of malicious assault.

The indictment before us, according to the contention

of the Commonwealth, merely sets out the preliminary stages of

the felony charged. It is contended that the allegations as to a conspiracy constitute only a part of the general scheme of which the crime charged was a part. Such allegations were unnecessary to charge a felony under the maiming act, Code, section 4402, and they can be regarded as surplusage. Inasmuch as they cause the averments of the indictment to border upon duplicity, the court might have properly struck out the language relating to a conspiracy. Virginia Code, 1942, (Michie), section 4878. Without the objectionable allegations, a felony was charged. That was the only crime for which the Commonwealth sought conviction, and the only crime charged which the defendants were required to defend. For these reasons, we find no prejudicial error in the rulings of the trial court upon the demurrer and motion to strike.

This brings us to the evidence which was in sharp conflict. In view of the conclusion which we have reached requiring a new trial, we shall state only so much as is necessary to a proper understanding of the remaining questions.

H. E. Taylor is an undercover investigator of the Virginia Alcoholic Beverage Control Board. He was assigned to work in the area near Elkton, Virginia, for the purpose of obtaining information against violators of the A. B. C. Act. He

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H. E. Taylor is an undercover investigator of the
Virginia Alcoholic Beverage Control Board. He was assigned to
work in the area near Eiken, Virginia, for the purpose of ob-
taining information against violators of the A. B. C. Act. He

was brought into contact with John Crawford, a suspected violator of the law, who agreed to act as an informer of violation by others. Taylor agreed to pay Crawford \$2 for each violator he helped to catch. The defendants, Dean and Shifflett, were on a list of suspected violators furnished to Taylor by fellow officers.

On Friday, April 30th, Taylor met Crawford and made an arrangement, whereby Crawford would take Taylor to Dean and Shifflett on the following night for the purpose of purchasing liquor from the latter. On Saturday morning, May 1st, Crawford went to Elkton and saw both Dean and Shifflett. He said he told them that Taylor was an A. B. C. officer, and that he was going to bring them in to buy whiskey. Crawford, however, did not inform Taylor that he had done this. On Saturday night, Crawford and Taylor came to Elkton and met Dean. Dean, when asked for whiskey, said he had none; but could probably get some up the road. They entered a car driven by Harry Lam, and drove to Perry Bailey's service station. Crawford and Taylor sat in the back seat and Dean on the seat with the driver. When they arrived at Bailey's, Floyd Shifflett was there on a shopping trip. Taylor got out and walked over and stood against the side of the station. Dean and Shifflett, who had known each other for sometime, began to wrestle.

did not know he was an officer of the A. B. C. Board. The de-

endants did not put their respective characters and general

reputations in issue.

Without passing upon its weight, we are of opinion that

considered in the light of all the circumstances, the evidence

was sufficient to present a jury question.

The court permitted the Commonwealth's attorney, over

the objection of the defendants, to ask Shifflet, on cross-

examination, whether he had been convicted of petit larceny in a

trial justice court in February, 1946. Shifflet denied such a

conviction. No evidence was presented to contradict him. The

jury was not told for what purpose the question was asked.

Shifflet was also asked whether he had been convicted

of assault and battery in the trial justice court of Rockingham

county in October, 1940, and again of the same character of

offense in May, 1945. He replied in the affirmative, and under-

took to explain the reason for one of the convictions.

The Commonwealth's attorney was allowed, on cross-ex-

amination, to ask Dean whether or not he had been recently con-

victed on an assault charge. When the defendant answered in the

affirmative, the Commonwealth's attorney then asked him, "That is

In the course of the wrestling match, Shifflett was pushed or shoved into Taylor.

Witnesses for the Commonwealth said that Shifflett grabbed Taylor around the hips and Taylor attempted to free himself. Dean then grabbed Taylor and began striking him, with Taylor fighting back. Taylor was thrown to the ground by Dean and was severely beaten about the face and head.

Witnesses for the defense testified that Dean and Shifflett, who had known each other for sometime, became engaged in a friendly wrestling match; that after they quit wrestling Taylor grabbed Shifflett from behind and began wrestling with him; and Dean said the scuffling ought to be stopped because Shifflett had a bad ankle. Dean then stepped between Shifflett and Taylor to separate them. One of the witnesses said Taylor used the words "son of a bitch," and struck Dean with his fist. Dean retaliated and the two men began to fight, with the result stated.

Shifflett denied that he hit Taylor or aided and abetted Dean during the fight. He said that he tried to separate Dean and Taylor and to bring peace between them. Both defendants denied that Crawford had revealed the identity of Taylor to them or either of them prior to the fight. They said that they

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did not know he was an officer of the A. B. C. Board. The defendants did not put their respective characters and general reputations in issue.

Without passing upon its weight, we are of opinion that, considered in the light of all the circumstances, the evidence was sufficient to present a jury question.

The court permitted the Commonwealth's attorney, over the objection of the defendants, to ask Shifflett, on cross-examination, whether he had been convicted of petit larceny in a trial justice court in February, 1946. Shifflett denied such a conviction. No evidence was presented to contradict him. The jury was not told for what purpose the question was asked.

Shifflett was also asked whether he had been convicted of assault and battery in the trial justice court of Rockingham county in October, 1940, and again of the same character of offense in May, 1945. He replied in the affirmative, and undertook to explain the reason for one of the convictions.

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victed on an assault charge. When the defendant answered in the

affirmative, the Commonwealth's attorney then asked him, "That is

the usual way you settle your affairs, isn't it?" To this

Dean replied "No."

"No rule is better settled in Virginia than the rule that evidence of bad general reputation cannot, in the absence of statute, be offered by the Commonwealth, unless the accused has put such character in issue by first offering evidence of his good general reputation." Jones v. LaCrosse, 180 Va. 406, 410, 23 S. E. 2d, 142. Walker v. Commonwealth, 1 Leigh (28 Va.) 574; Culbertson v. Commonwealth, 137 Va. 752, 119 S. E. 87; Harold v. Commonwealth, 147 Va. 617, 136 S. E. 658; Digest of Va. and W. Va. Reports, (Michie), Vol. 3, Criminal Law, section 101, and cases cited.

It is equally well settled that, under similar circumstances, it is error to admit in evidence against an accused another specific offense by him, wholly unconnected with that for which he is put on trial. Evidence of the prior offenses of assault and battery by the defendants upon other persons, on different days at different places, was not admissible as coming within any exception to the rule. Colvin v. Commonwealth, 147 Va. 663, 669, 137 S. E. 476; Limbaugh v. Commonwealth, 149 Va. 383, 391, 140 S. E. 133.

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In Colvin v. Commonwealth, supra, this was said by

Judge Burks:

"Generally, it is not competent, on the trial of a criminal case, for the Commonwealth to offer testimony of a prior, independent crime. Such testimony is not within the pleadings, and would be an unfair surprise and prejudicial to the accused, who does not come to the trial prepared to vindicate every act of his past life. But the exception to the rule is as well established as the rule itself, that such testimony is admissible, where it shows motive, intent or guilty knowledge, or is connected with or leads up to the offense for which the accused is on trial. 1 Wig. Ev., section 396."

In Bland v. Commonwealth, 177 Va. 819, 13 S. E. 2d, 317, the defendant was tried for the larceny of an automobile. Testimony was admitted to prove that he had been convicted some five years before of stealing another automobile. It was held that the former conviction was a separate and distinct crime from that charged and could not be properly and legally proven to show guilt in the later case.

In Campbell v. Commonwealth, 176 Va. 564, 568, 11 S. E. 2d, 577, the late Mr. Justice Browning, dealing with a similar

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criminal case, for the Commonwealth to offer testimony of a

prior, independent crime. Such testimony is not within the

pleadings, and would be an unfair surprise and prejudicial to the

accused, who does not come to the trial prepared to vindicate

every act of his past life. But the exception to the rule is

as well established as the rule itself, that such testimony is

admissible, where it shows motive, intent or guilty knowledge,

or is connected with or leads up to the offense for which the

accused is on trial. 1 Wig. Ev., section 396."

In Blair v. Commonwealth, 177 Va. 819, 13 S. E. 2d,

317, the defendant was tried for the larceny of an automobile.

Testimony was admitted to prove that he had been convicted some

five years before of stealing another automobile. It was held

that the former conviction was a separate and distinct crime

from that charged and could not be properly and legally proven to

show guilt in the later case.

In Gambrell v. Commonwealth, 176 Va. 564, 568, 11 S. E.

26, 577, the late Mr. Justice Browning, dealing with a similar

question, said:

"In contradistinction one may be guilty of the commission of a crime at one time, and at a subsequent time be as white as the driven snow. Repentance and reform are pillars of the structure of salvation upon which it is built."

It was clearly improper, under the circumstances, to allow the witnesses to be questioned as to specific offenses wholly unconnected and unrelated to the offense for which they were on trial. The questions asked and the evidence adduced had the effect of casting an innuendo unfavorable to them into the jury box. The defendants were required only to meet the specific offense with which they were charged. The rule is intended to restrain proof within the limits of the charge against a defendant, and to prevent his conviction for ~~more than~~ one offense because, perhaps, he has committed others. It is against the tradition of our law to convict a man of a specific crime merely because he is generally regarded as a man of bad reputation. The policy of excluding such evidence tends to prevent confusion of issues, unfair surprise, and undue prejudice. 1 Wigmore, Evidence, (3rd Ed.) section 57.

For an interesting discussion of the history, purpose,

question, said:

"In contradiction one may be guilty of the commission

of a crime at one time, and at a subsequent time be as white as

the driven snow. Repentance and reform are pillars of the

structure of salvation upon which it is built."

It was clearly improper, under the circumstances, to

allow the witnesses to be questioned as to specific offenses

wholly unconnected and unrelated to the offense for which they

were on trial. The questions asked and the evidence adduced had

the effect of casting an innuendo unfavorable to them into the

jury box. The defendants were required only to meet the specific

offense with which they were charged. The rule is intended to

restrain proof within the limits of the charge against a defendant,

and to prevent his conviction for ~~some~~ one offense because,

perhaps, he has committed others. It is against the tradition

of our law to convict a man of a specific crime merely because

he is generally regarded as a man of bad reputation. The policy

of excluding such evidence tends to prevent confusion of issues,

unfair surprise, and undue prejudice. 1 Wigmore, Evidence, (3rd Ed.)

section 27.

For an interesting discussion of the history, purpose,

and tradition of the general rule that the State may not show a defendant's prior trouble with the law, specific criminal acts, or ill name among his neighbors, except when the prior crime is an element of the later offense, or discloses a course of fraudulent conduct to establish fraudulent intent, see the recent case of Michelson v. U. S., 69 S. Ct. Rep. 213, U. S.

L. Ed.

For the foregoing reasons the judgment of the trial court is reversed, the verdict of the jury set aside, and this cause remanded for a new trial in accordance with the views herein expressed.

Reversed and remanded.

and tradition of the general rule that the State may not show a

defendant's prior trouble with the law, specific criminal acts,

or ill name among his neighbors, except when the prior crime

is an element of the later offense, or discloses a course of

transient conduct to establish fraudulent intent, see the

recent case of Michelson v. U. S., 69 S. Ct. Rep. 213, U. S.

L. Ed.

For the foregoing reasons the judgment of the trial

court is reversed, the verdict of the jury set aside, and this

case remanded for a new trial in accordance with the views

herein expressed.

Reversed and remanded.

2727

I, Wade Zetty, did on the 13th day of February 1949 have a warrant issued in Rockingham County, Virginia for Lawrence Dean charging him with having committed a simple assault upon me. I do hereby release and discharge the said Lawrence Dean from any and all responsibility and liability for said alleged assault, and do respectfully request that said warrant be dismissed.

Given under my hand this 19th day of February 1949.

Witnesses:

Wade Zetty
Grace M. Zetty

Wade Zetty

...did on the 15th day of January 1909 give
...in Rockingham County, Virginia for James Lee
...a single article was on
...and discharge the said James Lee from the
...and liability for said article
...and on respectful request that said warrant be dismissed.
...Given under my hand the 15th day of January 1909.

John G. ...

James M. ...
James M. ...

