Motions made during the afternoon of Thursday, June 17,1948, in the matter of Commonwealth vs. Lawrence Dean and Floyd Shifflett,--which motions were made in the Judge's Office, in the presence of said defendants.

Mr.Hammer: Your Honor, please, this morning Your Honor sustained our motion to declare a mistrial on these cases on the ground that action was taken in the case on certain matters during the absence of the accused. The jury which had been impanelled was in the box, and has been dismissed.

There has now been a new venire summoned for the trial of these case.

It is the position of the defendants in this case that the impanelling of a new jury will not rectify the error already committed. The indictment was originally amended during the absence of the accused. On this morning, they were arraigned upon the amended indictment. There have now been for these defendants two arraignments, one on the original indictment, returned by the grandjury, and one on the amended indictment. The action of declaring a mistrial, in our opinion, and impanelling a new jury, does not remedy the situation, although our motion to declare a mistrial was sustained. The action of the Court in amending the indictment was not a void act, but, in our opinion, voidable. It would now appear, and it appears to us, that there is a material variation between the indictment returned by the grand jury and the indictment as amended and to which the defendants have pleaded.

We, therefore, move Your Honor to quash the original and the amended indictment for the foregoing reasons, and, further, to dismiss the venire summoned in this case