STATE OF VIRGINIA

COUNTY OF Rockingham

To-Wit:

No. _____

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, Wade Zetty

has this day made complaint and information on oath before me, W.E. Mason

(Name)

Justice of Peace

(Title)

of the said County, that

Lawrence Deans, Elkton, Va.

in the said County

did on the 13th day of February, 1949;

Unlawfully

Strike with his fist, threw into road, kicked the body, stamped the chest, attempted to disfigure the face by prying open the mouth of Wade Zetty against the peace & dignity of the Commonwealth of Virginia

These are, therefore, to command you, in the name of the Commonwealth, to apprehend and bring before the Trial Justice Court of the said County, the body (bodies) of the above accused, to answer the said complaint and to be further dealt with according to law. And you are also directed to summon

- _____ color _____ Address _____
- _____ color _____ Address _____
- _____ color _____ Address _____
- _____ color _____ Address _____
- _____ color _____ Address _____

as witnesses.

Given under my hand and seal, this 13th day of February, 1949

W.E. Mason, J.P.

(Title of Issuing Officer)

(Seal)

STATE OF VIRGINIA—COUNTY OF Rockingham, to-wit:

I, J. T. Rodgers a Trial Justice Justice of the Peace in and for the County aforesaid, State of Virginia, do certify that Lawrence Dean

and Blance B. Stanley, as his suret me, have this day each acknowledged themselves indebted to the Commonwealth of Virginia in the sum of Two hundred fifty Dollars

(\$250.00), to be made and levied of their respective goods and chattels, lands, and tenements to the use of the Commonwealth to be rendered, yet upon this condition: That the said Lawrence Dean, shall appear before the Circuit Court of Harrisonburg Va County, on the 23rd day of Feb, 1949

at 2 P. M., at trial Justice court, Virginia, and at any time or times to which the proceedings may be continued or further heard, and before any court thereafter having or holding any proceedings in connection with the charge in this warrant, to answer for the offense with which he is charged, and shall not depart thence without the leave of said court, the said obligation to remain in full force and effect until the charge is finally disposed of or until it is declared void by order of a competent court; and upon the further condition that

the said Lawrence shall keep the peace and be of good behavior for a period of _____ days from the date hereof.

Given under my hand, this 13th day of Feb, 1949

J. T. Rodgers, Jr. T. J., J. P.

DOCKET NO. A-2728

COMMONWEALTH

WARRANT OF ARREST

vs. Lawrence Dean

Executed this, the 13th day of February, 1949

Joseph C. H. Mann
Ser. State Police

Upon the examination of the within charge, I find the 7/11/49 accused

guilty traverse a fine of
50.00 + cost, and 60 days
in jail, the jail sentence
suspended on C.B. for six
months and on the parent.
4th fine and cost.

Rockham,
Subst. Jail Justice
Appeal noted and granted
7/11/49.
Rockham,
Subst. J. Just.

Fine _____ \$ _____
Costs _____ \$ _____
Total _____ \$ _____

The following witnesses were recognized to appear before the Circuit Court of _____ County, Virginia, at _____ M., on the _____ day of _____, 19____

under penalty of \$ _____

Warrant _____ COSTS \$ 1.00

Trial _____ 2.00

Bail _____ —

Arrest _____ —

Mileage _____ —

Clerk _____ 1.25

Jail Fee and Board _____ 1.50

Witness Attendance _____ 4.45

Summoning Witnesses _____ 3.50

Commonwealth Attorney _____ 2.50

Total Costs _____ \$ 14.70
Fine _____ \$ 50.00
Total _____ \$ 64.70

Witness Subpoena

Commonwealth of Virginia:

County of Rockingham, to-wit:

To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon

Wade Zetty

Lawrence Dean

to appear before the Trial Justice Court of said County, sitting at Harrisonburg, Virginia

in said County, on 11th day of July, 1949, at the hour of 3:00 P.M.

of that day to give evidence in behalf of Com'th (and to remind Lawrence Dean that his trial date has been changed to July 11, 1949 at 3PM)

in the pending case of Com'th

v. Lawrence Dean

Given under my hand this 24th day of June, 1949.

J. K. Swartz
Clerk.

Not finding Wade Zetty nor any member of his family above the age of 16 years at his usual place of abode, executed July 5, 1949, by posting and leaving posted a true copy of the within summons on the front door of the said Wade Zetty's usual place of abode.

E. D. Reed, Dep.
for Sam H. Callender, S.R.C.

Done 7.5.49

Trial Justice Court

Docket No. A 2728

Com'th

V. (Witness Subpoena'

Lawrence Dean

To July 11, 1949 at 3PM.

EXECUTED 6-24-49 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN Summons
TO Lawrence Dean
IN PERSON.

WM A. Rhodes for
Sam H. Callender S.R.C.

Witness Subpoena

Commonwealth of Virginia:

County of Rockingham, to-wit:

To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon

Wade Zetty

Lawrence Dean

to appear before the Trial Justice Court of said County, sitting at **Harrisonburg, Virginia**

in said County, on **24th** day of **May**, 19**49**, at the hour of **2:00 P.M.**

of that day to give evidence in behalf of **Com'th** (and to remind Lawrence Dean that this is his trial
Date)

in the pending case of **Com'th**

v. **Lawrence Dean**

Given under my hand this **21st** day of **May**, 19**49**.

J. L. Swartz
Clerk.

Witness Subpoena

Commonwealth of Virginia:
County of Rockingham, to-wit:

To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon

John Hammer, c/o Meadows Service Station, not Present

Haywood Leake Chf Police Elkton, Va. 36

R. E. Painter, Police Officer, Elkton, Va. 36

to appear before the Trial Justice Court of said County, sitting at **Harrisonburg, Virginia**

in said County, on **24th** day of **May**, 19 **49**, at the hour of **2:00 P.M.**

of that day to give evidence in behalf of **Com'th**

Commonwealth v. Lawrence Dean and Floyd Shifflett
in the pending case of

v. **Lawrence Dean and Floyd Shifflett**

Given under my hand this **25rd** day of **May**, 19 **49**.

J. L. Swartz
Clark.

Trial Justice Court

Docket No. A- 2729

Com'th

V. { Witness Subpoena

Lawrence Dean and
Floyd Shifflett

to May 24th 1949 at 2PM.

Witness Subpoena

Commonwealth of Virginia:

County of Rockingham, to-wit:

To the Sheriff of said County, Greeting:

You are hereby commanded, in the name of the Commonwealth of Virginia to summon

John Hanner, o/o Meadows Service Station *Not Present*

Haywood Leake, Chf. Police Elkton, Va. *36*

R. E. Painter, Police Officer Elkton, Va. *36*

to appear before the Trial Justice Court of said County, sitting at **Harrisonburg, Virginia**

in said County, on **11th** day of **July**, 19 **49**, at the hour of **3PM**

of that day to give evidence in behalf of **Com'th** **"Trial date changed from
June 27, 1949 at 3PM to
July 11, 1949 at 3PM"**

in the pending case of **Com'th**

v. **Lawrence Dean and Floyd Shifflett**

Given under my hand this **24th** day of **June** 19 **49**

J. L. Swartz
Clerk.

Witness Subpoena

Commonwealth of Virginia
County of Rockingham, to-wit:
To the Sheriff of said County, Greeting:

Trial Justice Court

Docket No. A 2727

A 2728

Com'th

V. { Witness Subpoena

Lawrence Dean and

Floyd Shifflett

To July 11, 1949 at 3PM.

[Handwritten signatures and scribbles]

Not included in Cont. of Excep.

INSTRUCTION No. 1

The Court instructs the jury that the burden resting upon the Commonwealth to prove the accused guilty beyond all reasonable doubt of an offense and every material element thereof, charged against the accused, does not mean that it is necessary for the Commonwealth to establish the guilt of the accused to an absolute certainty or beyond all possibility of mistake or to do more than satisfy the jury that upon the evidence as a whole the accused is guilty thereof beyond all reasonable doubt.

(Signed by
the Court's
initials).

155

(The instructions copied on Pages 155 to and through 166 were evidently given; they were not marked as refused, as were the others here copied).

Subscribed in Court of...

INSTRUCTIONS. I

The Court instructs the jury that the burden
resting upon the Commonwealth to prove the accused guilty
beyond all reasonable doubt of an offense and every
material element thereof, charged against the accused,
does not mean that it is necessary for the Commonwealth
to establish the guilt of the accused to an absolute
certainty or beyond all possibility of mistake or to do
more than satisfy the jury that upon the evidence as a
whole the accused is guilty thereof beyond all reasonable
doubt.

(Signed by
the Court's
initials)

(The instructions copied on pages 122 to and through
126 were evidently given; they were not marked as retried,
as were the others here copied).

Not included in Cert. of Excep.

INSTRUCTION No. 1

The Court instructs the jury that the burden resting upon the Commonwealth to prove the accused guilty beyond all reasonable doubt of an offense and every material element thereof, charged against the accused, does not mean that it is necessary for the Commonwealth to establish the guilt of the accused to an absolute certainty or beyond all possibility of mistake or to do more than satisfy the jury that upon the evidence as a whole the accused is guilty thereof beyond all reasonable doubt.

(Signed by
the Court's
initials).

155

(The instructions copied on Pages 155 to and through 166 were evidently given; they were not marked as refused, as were the others here copied).

Subscribed and sworn to before me this 1st day of August 1955

1 INSTRUCTIONS.

The Court instructs the jury that the burden resting upon the Commonwealth to prove the accused guilty beyond all reasonable doubt of an offense and every material element thereof, charged against the accused, does not mean that it is necessary for the Commonwealth to establish the guilt of the accused to an absolute certainty or beyond all possibility of mistake or to do more than satisfy the jury that upon the evidence as a whole the accused is guilty thereof beyond all reasonable doubt.

(Signed by
the Court's
initials)

(The instructions copied on pages 185 to and through 188 were evidently given; they were not marked as refused, as were the others here copied).

INSTRUCTION NO. 2

The Court instructs the jury that under the indictment in this case, if warranted by the evidence, you may find one of the four following verdicts, to-wit: (1) Malicious wounding or injury; (2) Unlawful wounding or injury; (3) Assault and battery; (4) Not guilty.

You are further instructed that malicious wounding or injury is committed when one person unlawfully, wilfully, feloniously and maliciously wounds or causes bodily injury to another, intending thereby either to maim, disfigure, disable or kill such other. Unlawful wounding is committed when one person wounds or causes bodily injury to another unlawfully, wilfully, and feloniously, but not maliciously, intending thereby either to maim, disfigure, disable or kill such other. Assault and battery is any physical injury done to another in an angry, rude or insolent manner.

(Signed by the Court's
initials).

INSTRUCTION NO. 2

The Court instructs the jury that under the indictment in this case, if warranted by the evidence, you may find one of the four following verdicts, to-wit: (1) Malicious wounding or injury; (2) Unlawful wounding or injury; (3) Assault and battery; (4) Not guilty.

You are further instructed that malicious wounding or injury is committed when one person unlawfully, wilfully, feloniously and maliciously wounds or causes bodily injury to another, intending thereby either to maim, disfigure, disable or kill such other. Unlawful wounding is committed when one person wounds or causes bodily injury to another unlawfully, wilfully, and feloniously, but not maliciously, intending thereby either to maim, disfigure, disable or kill such other. Assault and battery is any physical injury done to another in an angry, rude or insolent manner.

(Signed by the Court's
Initialed)

INSTRUCTION NO. 3

The Court instructs the jury that malice as applied to this case is used in a technical sense. It may be either express or implied. It includes not only anger, hatred and revenge, but every unlawful and unjustifiable motive. It may be inferred or implied from any deliberate and cruel act done without reasonable provocation or excuse. Malice in law is every evil design in general; and by it is meant that the act has been attended with such circumstances as are ordinarily symptoms of a wicked, depraved and malignant spirit, and carries with them the plain indications of a heart regardless of social duty, and fatally bent upon mischief.

(Signed by the
Court's initials).

INSTRUCTION NO. 3

The Court instructs the jury that malice as applied to this case is used in a technical sense. It may be either express or implied. It includes not only anger, hatred and revenge, but every unjust and unjustifiable motive. It may be inferred or implied from any deliberate and cruel act done without reasonable provocation or excuse. Malice in law is every evil design in general; and by it is meant that the act has been attended with such circumstances as are ordinarily symptoms of a wicked, depraved and malignant spirit, and carries with them the plain indications of a heart regardless of social duty, and fatally bent upon mischief.

(Signed by the
Court's initials).

INSTRUCTION NO. 4

The Court instructs the jury that the malicious intent may be proved like any other fact, by either direct or circumstantial evidence or by a combination of both; and if facts, surrounding circumstances and conditions are proven which warrant and justify an inference therefrom of the existence of such malicious intent, the same may be inferred therefrom.

(Signed by the
Court's initials).

CONTRACT (1917-18)
(Signed by the

same may be included in the
provision of the existence of any other person, the
persons who have been mentioned and listed in the
of the: and if there are any other persons and con-
ditions of circumstances and evidence of a contract
there may be found like any other fact, it shall

the same in all cases and shall be the same

INVESTIGATION NO. 4

INSTRUCTION NO. 5

The Court instructs the jury that one who is present at the scene of a crime aiding and abetting or participating therein is guilty as a principal in such crime. The Court further tells the jury that any encouragement or act of assistance constitutes participation in such crime.

The Court further instructs the jury that if you believe from the evidence beyond a reasonable doubt that the prisoner, Lawrence Dean, aided and abetted by Floyd Shifflett, assaulted H.E. Taylor, then you shall find the prisoners, Lawrence Dean and Floyd Shifflett, guilty, and fix their punishment in accordance with the charge to the jury in this case.

(Signed by the
Court's initials).

INSTRUCTION NO. 3

The Court instructs the jury that one who is present at the scene of a crime aiding and abetting or participating therein is guilty as a principal in such crime. The Court further tells the jury that any encouragement or act of assistance constitutes participation in such crime.

The Court further instructs the jury that if you believe from the evidence beyond a reasonable doubt that the prisoner, Lawrence Dean, aided and abetted by Floyd Shifflett, assaulted H.E. Taylor, then you shall find the prisoners, Lawrence Dean and Floyd Shifflett, guilty, and fix their punishment in accordance with the charge to the jury in this case.

(Signed by the
Court's official).

INSTRUCTION NO. 6

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and the law is that, where a number of witnesses testify directly opposite to each other, the jury is not bound to regard the number of witnesses who may have testified on one side as against the number who testified on the other side; the jury have the right to determine from the appearance of the witnesses on the stand, their manner of testifying, the reasonableness and consistency of their testimony, their apparent candor and fairness, their apparent intelligence or lack of intelligence, the interest of the witness in the result of the trial, if any appear, and from all other surrounding circumstances appearing on the trial, determine which witnesses are more worthy of credit and what is the relative weight of any such testimony, and to give credit accordingly.

(Signed by the
Court's initials).

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and the law is that, where a number of witnesses testify directly opposite to each other, the jury is not bound to regard the number of witnesses who may have testified on one side as against the number who testified on the other side; the jury have the right to determine from the appearance of the witnesses on the stand, their manner of testifying, the reasonableness and consistency of their testimony, their apparent candor and fairness, their apparent intelligence or lack of intelligence, the interest of the witness in the result of the trial, if any appear, and from all other surrounding circumstances appearing on the trial, determine which witnesses are more worthy of credit and what is the relative weight of any such testimony, and to give credit accordingly.

(Signed by the
Court's initials)

INSTRUCTION No. B.

The Court instructs the jury that before you may find the defendants, Floyd Shifflett and Lawrence Dean, or either of them, guilty of malicious assault or felonious assault, you must believe from the evidence beyond a reasonable doubt that they, or one of them, caused bodily injury to H.E. Taylor with the intent to maim, disfigure, disable or kill the said H.E. Taylor. In other words, to find either of the defendants guilty of either of these two charges against them, the jury must believe that they or the one, if either, which the jury may find guilty, intended to permanently injure the said Taylor, and without such intent they can be guilty only of simple assault.

(Signed by the
Court's initials).

INSTRUCTION No. 8.

The Court instructs the jury that before you may find the defendants, Floyd Griffith and Lawrence Dean, or either of them, guilty of malicious assault or felonious assault, you must believe from the evidence beyond a reasonable doubt that they, or one of them, caused bodily injury to H.B. Taylor with the intent to maim, disfigure, disable or kill the said H.B. Taylor. In other words, to find either of the defendants guilty of either of these two charges against them, the jury must believe that they or the one, if either, which the jury may find guilty, intended to permanently injure the said Taylor, and without such intent they can be guilty only of simple assault.

(Signed by the
Court's initials).

INSTRUCTION No. C .

The Court instructs the jury that any tussle which the defendant, Floyd Shifflett, may have had with H.E.Taylor did not, of itself, constitute an assault, and unless the jury believes from the evidence, beyond a reasonable doubt, that defendant Floyd Shifflett aided and abetted the defendant Dean in committing an assault upon the said H.E.Taylor, they shall find the defendant, Floyd Shifflett, not guilty.

(Signed by the
Court's initials).

INSTRUCTION No. 9

The Court instructs the jury that any assault
which the defendant, Floyd Griffith, may have had with
H.E. Taylor did not, of itself, constitute an assault,
and unless the jury believes from the evidence, beyond a
reasonable doubt, that defendant Floyd Griffith aided
and abetted the defendant Dean in committing an assault
upon the said H.E. Taylor, they shall find the defendant,
Floyd Griffith, not guilty.

(Signed by the
Court's initials).

INSTRUCTION NO. D.

The Court instructs the jury that if they believe from the evidence in this case that H.E.Taylor was the aggressor and that Lawrence Dean reasonably apprehended bodily harm, then he had the right to use such force as was necessary to protect himself, and if you believe that the said Dean used only such force as he reasonably deemed necessary to protect himself, then you should find him not guilty.

(Signed by the
Court's initials).

INSTRUCTION NO. 2.

The Court instructs the jury that if they believe from the evidence in this case that H. E. Taylor was the aggressor and that Lawrence Dean reasonably apprehended bodily harm, then he had the right to use such force as was necessary to protect himself, and if you believe that the said Dean used only such force as he reasonably deemed necessary to protect himself, then you should find him not guilty.

(Signed by the
Court's initials).

INSTRUCTION NO. E.

The Court instructs the jury that the law presumes every person charged with crime to be innocent until his guilt is established beyond a reasonable doubt by the Commonwealth, and this presumption of innocence goes with the prisoner through the entire case and applies to every stage thereof; and they are instructed that although they might have believed, when the Commonwealth closed its case, that the defendant Lawrence Dean and/or the defendant Floyd Shifflett were guilty beyond reasonable doubt, yet if after hearing the evidence introduced on behalf of the prisoners, they bear a reasonable doubt as to the guilt of the defendant Dean or the defendant Shifflett, on the whole case or as to any fact or circumstance essential to prove the charge made against them in the indictment, it is their duty to give the accused Dean and the accused Shifflett the benefit of the doubt and find^{them}/or either of them, as to whom they have a reasonable doubt, not guilty.

(Signed by the
Court's initials).

INSTRUCTION NO. 2.

The Court instructs the jury that the law presumes every person charged with crime to be innocent until his guilt is established beyond a reasonable doubt by the Commonwealth, and this presumption of innocence goes with the prisoner through the entire case and applies to every stage thereof; and they are instructed that although they might have believed, when the Commonwealth closed its case, that the defendant Lawrence Dean and/or the defendant Floyd Griffith were guilty beyond reasonable doubt, yet if after hearing the evidence introduced on behalf of the prisoners, they bear a reasonable doubt as to the guilt of the defendant Dean or the defendant Griffith, on the whole case or as to any fact or circumstance essential to prove the charge made against them in the indictment, it is their duty to give the accused Dean and the accused Griffith the benefit of the doubt and find ^{them} or either of them, as to whom they have a reasonable doubt, not guilty.

(Signed by the
Court's initials).

INSTRUCTION NO. F.

The Court instructs the jury that "intent" is one of the essential elements of the crime charged in the indictment, and the Court tells you that the burden of proof to prove "intent" is upon the Commonwealth, and that the same must be proved beyond all reasonable doubt. It must not be inferred from circumstances inconsistent with the guilt of the accused, but must be inferred from circumstances inconsistent with the innocence of the accused.

(Signed by the
Court's initials).

INSTRUCTION NO. 1.

The Court instructs the jury that "intent" is one of the essential elements of the crime charged in the indictment, and the Court tells you that the burden of proof to prove "intent" is upon the Commonwealth, and that the same must be proved beyond all reasonable doubt. It must not be inferred from circumstances inconsistent with the guilt of the accused, but must be inferred from circumstances inconsistent with the innocence of the accused.

(Signed by the
Court's initials).

INSTRUCTION NO.G.

The Court instructs the jury that malice is one of the elements of malicious assault and that the burden is upon the Commonwealth to prove malice beyond a reasonable doubt, in order to convict either of the defendants of malicious assault.

(Signed by the
Court's initials).

INSTRUCTION NO. 6.

The Court instructs the jury that malice is one of the elements of malicious assault and that the burden is upon the Commonwealth to prove malice beyond a reasonable doubt, in order to convict either of the defendants of malicious assault.

(Signed by the
Court's initials).

INSTRUCTION NO. Z. 1

The Court instructs the jury that the accused Dean and Shifflett are on trial only for the offence alleged against them in the indictment, and the jury are instructed that they are not at liberty to consider evidence of other law violations in considering the guilt or innocence of the accused in this case, but may only be considered in connection with their credibility as witness & as to their intent

(Marked) Refused

(Signed by the
Court's initials).

INSTRUCTION NO. 2. 1

The Court instructs the jury that the accused Dean and Griffith are on trial only for the offense alleged against them in the indictment, and the jury are instructed that they are not at liberty to consider evidence of other law violations in considering the guilt or innocence of the accused in this case, but may only be considered in connection with their credibility as witness as to their intent

(Signed) Refused

(Signed by the Court's Minister).

INSTRUCTION NO. Z.

The Court instructs the jury that the accused Dean and Shifflett are on trial only for the offence alleged against them in the indictment, and the jury are instructed that they are not at liberty to consider evidence of other law violations in considering the guilt or innocence of the accused in this case.

(Marked) Refused

(Signed by the
Court's initials).

INSTRUCTION NO. 2.

The Court instructs the jury that the accused
Dean and Griffith are on trial only for the offense
alleged against them in the indictment, and the jury
are instructed that they are not at liberty to con-
sider evidence of other law violations in considering
the guilt or innocence of the accused in this case.

(Marked) returned

(Signed by the
Court's initials).

INSTRUCTION NO. A

The Court instructs the jury that if you believe from the evidence in this case that H.E. Taylor was the aggressor and made an attack on Floyd Shifflett and the defendant, Lawrence Dean, in attempting to break up any fight or scuffle between Taylor and Shifflett, tried to separate the two, whereupon Taylor struck the said Lawrence Dean, and that the said Lawrence Dean reasonably apprehended bodily harm, that then he had the right to use such force as he reasonably deemed necessary to protect himself.

(Marked on margin) Refused

(Signed by Court's
initials).

INSTRUCTION NO. A

The Court instructs the jury that if you believe from the evidence in this case that H. E. Taylor was the aggressor and made an attack on Lloyd Shifflett and the defendant, Lawrence Dean, in attempting to break up any fight or scuffle between Taylor and Shifflett, tried to separate the two, whereupon Taylor struck the said Lawrence Dean, and that the said Lawrence Dean reasonably apprehended bodily harm, that then he had the right to use such force as he reasonably deemed necessary to protect himself.

(Marked on margin) Revised

(Signed by Court's
initials).

INSTRUCTION NO. X .

The Court instructs the jury that a reasonable doubt is one that excludes every reasonable hypothesis except that of guilt.

(Marked)Refused

(Signed by the
Court's initials).

(Added below): Court discourages ^{defining} ^ reasonable ,
would be confusing

INSTRUCTION NO. X . .

The Court instructs the jury that a
reasonable doubt is one that excludes every
reasonable hypothesis except that of guilt.

(Marked/Retused
(Signed by the
Court's initials).

(Added below): Court discourages "reasonable
doubt"
would be confusing

INSTRUCTION NO. Y

The Court instructs the jury that if they believe from the evidence in this case that H.E.Taylor was the aggressor and that Floyd Shifflett reasonably apprehended bodily harm, that he had the right to use such force as was necessary to protect himself, and if you believe that the said Shifflett used only such force as he reasonably deemed necessary to protect himself, then you should find him not guilty, unless the jury believe beyond a reasonable doubt that thereafter Floyd Shifflett aided and abetted Lawrence Dean in assaulting H.E.Taylor,

(Marked) Refused

no evidence

(Signed by the
Court's initials).

INSTRUCTION NO. Y

The Court instructs the jury that if they believe from the evidence in this case that H.E. Taylor was the aggressor and that Floyd Shifflett reasonably apprehended bodily harm, that he had the right to use such force as was necessary to protect himself, and if you believe that the said Shifflett used only such force as he reasonably deemed necessary to protect himself, then you should find him not guilty, unless the jury believe beyond a reasonable doubt that the latter Floyd Shifflett aided and abetted Lawrence Dean in assaulting H.E. Taylor.

(Marked) Returned

no evidence

(Signed by the
Court's initials).

My name is John Crawford. I am 23 years old. I am married and have one child one year old. I live at Elkton above Merck's plant.

On Thursday, April 29, 1948, John Duff and Tom Bailey came to my house to search me for whiskey. Someone had turned me in for having whiskey. I told them I didn't have any. They asked me if I knew Floyd Shifflett and Lawrence Dean. They asked me if I would help them catch them. I told them I would help them and they said they would bring a man in. I planned to take the man around Friday night to try to buy whiskey. I didn't go Friday night because I was afraid of Floyd and Lawrence. They are two rough guys. I used the fact that my wife was sick as an excuse. I thought Bailey and Duff would say something to Floyd and Lawrence about it and they would come up and beat me up.

Saturday night about 7:30, Taylor and I went down town in Elkton and met Dean. I asked him if he had anything to drink. He looked around and asked where Millard was. I told him Millard had gone around back. He said he didn't have anything but to go get in his car and told us where it was. We got in back seat of car and in a few minutes Lawrence Dean came to his car with Harry Lamb. Harry Lamb drove out of Elkton up to Perry Bailey's service station. When we got there, Floyd Shifflett was talking to some man in a 1934 or 1935 one-seated Chevrolet. He left that car and

My name is John Crawford. I am 23 years old. I am married and have one child one year old. I live at Elston above Meroy's plant.

On Thursday, April 29, 1948, John Duff and Tom Bailey

came to my house to search me for whiskey. Someone had turned me in for having whiskey. I told them I didn't have

any. They asked me if I knew Floyd Griffith and Lawrence Dean. They asked me if I would help them catch them. I

told them I would help them and they said they would bring a man in. I planned to take the man around Friday night to

try to buy whiskey. I didn't go Friday night because I was afraid of Floyd and Lawrence. They are two tough guys.

I used the fact that my wife was sick as an excuse. I thought Bailey and Duff would say something to Floyd and

Lawrence about it and they would come up and beat me up. Saturday night about 7:30, Taylor and I went down

town in Elston and met Dean. I asked him if he had anything to drink. He looked around and asked where Milford was.

I told him Milford had gone around back. He said he didn't have anything but to get in his car and told us where

it was. We got in back seat of car and in a few minutes Lawrence Dean came to his car with Harry Lamb. Harry Lamb

drove out of Elston up to Perry Bailey's service station. When we got there, Floyd Griffith was talking to some man

in a 1934 or 1935 one-seated Chevrolet. He left that car and

we all got out of Dean's car. Taylor was standing up beside the building with his hands in the pockets of his pants and one foot against the building. Lawrence and Floyd started to scuffle about ten feet from where Taylor was standing and played around to where he was. I was in the store buying a pack of cigarettes. When I came out, Floyd Shifflett and Taylor had their arms buckled around one another. Lawrence Dean came up and pulled Taylor away by the neck. Then Lawrence and Taylor went down and Lawrence got on top and started beating Taylor. Taylor had his face turned down toward ground to keep him from hitting him in the face so much. I tried to pull Lawrence off Taylor. I got him by the arm. Floyd helped--I'm pretty sure it was Floyd--get Taylor and Lawrence apart. Taylor and I ran on down the road when we heard some one coming. We walked to Elkton and then went on to John Duff's house to get Taylor cleaned up.

After I got back to Elkton, I went to the bowling alley, and Lawrence Dean came up to me, he told me Taylor was a tough guy and had given him a black eye. He asked me who he was and if he was kin to Taylor in Elkton. He knew who he was because I had told him on Saturday morning before the fight between 9:00 and 11:00 o'clock, that I was coming down with revenue man to try to buy some whiskey. He said that was a dirty thing to do--try to catch people. He didn't make any statement at that time as to what he was going to do. I told him because I was afraid he would beat me up. He said he'd see him that night when I brought him (Taylor) down. I

we all got out of Dean's car. Taylor was standing up beside
the building with his hands in the pockets of his pants and
one foot against the building. Lawrence and Floyd started to
scuffle about ten feet from where Taylor was standing and
glayed around to where he was. I was in the store buying
a pack of cigarettes. When I came out, Floyd shifted and
Taylor had their arms hooked around one another. Lawrence
Dean came up and pulled Taylor away by the neck. Then
Lawrence and Taylor went down and Lawrence got on top and
started beating Taylor. Taylor had his face turned down toward
ground to keep him from hitting him in the face so much. I
tried to pull Lawrence off Taylor. I got hit by the arm.
Floyd helped--I'm pretty sure it was Floyd--got Taylor
and Lawrence apart. Taylor and I ran on down the road when
we heard some one coming. We walked to Nixon and then
went on to John Duff's house to get Taylor cleaned up.
After I got back to Nixon, I went to the bowling alley
and Lawrence Dean came up to me, he told me Taylor was a
tough guy and had given him a black eye. He asked me who
he was and if he was kin to Taylor in Nixon. He knew who he was
because I had told him on Saturday morning before the fight
between 9:00 and 11:00 o'clock, that I was coming down with
revenue man to try to buy some whiskey. He said that was a
dirty thing to do--try to catch people. He didn't make any
statement at that time as to what he was going to do. I
told him because I was afraid he would beat me up. He said
he'd see him that night when I brought him (Taylor) down.
I

never did tell Floyd about it, but Lawrence must have told him because Floyd came up to me Saturday about noon and asked me about it. Floyd told me if I couldn't find him around town that night, to bring Taylor up to his house.

Lawrence Dean and Floyd Shifflett came up to my house yesterday to see me. They told me if I didn't tell the tale the way they told me to, they'd do something--I don't know just what they said. They told me to say that Taylor had called Floyd a "dirty son-of-a-bitch" and that had started the fighting. They also said to say that Taylor had tried to kick Lawrence in the privates when while they were fighting. I didn't tell them I would or wouldn't tell their tales. Floyd also said to tell that when they had their arms buckled around one another that Taylor was trying to search him. I know Guy Monger but I didn't see him around that night. He didn't try to separate the fighters if he was there because I would have seen him if he had tried to do that. Lawrence Shifflett was a by-stander while the fight was going on.

I didn't know they had any plans to give Taylor a going over but I thought maybe they were going to get into it somewhere. I didn't know a fight was going to start at the time I went in and bought a pack of cigarettes from Perry.

At the time I talked to Floyd Shifflett Saturday about noon, he said he didn't have any whiskey for themman but he had something in a package. Neither Lawrence or Floyd made any other threats about the man. They must have planned where to

never did tell Floyd about it, but Lawrence must have told him
because Floyd came up to me Saturday about noon and asked me about
it. Floyd told me if I couldn't find him around town that
night, to bring Taylor up to his house.

Lawrence Dean and Floyd Griffith came up to my house
yesterday to see me. They told me if I didn't tell the
police the way they told me to, they'd do something--I don't
know just what they said. They told me to say that Taylor
had called Floyd a "dirty son-of-a-bitch" and that had started
the fighting. They also said to say that Taylor had tried
to kick Lawrence in the privates when while they were
fighting. I didn't tell them I would or wouldn't tell their
cases. Floyd also said to tell that when they had their
arms buckled around one another that Taylor was trying to
search him. I know Guy Monger but I didn't see him around
that night. He didn't try to separate the fighters if he was
there because I would have seen him if he had tried to do
that. Lawrence Griffith was a by-stander while the fight
was going on.

I didn't know they had any plans to give Taylor a
going over but I thought maybe they were going to get into
it somewhere. I didn't know a fight was going to start at
the time I went in and bought a pack of cigarettes from Perry.
At the time I talked to Floyd Griffith Saturday about
noon, he said he didn't have any whiskey for them but he had
something in a package. Neither Lawrence or Floyd made any
other threats about the man. They must have planned where to

meet, and I believe that while we were in the car Saturday night waiting for Lawrence, that he contacted Floyd, because Floyd was already at the service station when we got there. They hang around that filling station all the time--Perry is a good friend of theirs--he doesn't care what they do.

I didn't tell anybody except Lawrence and Floyd that a revenue man was going to be with me. My wife didn't know it until afterwards. They didn't promise me any money for my information.

When I talked to Floyd Shifflett on Saturday about noon, I told him that I could make \$35 or \$40 a week by giving the revenue agents information and helping to buy whiskey from bootleggers.

I made the foregoing statement voluntarily and have been informed that the statements therein can be used against me in a criminal prosecution.

Given under my hand this 4th day of May, 1948.

(Signed) John Elmer Crawford

Subscribed and sworn to before me by John E. Crawford, this 4th day of May, 1948.

(Signed) Virginia L. Stickley
Notary Public

My commission expires November 3, 1951.

(Each of the four pages from which this was copied contain, on right-hand margin, the initials J E C I.)

next, and I believe that while we were in the car Saturday night
waiting for Lawrence, that he contacted Floyd, because Floyd
was already at the service station when we got there. They
hang around that filling station all the time--Ferry is a
good friend of theirs--he doesn't care what they do.
I didn't tell anybody except Lawrence and Floyd that
a revenue man was going to be with me. My wife didn't
know it until afterwards. They didn't promise me any money
for my information.

When I talked to Floyd Griffith on Saturday about
noon, I told him that I could make \$38 or \$40 a week by giving
the revenue agents information and helping to buy whiskey
from bootleggers.

I made the foregoing statement voluntarily and have been
informed that the statements therein can be used against me in
a criminal prosecution.
Given under my hand this 4th day of May, 1948.

(Signed) John E. Crawford

Subscribed and sworn to before me by John E. Crawford, this
4th day of May, 1948.

Virginia L. Stokley
Notary Public
My commission expires November 3, 1951.

(Each of the four pages from which this was copied
contains, on right-hand margin, the initials J. E. C.)

(Copy of "Ex. 1 of Defendants.")

John E. Crawford. 2 3

Elkton, Va Box 285

Wife - 1 child - girl (1)

Friday Night - Met Taylor with Duff & Bailey - going to
Elkton 2 Port Republic agreed to pay me \$2.⁰⁰ FOR O K
Taylor for Cup of whiskey -

On Thursday - Agreed with Bailey -to do the work.

Did not work Friday Night as wife was sick - Made date for
Sat nite -

Abt 7:30

Met Taylor Sat nite in Bailey car with Baily & his wife .
Bailey left and Taylor and I came to Elk with Lawrance Deane.
Asked L D for whisky said would take us up road to find some
Got in his car by R R with Taylor Law.D. Harry Lamb
rode around back to Baileys & Taylor & me in Back - All got
out - F. S talked to somebody - F S & Dean got to scuffling -
not mad

Went in Store for cigaretts When I came out Taylor & F S
were scuffling & L D ran up & got Taylor around neck and started
fighting & Both Went down L . D on Top. Hit him 2 times. I
tried to pull Lawrence D off & F S helped me & L. S. Taylor
got up and we went on road running - looked Back & thought
Deane after .us ran abt 50 yd went into field - Came to
Elkton. Went to Duffs home Washed . Came back to Elkton. I
got out.

(The part copied above was on two pages of ruled tab-
let paper, in pencil.)

John E. Crawford, Jr.
Norton, Va Box 285

Wife - 1 child - girl (1)

Friday Night - Met Taylor with Matt & Bailey - going to
Norton & Fort Republic agreed to pay me \$2.00 - FOR O K
Taylor for cup of whiskey -

On Thursday - agreed with Bailey - to do the work.

Did not work Friday Night as wife was sick - Made date for
Get ride -

Apr 7:30

Met Taylor Get ride in Bailey car with Bailey & his wife.
Bailey left and Taylor and I came to Dix with Lawrence Deane.
Asked J D for whisky said would take us up road to find some
Got in his car by R R with Taylor Law D. Harry Lamb
rode around back to Bailey's Taylor & me in back - All got
out - J. D talked to somebody - J. D & Deane got to scuffling -

not met

Went in store for cigarette when I came out Taylor & J. D
were scuffling - J D ran up & got Taylor around neck and started
fighting - both went down J. D on top. Hit him 2 times. I
tried to pull Lawrence D off & J. D helped me - Taylor
got up and we went on road running - looked back & thought
Deane after us ran out 50 yd into field - came to
Norton. Went to Matt's home washed. Came back to Norton I
got out.

(Continuation of copy of "Ex. 1 of Defendants.", -the part on third and last page of ruled tablet paper, also in pencil.)

(Corner of paper torn).

F Shiflett	}	Place in Elkton
2 L "		
3 L - Deane		
1. Ray (?) Lawson	}	Port Republic
2. Bill Via		

Saw L D after fight, in Bowlig ally

Did not see any of them after this Sat nite -

Did not see any of them on Sunday .

Monday - F. & L came to my house - Did you know that was revenue Man - I denied I knew him -

C & g (?) Construction

Alex

(Written with the paper turned to one side, so that these five words did not coincide with the lines of the ruled paper).

(The pencil marks on the copy are an effort to represent the punctuation used on original and the way a capital letter or something else was marked out).

(Continuation of copy of "Ex. I of Defendants." - the part on third and last page of ruled paper, also in pencil.)

	(Corner of paper torn).	Y. Gifflett
Place in Nixon	2	"
	3	L - Deane
Port Republic	1.	Ray (?) Lawson
	2.	Bill Via

Did not see any of them after this Sat nite -
 Did not see any of them on Sunday.
 Monday - Y. & I came to my house - did you know that
 was revenue man - I denied I knew him -

0 & 2 (?) Construction
 (Written with the paper turned to one side, so that these five words did not coincide with the lines of the ruled paper).

(The pencil marks on the copy are an effort to represent the punctuation used on original and the way a capital letter or something else was marked out.)

My name is John Crawford. I am 23 years old. I am married and have one child one year old. I live at Elkton above Merck's plant.

On Thursday, April 29, 1948, John Duff and Tom Bailey came to my house to search me for whiskey. Someone had turned me in for having whiskey. I told them I didn't have any. They asked me if I knew Floyd Shifflett and Lawrence Dean. They asked me if I would help them catch them. I told them I would help them and they said they would bring a man in. I planned to take the man around Friday night to try to buy whiskey. I didn't go Friday night because I was afraid of Floyd and Lawrence. They are two rough guys. I used the fact that my wife was sick as an excuse. I thought Bailey and Duff would say something to Floyd and Lawrence about it and they would come up and beat me up.

Saturday night about 7:30, Taylor and I went down town in Elkton and met Dean. I asked him if he had anything to drink. He looked around and asked where Millard was. I told him Millard had gone around back. He said he didn't have anything but to go get in his car and told us where it was. We got in back seat of car and in a few minutes Lawrence Dean came to his car with Harry Lamb. Harry Lamb drove out of Elkton up to Perry Bailey's service station. When we got there, Floyd Shifflett was talking to some man in a 1934 or 1935 one-seated Chevrolet. He left that car and

My name is John Crawford. I am 22 years old. I am married
and have one child one year old. I live at Nixon above
Metc's plant.

On Thursday, April 29, 1948, John Duff and Tom Bailey

came to my house to search me for whiskey. Someone had

called me in for having whiskey. I told them I didn't have

any. They asked me if I knew Lloyd Chilcote and Lawrence

Dean. They asked me if I would help them catch them. I

told them I would help them and they said they would bring

a man in. I planned to take the man around Friday night to

try to get whiskey. I didn't go Friday night because I

was afraid of Lloyd and Lawrence. They are two tough guys.

I used the fact that my wife was sick as an excuse. I

thought Bailey and Duff would say something to Lloyd and

Lawrence about it and they would come up and beat me up.

Saturday night about 7:30, Taylor and I went down

town in Nixon and met Dean. I asked him if he had anything

in Nixon. He looked around and asked where William was.

I told him William had gone around back. He said he didn't

have anything but to go get in his car and told us where

it was. We got in back seat of car and in a few minutes

Lawrence Dean came to his car with Harry Lamb. Harry Lamb

drove out of Nixon up to Perry Bailey's service station.

When we got there, Lloyd Chilcote was talking to some man

in a 1934 or 1935 one-seated Chevrolet. He left that car and

we all got out of Dean's car. Taylor was standing up beside the building with his hands in the pockets of his pants and one foot against the building. Lawrence and Floyd started to scuffle about ten feet from where Taylor was standing and played around to where he was. I was in the store buying a pack of cigarettes. When I came out, Floyd Shifflett and Taylor had their arms buckled around one another. Lawrence Dean came up and pulled Taylor away by the neck. Then Lawrence and Taylor went down and Lawrence got on top and started beating Taylor. Taylor had his face turned down toward ground to keep him from hitting him in the face so much. I tried to pull Lawrence off Taylor. I got him by the arm. Floyd helped--I'm pretty sure it was Floyd--get Taylor and Lawrence apart. Taylor and I ran on down the road when we heard some one coming. We walked to Elkton and then went on to John Duff's house to get Taylor cleaned up.

After I got back to Elkton, I went to the bowling alley, and Lawrence Dean came up to me, he told me Taylor was a tough guy and had given him a black eye. He asked me who he was and if he was kin to Taylor in Elkton. He knew who he was because I had told him on Saturday morning before the fight between 9:00 and 11:00 o'clock, that I was coming down with revenue man to try to buy some whiskey. He said that was a dirty thing to do--try to catch people. He didn't make any statement at that time as to what he was going to do. I told him because I was afraid he would beat me up. He said he'd see him that night when I brought him (Taylor) down. I

we all got out of Dean's car. Taylor was standing up beside
the building with his hands in the pockets of his pants and
one foot against the building. Lawrence and Floyd started to
scuffle about ten feet from where Taylor was standing and
played around to where he was. I was in the store buying
a pack of cigarettes. When I came out, Floyd shifted and

Taylor had their arms hooked around one another. Lawrence
then came up and pulled Taylor away by the neck. Then
Lawrence and Taylor went down and Lawrence got on top and

started beating Taylor. Taylor had his face turned down toward
ground to keep him from hitting him in the face so much. I
tried to pull Lawrence off Taylor. I got him by the arm.

Floyd helped--I'm pretty sure it was Floyd--got Taylor
and Lawrence apart. Taylor and I ran on down the road when
we heard some one coming. We walked to Nixon and then

went on to John Part's house to get Taylor cleaned up.
After I got back to Nixon, I went to the bowling alley.

and Lawrence then came up to me, he told me Taylor was a
tough guy and had given him a black eye. He asked me who
he was and if he was kin to Taylor in Nixon. He knew who he was

because I had told him on Saturday morning before the fight
between 9:00 and 11:00 o'clock, that I was coming down with
revenue men to try to buy some whiskey. He said that was a

divvy thing to do--try to catch people. He didn't make any
statement at that time as to what he was going to do. I
told him because I was afraid he would beat me up. He said

he'd see me that night when I brought his [Taylor] down.
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never did tell Floyd about it, but Lawrence must have told him because Floyd came up to me Saturday about noon and asked me about it. Floyd told me if I couldn't find him around town that night, to bring Taylor up to his house.

Lawrence Dean and Floyd Shifflett came up to my house yesterday to see me. They told me if I didn't tell the tale the way they told me to, they'd do something--I don't know just what they said. They told me to say that Taylor had called Floyd a "dirty son-of-a-bitch" and that had started the fighting. They also said to say that Taylor had tried to kick Lawrence in the privates when while they were fighting. I didn't tell them I would or wouldn't tell their tales. Floyd also said to tell that when they had their arms buckled around one another that Taylor was trying to search him. I know Guy Monger but I didn't see him around that night. He didn't try to separate the fighters if he was there because I would have seen him if he had tried to do that. Lawrence Shifflett was a by-stander while the fight was going on.

I didn't know they had any plans to give Taylor a going over but I thought maybe they were going to get into it somewhere. I didn't know a fight was going to start at the time I went in and bought a pack of cigarettes from Perry.

At the time I talked to Floyd Shifflett Saturday about noon, he said he didn't have any whiskey for themman but he had something in a package. Neither Lawrence or Floyd made any other threats about the man. They must have planned where to

never did tell Floyd about it, but Lawrence must have told him
because Floyd came up to me Saturday about noon and asked me about
it. Floyd told me if I couldn't find him around town that
night, to bring Taylor up to his house.

Lawrence Dean and Floyd Shifflet came up to my house
yesterday to see me. They told me if I didn't tell the
tale the way they told me to, they'd do something--I don't
know just what they said. They told me to say that Taylor
had called Floyd a "dirty son-of-a-bitch" and that had started
the fighting. They also said to say that Taylor had tried
to kick Lawrence in the privates when while they were
fighting. I didn't tell them I would or wouldn't tell their
tale. Floyd also said to tell that when they had their
eyes buckled around one another that Taylor was trying to
kicker him. I know Guy longer but I didn't see him around
that night. He didn't try to separate the fighters if he was
there because I would have seen him if he had tried to do
that. Lawrence Shifflet was a py-stander while the fight
was going on.

I didn't know they had any plans to give Taylor a
going over but I thought maybe they were going to get into
it somewhere. I didn't know a fight was going to start at
the time I went in and bought a pack of cigarettes from Jerry.
At the time I talked to Floyd Shifflet Saturday about
noon, he said he didn't have any whiskey for them but he had
something in a package. Neither Lawrence or Floyd made any
other threats about the man. They must have planned where to

meet, and I believe that while we were in the car Saturday night waiting for Lawrence, that he contacted Floyd, because Floyd was already at the service station when we got there. They hang around that filling station all the time--Perry is a good friend of theirs--he doesn't care what they do.

I didn't tell anybody except Lawrence and Floyd that a revenue man was going to be with me. My wife didn't know it until afterwards. They didn't promise me any money for my information.

When I talked to Floyd Shifflett on Saturday about noon, I told him that I could make \$35 or \$40 a week by giving the revenue agents information and helping to buy whiskey from bootleggers.

I made the foregoing statement voluntarily and have been informed that the statements therein can be used against me in a criminal prosecution.

Given under my hand this 4th day of May, 1948.

(Signed) John Elmer Crawford

Subscribed and sworn to before me by John E. Crawford, this 4th day of May, 1948.

(Signed) Virginia L. Stickley
Notary Public

My commission expires November 3, 1951.

(Each of the four pages from which this was copied contain, on right-hand margin, the initials J E C).

meet, and I believe that while we were in the car Saturday night
waiting for Lawrence, that he contacted Floyd, because Floyd
was already at the service station when we got there. They
hang around that filling station all the time--Ferry is a
good friend of their--he doesn't care what they do.
I didn't tell anybody except Lawrence and Floyd that

a revenue man was going to be with me. My wife didn't
know it until afterwards. They didn't promise me any money
for my information.

When I talked to Floyd Saturday or Saturday about
noon, I told him that I could make \$25 or \$40 a week by giving
the revenue agents information and helping to buy whiskey
from bootleggers.

I made the foregoing statement voluntarily and have been
informed that the statements therein can be used against me in
a criminal prosecution.

Given under my hand this 4th day of May, 1948.

John E. Crawford (Signed)

Subscribed and sworn to before me by John E. Crawford, this

4th day of May, 1948.

Walter J. Stiller
Notary Public

My commission expires November 8, 1951.

(Each of the four pages from which this was copied
contains, on right-hand margin, the initials J. E. C.)

(Copy of "Ex. 1 of Defendants.")

John E. Crawford. 23

Elkton, Va Box 285

Wife - 1 child - girl (1)

Friday Night - Met Taylor with Duff & Bailey - going to }
Elkton 2 Port Republic agreed to pay me \$2.⁰⁰ FOR O K .
Taylor for Cup of whiskey -

On Thursday - Agreed with Bailey -to do the work.

Did not work Friday Night as wife was sick - Made date for
Sat nite -

Abt 7:30

Met Taylor Sat nite in Bailey car with Baily & his wife .

Bailey left and Taylor and I came to Elk with Lawrance Deane.

Asked L D for whisky said would take us up road to find some

Got in his car by R R with Taylor Law.D. Harry Lamb

rode around back to Baileys & Taylor & me in Back - All got

out - F. S talked to somebody - F S & Dean got to scuffling -

not mad

Went in Store for cigarets When I came out Taylor & F S
were scuffling & L D ran up & got Taylor around neck and started
fighting & Both Went down L . D on Top. Hit him 2 times. I
tried to pull Lawrence D off & F S helped me & L. S. Taylor
got up and we went on road running - looked Back & thought
Deane after .us ran abt 50 yd went into field - Came to
Elkton. Went to Duffs home Washed . Came back to Elkton. I
got out.

(The part copied above, was on two pages of ruled tab-
let paper, in pencil.)

John E. Crawford, Jr.

Nixon, Va Box 222

Wife - 1 child - girl (1)

Friday Night - Met Taylor with Duff & Bailey - going to
Nixon & Fort Republic agreed to pay me \$2.00 - FOR O K

Taylor got out of prison -

On Thursday - agreed with Bailey - to do the work.

Did not work Friday Night as wife was sick - had date for

Get nice -

Aug 7:30

Met Taylor got nice in Bailey car with Bailey & his wife .

Bailey left and Taylor and I came to Nix with Lawrence House.

Asked J D for whisky said would take us up road to find some

Got in his car by N E with Taylor law. D. Henry lamp

rode around back to Bailey's Taylor & me in back - All got

out - F. B failed to somebody - J. B & Dean got to scuffling -

not had

None in line for cigarettes when I came out Taylor & J. B

were scuffling - J. D ran up & got Taylor around neck and started

fighting . Both went down J. D on top. Hit him 2 times. I

tried to pull Lawrence D off & F B helped me . J. B. Taylor

got up and we went on road running - looked back & thought

Dean after us ran off 50 yd into field - came to

Nixon. Went to Duff's home washed . Came back to Nixon. I

left

got out.

(The part copied above was on few pages of typed tap-

let paper, in pencil.)

(Continuation of copy of "Ex. 1 of Defendants." - the part on third and last page of ruled tablet paper, also in pencil.)

(Corner of paper torn).

F Shiflett	}	Place
2 L "		in Elkton
3 L - Deane		
1. Ray (?) Lawson	}	Port Republic
2. Bill Via		

L in Howlig ally
Saw D after fight.

Did not see any of them after this Sat nite -

Did not see any of them on Sunday .

Monday - F. & L came to my house - Did you know that was revenue Man - I denied I knew him -

C & g (?) Construction

Alex

(Written with the paper turned to one side, so that these five words did not coincide with the lines of the ruled paper).

(The pencil marks on the copy are an effort to represent the punctuation used on original and the way a capital letter or something else was marked out).

(Continuation of copy of "K. I. of Detendants." - the part
on third and last page of ruled paper, also in pencil.)

(Corner of
paper
form).

- 1. Billie
- 2. I - Deane
- 3. Ray (?) Lawson
- 4. Billie

Place
in Nixon
Port Republic

Did not see any of them after this but also -

Did not see any of them on Sunday.

Monday - P. M. I came to my house - Did you know that
the revenue man - I denied I knew him -

Written with the paper turned
to one side, so that these
five words did not coincide
with the lines of the ruled
paper).

(The pencil marks on the copy are an effort to copy -
sent the punctuation used on original and the way
a capital letter or something else was marked out).

STATE OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

IN THE CIRCUIT COURT OF SAID COUNTY:

The grand jurors of the State of Virginia, in and for the body of the County of Rockingham and now attending the Circuit Court of said County, at its April Term, 1948, upon their oaths do present that LAWRENCE DEAN and FLOYD SHIFFLETT, on or about the 1st day of May, 1948, in the County of Rockingham, did unlawfully and feloniously ~~(combine, conspire and confederate together for the purpose of committing an assault and bodily injury upon H. E. Taylor, with intent, him, the said H. E. Taylor to maim, disfigure, disable or kill, and in pursuance of said conspiracy and confederation, they, the said Lawrence Dean and Floyd Shifflett, in and) upon (the said) H. E. Taylor (did) make an assault and him the said H. E. Taylor unlawfully, feloniously and maliciously did beat and wound with their fists and cause him bodily injury; to-wit a fractured nose, bruises and lacerations, with intent him, the said H. E. Taylor, then and there to maim, disfigure, disable or kill, against the peace and dignity of the Commonwealth of Virginia.~~

This indictment is found upon the testimony of H. E. Taylor and John E. Crawford, witnesses sworn in Court and sent before the grand jury to give evidence.

Language in brackets
stricken out on motion
of Coun. Atty, with consent of accused,

125

C

4896

2nd

AMENDED INDICTMENT

STATE OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

IN THE CIRCUIT COURT OF SAID COUNTY:

The grand jurors of the State of Virginia, in and for the body of the County of Rockingham and now attending the Circuit Court of said County, at its April Term, 1948, upon their oaths do present that LAWRENCE DEAN and FLOYD SHIFFLETT, on or about the 1st day of May, 1948, in the County of Rockingham, did unlawfully and feloniously upon H. E. Taylor make an assault and him the said H. E. Taylor unlawfully, feloniously and maliciously did beat and wound with their fists and cause him bodily injury; to-wit, a fractured nose, bruises and lacerations, with intent him, the said H. E. Taylor, then and there to maim, disfigure, disable or kill, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found upon the testimony of H. E. Taylor and John E. Crawford, witnesses sworn in Court and sent before the grand jury to give evidence.

124

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA:

COMMONWEALTH

V.

CHARGE TO JURY

FLOYD SHIFFLETT

If you find the accused, Floyd Shifflett, guilty of wounding H. E. Taylor or causing him bodily injury, by any means, with malicious intent, as charged in the indictment, you will say so and fix his 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 him guilty of malicious wounding or malicious bodily injury, as charged in the indictment, but find him guilty of unlawful wounding or unlawful bodily injury, as therein charged, you will say so and fix his 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 not exceeding twelve months and by a fine not exceeding five hundred dollars.

If you do not find him guilty of either of the felonies aforesaid, but find him guilty of assault and battery, as further charged in the indictment, then you will say so and fix his punishment by confinement in jail for a period not exceeding twelve months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

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

4

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA:

COMMONWEALTH

CHARGE TO JURY

v.

FLOYD SHIFFLET

If you find the accused, Floyd Shifflet, guilty of wounding E. Taylor or causing him bodily injury, by any means, with malicious intent, as charged in the indictment, you will say so and fix his 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 his guilty of malicious wounding or malicious bodily injury, as charged in the indictment, but find him guilty of unlawful wounding or unlawful bodily injury, as therein charged, you will say so and fix his 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 not exceeding twelve months and by a fine not exceeding five hundred dollars.

If you do not find him guilty of either of the felonies aforesaid, but find his guilty of assault and battery, as further charged in the indictment, then you will say so and fix his punishment by confinement in jail for a period not exceeding twelve months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

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

Charge to the jury

Floyd Shifflet

Com

2 ed

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA:

COMMONWEALTH

V.

CHARGE TO JURY

FLOYD SHIFFLETT

If you find the accused, Floyd Shifflett, guilty of wounding H. E. Taylor or causing him bodily injury, by any means, with malicious intent, as charged in the indictment, you will say so and fix his 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 him guilty of malicious wounding or malicious bodily injury, as charged in the indictment, but find him guilty of unlawful wounding or unlawful bodily injury, as therein charged, you will say so and fix his 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 not exceeding twelve months and by a fine not exceeding five hundred dollars.

If you do not find him guilty of either of the felonies aforesaid, but find him guilty of assault and battery, as further charged in the indictment, then you will say so and fix his punishment by confinement in jail for a period not exceeding twelve months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

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

IN THE CIRCUIT COURT OF HOCKINGHAM COUNTY, VIRGINIA:

COMMONWEALTH

CHARGE TO JURY

v.

FLOYD SHEPHERD

If you find the accused, Floyd Shepherd, guilty of wounding H. E. Taylor or causing him bodily injury, by any means, with malicious intent, as charged in the indictment, you will say so and fix his 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 him guilty of malicious wounding or malicious bodily injury, as charged in the indictment, but find him guilty of unlawful wounding or unlawful bodily injury, as therein charged, you will say so and fix his 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 not exceeding twelve months and by a fine not exceeding five hundred dollars.

If you do not find him guilty of either of the felonies aforesaid, but find him guilty of assault and battery, as further charged in the indictment, then you will say so and fix his punishment by confinement in jail for a period not exceeding twelve months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

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

Handwritten signature in red ink, possibly "J. H. ..."

C

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA:

COMMONWEALTH

V.

CHARGE TO JURY

LAWRENCE DEAN

If you find the accused, Lawrence Dean, guilty of wounding H. E. Taylor or causing him bodily injury, by any means, with malicious intent, as charged in the indictment, you will say so and fix his 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 him guilty of malicious wounding or malicious bodily injury, as charged in the indictment, but find him guilty of unlawful wounding or unlawful bodily injury, as therein charged, you will say so and fix his 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 not exceeding twelve months and by a fine not exceeding five hundred dollars.

If you do not find him guilty of either of the felonies aforesaid, but find him guilty of assault and battery, as further charged in the indictment, then you will say so and fix his punishment by confinement in jail for a period not exceeding twelve months, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment.

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

#1380
12/31/49

COMMONWEALTH OF VIRGINIA



CHARLES P. CHEW
Executive Secretary

RICHARD W. COPELAND
Director
RALPH E. WILKINS
JAMES W. PHILLIPS

PAROLE BOARD

RICHMOND

January 3, 1950

Honorable Hamilton Hawes
Judge, Twenty-Fifth Judicial Circuit
Luray, Virginia

Dear Judge Hawes:

In Re: Lawrence Dean
57618

We are building up a case file on the above-named inmate. The materials in this file will be used by the Division of Corrections and by the Parole Board. The following information will serve to identify this person.

Offense: Felonious Assault
Court: Rockingham County Circuit
Date of Sentence: 10-21-49
Sentence Imposed: 2 yrs; and 6 months

This man will not be considered for parole until he has served one-fourth of his sentence. Any information you should like to give regarding this case will be most helpful. If you care to recommend for or against parole in this case, that recommendation would be welcomed. Your usual splendid cooperation will be sincerely appreciated.

We will not send you these letters on persons sentenced to but one year imprisonment.

With kindest personal regards, I am

Sincerely yours,

Richard W. Copeland
Director of Parole

mc

COMMONWEALTH OF VIRGINIA

42224
10/11/50



COMMONWEALTH OF VIRGINIA
DEPARTMENT OF CORRECTIONS
DIVISION OF PAROLE

CHIEF OF BUREAU
DIVISION OF PAROLE

PAROLE BOARD

January 4, 1950

Parole Board
Parole Board

Dear Sir:

In re: Lawrence Dean
27518

We are building up a case file on the above named inmate. The materials in this file will be used by the Division of Corrections and by the Parole Board. The following information will serve to identify this person:

Offense: Voluntary Manslaughter

Court: Northern District of Virginia

Date of Sentence: 10-21-49

Sentence Imposed: 5 yrs; and 6 months

This man will not be considered for parole until he has served one-fourth of his sentence. Any information you should like to have re-arding this man will be most helpful. If you have any information for or against parole in this case, that recommendation would be welcomed. Your usual efficient cooperation will be sincerely appreciated.

We will not send you these letters on persons sentenced to but one year imprisonment.

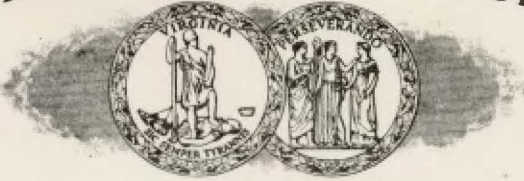
With kindest personal regards, I am

Sincerely yours,

Richard W. Copeland
Director of Parole

#1380
12/21/49

COMMONWEALTH OF VIRGINIA



CHARLES P. CHEW
Executive Secretary

RICHARD W. COPELAND
Director
RALPH E. WILKINS
JAMES W. PHILLIPS

PAROLE BOARD

RICHMOND

January 3, 1950

Honorable Hamilton Hawes
Judge, Twenty-Fifth Judicial Circuit
Luray, Virginia

Dear Judge Hawes:

In Re: Floyd Shifflett
57617

We are building up a case file on the above-named inmate. The materials in this file will be used by the Division of Corrections and by the Parole Board. The following information will serve to identify this person.

Offense: Felonious Assault
Court: Rockingham County Circuit
Date of Sentence: 10-21-49
Sentence Imposed: 2 yrs; 6 mons.

This man will not be considered for parole until he has served one-fourth of his sentence. Any information you should like to give regarding this case will be most helpful. If you care to recommend for or against parole in this case, that recommendation would be welcomed. Your usual splendid cooperation will be sincerely appreciated.

We will not send you these letters on persons sentenced to but one year imprisonment.

With kindest personal regards, I am

Sincerely yours,

Richard W. Copeland
Director of Parole

mc

COMMONWEALTH OF VIRGINIA



PAROLE BOARD

Richmond

January 2, 1950

COMMUNICATIONS SECTION
STATE DEPARTMENT
ROOM 1000

COMMUNICATIONS SECTION
STATE DEPARTMENT
ROOM 1000

Honorable Justice James
Hoge, Twenty-Fifth Judicial Circuit
Circuit Court

Dear Judge Hoge:

In Re: Floyd Shifflett
27017

We are building up a case file on the above-named inmate. The
materials in this file will be used by the Division of Corrections
and by the Parole Board. The following information will serve to
identify this person.

Offense: Violation of Parole

Court: Rockingham County Circuit

Date of Sentence: 12-11-49

Sentence Imposed: 2 yrs; 6 mos.

This man will not be considered for parole until he has served one-
fourth of his sentence. The information you should like to give re-
garding this case will be most helpful. If you care to recommend for
or against parole in this case, that recommendation would be welcome.
Your usual splendid cooperation will be sincerely appreciated.

We will send you these letters on persons sentenced to but one
year imprisonment.

With kindest personal regards, I am

Sincerely yours,

Richard N. Copeland
Director of Parole

STATE OF VIRGINIA,
COUNTY OF ROCKINGHAM, To-Wit:

I, J. Robert Switzer, Clerk of the Circuit
Court of Rockingham County, Virginia, do hereby certify
that the foregoing is a true transcript of the record
in the case of Commonwealth of Virginia vs. Lawrence
Dean and Floyd Shifflett, on an indictment for a
felony.

Given under my hand this 21st day of Septem-
ber, 1948.

_____, Clerk.

Transcript Fee. \$ _____.

STATE OF VIRGINIA,
COUNTY OF ROCKINGHAM, To-Wit:

I, J. Robert Switzer, Clerk of the Circuit
Court of Rockingham County, Virginia, do hereby certify
that the foregoing is a true transcript of the record
in the case of Commonwealth of Virginia vs. Lawrence
Dean and Floyd Shifflett, on an indictment for a
felony.

Given under my hand this 21st day of Septem-

ber, 1948.

_____, Clerk.

Transcript Fee. \$ _____

COMMONWEALTH VS. Laurence Reed

DESCRIPTION OF PRISONER

Last known address 711 2nd St

Color W Height 6-2 Eyes Br Hair Blk Weight 215-

Marks 011

Age 24 Occupation Railroad

Date of Trial Sentenced 10/21/49

Result 2 yrs

COMMONWEALTH VS

DESCRIPTION OF PRISONER

Last known address

117 1/2 W. 11th St.
New York, N.Y.

Color

Blue

Height

5' 10"

Hair

Black

Weight

150

Build

Date of Trial

October 1, 1914

Rank

Private

COMMONWEALTH VS. Lawrence Dean

DESCRIPTION OF PRISONER

Last known address 261st St
Color W Height 6-1 Eyes B Hair red Weight 110
Marks 017
Age 43- Occupation A.A.
Date of Trial June 17th 19th + returned June 23
Result Acquitted

COMMONWEALTH vs James M. ...

DESCRIPTION OF PRISONER

Last known address W. ...
 Color W Hair brn Eyes brn Height 5.10
 Birth ...
 Occupation A.A.
 Date of Trial ...
 Name ...

COMMONWEALTH VS. Floyd Campbell

DESCRIPTION OF PRISONER

Last known address Yellat

Color W- Height 5-4 Eyes Gray Hair red Weight 190

Marks 6.11

Age 32 Occupation Iron worker & Fresh House

Date of Trial June 17 & 18 - returned June 23

Result 15 mo

COMMONWEALTH vs *J. Edgar Hoover*

DESCRIPTION OF PRISONER

Last known address *W. Mass.*
 Color *W.* Height *5-4* Eyes *Blue* Hair *Red* Weight *170*
 Build *Slender*
 Age *34* Occupation *Former member of United States Army*
 Date of Trial *June 1915 - San Antonio, Texas*
 Race *White*

COMMONWEALTH VS. Floyd Shufflett

DESCRIPTION OF PRISONER

Last known address Elkton
Color W Height 5-4 Eyes Gray Hair Red Weight 190
Marks Q15
Age 33 Occupation Truck driver
Date of Trial sentenced 10/21/49
Result 2 yrs

Page 100
COMMONWEALTH VS *John Smith*

DESCRIPTION OF PRISONER

Name known as *John Smith*
Color *White* Height *5-8* Eyes *Blue* Hair *Black* Weight *150*
Marks *None*
Age *35* Occupation *Farmer*
Time of Trial *1880*
Result *Guilty*

March 25, 1949

Re: Lawrence Dean and Floyd
Shifflett v. Commonwealth
Record No. 3513

Mr. M. B. Watts, Clerk
Supreme Court of Appeals of Virginia
Richmond 10, Virginia

Dear Mr. Watts:

As requested in your letter of March 24, I am sending you
herewith copies of the instructions (granted and refused)
in the above case.

Yours very truly,

J. Robert Switzer, Clerk

mb

Enclosures: Instructions 1 to 6 (inclusive) }
Instructions B, C, D, E, F, G } granted
Instructions Z1, Z, A, X, Y (refused)

March 25, 1949

Re: Lawrence Dean and Floyd
Shifflet v. Commonwealth
Record No. 3513

Mr. M. B. Watts, Clerk
Supreme Court of Appeals of Virginia
Richmond 10, Virginia

Dear Mr. Watts:

As requested in your letter of March 24, I am sending you
herewith copies of the instructions (granted and refused)
in the above case.

Yours very truly,

J. Robert Switzer, Clerk

Enclosures: Instructions 1 to 6 (inclusive))
Instructions B, C, D, E, F, G) granted
Instructions 8, 9, A, X, Y (refused)

CHIEF JUSTICE:
EDWARD W. HUDGINS

JUSTICES:
HERBERT B. GREGORY
JOHN W. EGGLESTON
C. VERNON SPRATLEY
ARCHIBALD C. BUCHANAN
ABRAM P. STAPLES
WILLIS D. MILLER

SUPREME COURT OF APPEALS
OF VIRGINIA

M. B. WATTS
CLERK, RICHMOND
WILLIAM W. SMALES
DEPUTY CLERK, STAUNTON

Richmond 10
March 24, 1949

Re: Lawrence Dean and Floyd Shifflett v. Commonwealth
Record No. 3513

Mr. J. Robert Switzer, Clerk
Circuit Court of Rockingham County
Harrisonburg, Virginia

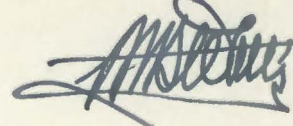
Dear Mr. Switzer:

I received from you a few days ago two original exhibits filed in the case of Dean and Shifflett v. Commonwealth which you kindly sent me at my request.

The court thought possibly that included with these exhibits would be some instructions which were not made a part of the record as transcribed. You will find that these instructions are referred to on page 145 of the printed record (a copy of which you have.)

I will be obliged if you will examine the papers on file in connection with this case and if there are any copies of these instructions with the papers, kindly send them to me for the examination of the court.

Yours very truly,



MBW:lch

Clerk

M. B. WATTS
CLERK, APPELLATE
WILLIAM W. SWALEE
DEPUTY CLERK, APPELLATE

SUPREME COURT OF APPEALS
OF VIRGINIA

CHIEF JUSTICE
EDWARD W. KENNEDY
JUSTICES
HERBERT S. GOSNEY
JOHN H. BRANTLEY
C. VERNON SPENCER
ARCHIBALD C. BUCHANAN
LESLIE A. STANLEY
WILLIAM B. MILLER

Richmond 19
March 24, 1949

Re: Lawrence Dean and Floyd Shifflett v. Commonwealth
Record No. 3513

Mr. J. Robert Switzer, Clerk
Circuit Court of Rockingham County
Harrisonburg, Virginia

Dear Mr. Switzer:

I received from you a few days ago two original exhibits filed in the case of Dean and Shifflett v. Commonwealth which you kindly sent me at my request.

The court thought possibly that included with these exhibits would be some instructions which were not made a part of the record as transcribed. You will find that these instructions are referred to on page 145 of the printed record (a copy of which you have).

I will be obliged if you will examine the papers on file in connection with this case and if there are any copies of these instructions with the papers, kindly send them to me for the examination of the court.

Yours very truly,



Clerk

MWW:leh

MARCH 24, 1949

VIRGINIA:

*In the Supreme Court of Appeals held at the Court-Library Building
in the City of Richmond on Monday the 25th day of April, 1949.*

Lawrence Dean and Floyd Shifflett, Plaintiffs in error,
against Record No. 3513
Commonwealth of Virginia, Defendant in error.

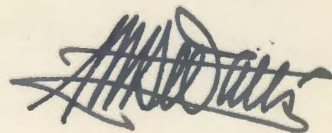
Upon a writ of error and supersedeas to a judgment rendered by the Circuit Court of Rockingham county on the 23rd day of June, 1948.

This day came again the parties, by counsel, and the court having maturely considered the transcript of the record of the judgment aforesaid and arguments of counsel, is of opinion, for reasons stated in writing and filed with the record, that there is error in the judgment complained of. It is therefore adjudged and ordered that the said judgment be reversed and annulled, the verdict of the jury set aside, and the case is remanded to the said circuit court for a new trial in accordance with the views expressed in the said written opinion of this court.

forthwith
Which is ordered to be/certified to the said circuit court.

A Copy,

Teste:



Clerk.

(over)

7
494

Handwritten mark in red ink, possibly initials or a signature.

(1910)

Handwritten signature or stamp in blue ink.

0124

1910

Writ tax _____ \$

Printing _____

Attorney's fee _____

Small fees _____

Transcript _____

Printing brief _____

Total \$

Teste:

_____ C. C.

Faint, mirrored text from the reverse side of the page, appearing as bleed-through. The text is mostly illegible but seems to contain a formal declaration or affidavit.

Faint, mirrored text from the reverse side of the page, appearing as bleed-through. This section appears to be a signature or a concluding statement.

Faint, mirrored text from the reverse side of the page, appearing as bleed-through. This section appears to be a signature or a concluding statement.

WITNESSES

we the jury find Lawrence Deane
and 7 legal Shifflett guilty of (1)
malicious wounding or injury and
fix their punishment at two and
one half years (2½) in the penitentiary

S D Cain Foreman

Number
287

INSTRUCTION NO. G.

~~INSTRUCTION NO. G.~~

The Court instructs the jury that malice is one of the elements of malicious assault and that the burden is upon the Commonwealth to prove malice beyond a reasonable doubt, in order to convict either of the defendants of malicious assault.

H. J.

INSTRUCTION NO. 6.

~~INSTRUCTION NO. 6.~~

The Court instructs the jury that malice
is one of the elements of malicious assault and that
the burden is upon the Commonwealth to prove malice
beyond a reasonable doubt, in order to convict either
of the defendants of malicious assault.

W. J. D.

INSTRUCTION NO. 1

The Court instructs the jury that the burden resting upon the Commonwealth to prove the accused guilty beyond all reasonable doubt of an offense and every material element thereof, charged against the accused, does not mean that it is necessary for the Commonwealth to establish the guilt of the accused to an absolute certainty or beyond all possibility of mistake or to do more than satisfy the jury that upon the evidence as a whole the accused is guilty thereof beyond all reasonable doubt.

M.H.

1 INSTRUCTION NO.

The Court instructs the jury that the burden resting upon the Commonwealth to prove the accused guilty beyond all reasonable doubt of an offense and every material element thereof, charged against the accused, does not mean that it is necessary for the Commonwealth to establish the guilt of the accused to an absolute certainty or beyond all possibility of mistake or to do more than satisfy the jury that upon the evidence as a whole the accused is guilty thereof beyond all reasonable doubt.

[Handwritten signature]

INSTRUCTION NO. 2

The Court instructs the jury that under the indictment in this case, if warranted by the evidence, you may find one of the four following verdicts, to-wit: (1) Malicious wounding or injury; (2) Unlawful wounding or injury; (3) Assault and battery; (4) Not guilty.

You are further instructed that malicious wounding or injury is committed when one person unlawfully, wilfully, feloniously and maliciously wounds or causes bodily injury to another, intending thereby either to maim, disfigure, disable or kill such other. Unlawful wounding is committed when one person wounds or causes bodily injury to another unlawfully, wilfully, and feloniously, but not maliciously, intending thereby either to maim, disfigure, disable or kill such other. Assault and battery is any physical injury done to another in an angry, rude or insolent manner.

SWH

The Court instructs the jury that under the indictment in this case, if warranted by the evidence, you may find one of the four following verdicts, to-wit: (1) Malicious wounding or injury; (2) Unlawful wounding or injury; (3) Assault and battery; (4) Not guilty.

You are further instructed that malicious wounding or injury is committed when one person unlawfully, willfully, feloniously and maliciously wounds or causes bodily injury to another, intending thereby either to maim, disfigure, disable or kill such other. Unlawful wounding is committed when one person wounds or causes bodily injury to another unlawfully, willfully, and feloniously, but not maliciously, intending thereby either to maim, disfigure, disable or kill such other. Assault and battery is any physical injury done to another in an angry, rude or insolent manner.

Handwritten initials or signature.

INSTRUCTION NO. 3

The Court instructs the jury that malice as applied to this case is used in a technical sense. It may be either express or implied. It includes not only anger, hatred and revenge, but every unlawful and unjustifiable motive. It may be inferred or implied from any deliberate and cruel act done without reasonable provocation or excuse. Malice in law is every evil design in general; and by it is meant that the act has been attended with such circumstances as are ordinarily symptoms of a wicked, depraved and malignant spirit, and carries with them the plain indications of a heart regardless of social duty, and fatally bent upon mischief.

WWS

The Court instructs the jury that malice as applied to this case is used in a technical sense. It may be either express or implied. It includes not only anger, hatred and revenge, but every unlawful and unjustifiable motive. It may be inferred or implied from any deliberate and cruel act done without reasonable provocation or excuse. Malice in law is every evil design in general; and by it is meant that the act has been attended with such circumstances as are ordinarily symptoms of a wicked, depraved and malignant spirit, and carries with them the plain indications of a heart regardless of social duty, and fatally bent upon mischief.

WJ

INSTRUCTION NO. 4

The Court instructs the jury that the malicious intent may be proved like any other fact, by either direct or circumstantial evidence or by a combination of both; and if facts, surrounding circumstances and conditions are proven which warrant and justify an inference therefrom of the existence of such malicious intent, the same may be inferred therefrom.

W. J.

INSTRUCTION NO.

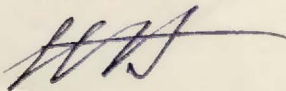
The Court instructs the jury that the malicious intent may be proved like any other fact, by either direct or circumstantial evidence or by a combination of both; and if facts, surrounding circumstances and conditions are proven which warrant and justify an inference therefrom of the existence of such malicious intent, the same may be inferred therefrom.

[Handwritten signature]

INSTRUCTION NO. 25

The Court instructs the jury that one who is present at the scene of a crime aiding and abetting or participating therein is guilty as a principal in such crime. The Court further tells the jury that any encouragement or act of assistance constitutes participation in such crime.

The Court further instructs the jury that if you believe from the evidence beyond a reasonable doubt that the prisoner, Lawrence Dean, aided and abetted by Floyd Shifflett, assaulted H. E. Taylor, then you shall find the prisoners, Lawrence Dean and Floyd Shifflett, guilty, and fix their punishment in accordance with the charge to the jury in this case.

A handwritten signature in dark ink, appearing to be 'H. W. J.', is written below the text.

2 INSTRUCTION NO.

The Court instructs the jury that one who is present at the scene of a crime aiding and abetting or participating therein is guilty as a principal in such crime. The Court further tells the jury that any encouragement or act of assistance constitutes participation in such crime.

The Court further instructs the jury that if you believe from the evidence beyond a reasonable doubt that the prisoner, Lawrence Dean, aided and abetted by Floyd Shifflett, assaulted H. E. Taylor, then you shall find the prisoners, Lawrence Dean and Floyd Shifflett, guilty, and fix their punishment in accordance with the charge to the jury in this

case.

WJ

INSTRUCTION NO. 6

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and the law is that, where a number of witnesses testify directly opposite to each other, the jury is not bound to regard the number of witnesses who may have testified on one side as against the number who testified on the other side; the jury have the right to determine from the appearance of the witnesses on the stand, their manner of testifying, the reasonableness and consistency of their testimony, their apparent candor and fairness, their apparent intelligence or lack of intelligence, the interest of the witness in the result of the trial, if any appear, and from all other surrounding circumstances appearing on the trial, determine which witnesses are more worthy of credit and what is the relative weight of any such testimony, and to give credit accordingly.

H. H.


The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and the law is that, where a number of witnesses testify directly opposite to each other, the jury is not bound to regard the number of witnesses who may have testified on one side as against the number who testified on the other side; the jury have the right to determine from the appearance of the witnesses on the stand, their manner of testifying, the reasonableness and consistency of their testimony, their apparent candor and fairness, their apparent intelligence or lack of intelligence, the interest of the witness in the result of the trial, if any appear, and from all other surrounding circumstances appearing on the trial, determine which witnesses are more worthy of credit and what is the relative weight of any such testimony, and to give credit

accordingly.

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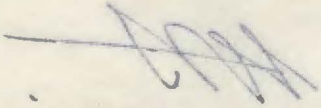
INSTRUCTION NO. B.

The Court instructs the jury that before you may find the defendants, Floyd Shifflett and Lawrence Dean, or either of them, guilty of malicious assault or ~~felonious~~ felonious assault, you must believe from the evidence beyond a reasonable doubt that they, or one of them, caused bodily injury to H.E. Taylor with the intent to maim, disfigure, disable or kill the said H.E. Taylor. In other words, to find ^{either} ~~either~~ of the defendants guilty of either of these ^{two} charges against them, the jury must believe that ^{they} or the one, if either, which the jury may find guilty, intended to permanently injure the said Taylor, and without such intent they can be guilty only of simple assault.



INSTRUCTION NO. B.

The Court instructs the jury that before you may find the defendants, Floyd Shiffert and Lawrence Dean, or either of them, guilty of malicious assault or ~~felonious assault~~ or felonious assault, you must believe from the evidence beyond a reasonable doubt that they, or one of them, caused bodily injury to H.E. Taylor with the intent to maim, disfigure, disable or kill the said H.E. Taylor. In other words, to find ~~either~~ ^{either} of the defendants guilty of either of these two charges against them, the jury must believe that ^{they} or the one, if either, which the jury may find guilty intended to permanently injure the said Taylor, and without such intent they can be guilty only of simple assault.



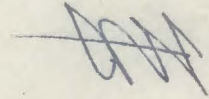
INSTRUCTION NO. D.

The Court instructs the jury that if they believe from the evidence in this case that H.E.Taylor was the aggressor and that Lawrence Dean reasonably apprehended bodily harm, ~~then~~ he had the right to use such force as was necessary to protect himself, and if you believe that the said Deacn used only such force as he reasonably deemed necessary to protect himself, then you should find him not guilty.

WJ

INSTRUCTION NO. D.

The Court instructs the jury that if they believe from the evidence in this case that H.E. Taylor was the aggressor and that Lawrence Dean reasonably apprehended bodily harm, that he had the right to use such force as was necessary to protect himself, and if you believe that the said Dean used only such force as he reasonably deemed necessary to protect himself, then you should find him not guilty.



INSTRUCTION NO. *C.*

The Court instructs the jury that any tussle which the defendant, Floyd Shifflett, may have had with H.E. Taylor did not, of itself, constitute an assault, and unless the jury believes from the evidence, beyond a reasonable doubt, that defendant Floyd Shifflett aided and abetted the defendant Dean in committing an assault upon the said H.E. Taylor, they shall find the defendant, Floyd Shifflett, not guilty.

WJ

INSTRUCTION NO. C.

The Court instructs the jury that any assault which the defendant, Floyd Shifflett, may have had with H.E. Taylor did not, of itself, constitute an assault, and unless the jury believes from the evidence, beyond a reasonable doubt, that defendant Floyd Shifflett aided and abetted the defendant Dean in committing an assault upon the said H.E. Taylor, they shall find the defendant, Floyd Shifflett, not guilty.

10/17

INSTRUCTION NO. E.

The Court instructs the jury that the law presumes every person charged with crime to be innocent until his guilt is established beyond a reasonable doubt by the Commonwealth, and this presumption of innocence goes with the prisoner through the entire case and applies to every stage thereof; and they are instructed that although they might have believed, when the Commonwealth closed its case, that the defendant Lawrence Dean and/or the defendant Floyd Shifflett were guilty beyond reasonable doubt, yet if after hearing the evidence introduced on behalf of the prisoners, they bear a reasonable doubt as to the guilt of the defendant Dean or the defendant Shifflett, on the whole case or as to any fact or circumstance essential to prove the charge made against them in the indictment, it is their duty to give the accused Dean and the accused Shifflett the benefit of the doubt and find them ~~not guilty~~ or either of them, as to whom they have a reasonable doubt, not guilty.

WAS

INSTRUCTION NO. 8.

The Court instructs the jury that the law pre-
sumes every person charged with crime to be innocent
until his guilt is established beyond a reasonable doubt
by the Commonwealth, and this presumption of innocence
goes with the prisoner through the entire case and applies
to every stage thereof; and they are instructed that
although they might have believed, when the Commonwealth
closed its case, that the defendant Lawrence Dean and/or
the defendant Elroy Shillett were guilty beyond reasonable
doubt, yet if after hearing the evidence introduced on
behalf of the prisoners, they bear a reasonable doubt as
to the guilt of the defendant Dean or the defendant Shillett,
on the whole case or as to any fact or circumstance essential
to prove the charge made against them in the indictment, it
is their duty to give the accused Dean and the accused
Shillett the benefit of the doubt and find them ~~innocent~~
or either of them, as to whom they have a reasonable doubt,
not guilty.

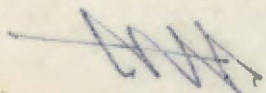
INSTRUCTION NO. F.

The Court instructs the jury that "intent" is one of the essential elements of the crime charged in the indictment, and the Court tells you that the burden of proof to prove "intent" is upon the Commonwealth, and that the same must be proved beyond all reasonable doubt. It must not be inferred from circumstances inconsistent with the guilt of the accused, but must be inferred from circumstances inconsistent with the innocence of the accused.

AWJ

INSTRUCTION NO. 7.

The Court instructs the jury that "intent" is one of the essential elements of the crime charged in the indictment, and the Court tells you that the burden of proof to prove "intent" is upon the Commonwealth, and that the same must be proved beyond all reasonable doubt. It must not be inferred from circumstances inconsistent with the guilt of the accused, but must be inferred from circumstances inconsistent with the innocence of the accused.



VIRGINIA: IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY:

COMMONWEALTH

VS.

LAWRENCE DEAN AND FLOYD SHIFFLETT

This day came the defendants, Lawrence Dean and Floyd Shifflett, in person and by counsel, and assigned the following as the grounds of their motion to set aside the verdict of the jury returned October 11, 1949, finding them guilty of malicious assault and fixing their punishment at confinement in the State Penitentiary for a period of two and one-half years:

1. That the verdict of the jury is contrary to the law;
2. That the verdict of the jury is contrary to the evidence;
3. That the verdict of the jury is contrary to the law and the evidence;
4. That the court erred in admitting certain testimony offered by the Commonwealth over the objections of the accused;
5. That the court erred in overruling the motion of the defendants to declare a mistrial by reason of the newspaper article concerning the trial appearing in the Daily News Record on the morning of October 11, 1949, a copy of which newspaper has heretofore been filed as an exhibit in this case;
6. That the court erred in overruling the defendant's motion to poll the jury to ascertain which of them, if any, had read the aforementioned newspaper article, and whether they had been prejudiced against the accused by said article.

VERMONT: IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY:

COMMONWEALTH

6 ROUNDS FOR
MOTION TO SET
ASIDE

Attaini

This day came the defendant, Lawrence Loan and Floyd
... and by counsel, and assigned the following
... of their motion to set aside the verdict of the
... before the jury, to wit: That the jury is contrary to
... their own verdict as contained in the State

That the verdict of the jury is contrary to
the law;
That the verdict of the jury is contrary to

That the verdict of the jury is contrary to
the law and the evidence;
That the court erred in admitting certain
testimony offered by the Commonwealth over the
objection of the accused;

That the court erred in overruling the motion
of the defendant to require a retrial by reason
of the newspaper article concerning the trial and
specimens of the daily news record on the same;

That the court erred in overruling the defendant's
motion to set aside the verdict of the jury and to
renew the issue for a new trial;

That the court erred in overruling the defendant's
motion to set aside the verdict of the jury and to
renew the issue for a new trial; and whether they had been prejudiced
against the accused by said article.

Docket No. 2278.

OCT 1949

COMMONWEALTH of VIRGINIA

VS.))
)) Misd. (appeal)
))

LAWRENCE DEAN

Julian K. Hickman p. d.
Own (X) Appointed ()

1949
July 21. Docketed.

*10/21/49 Plea 9 - 10
days - suspended
pay costs to the court
8/45*

CIRCUIT COURT OF ROCKINGHAM COUNTY, VA.

Keystone Envelope Co., Phila., Pa.

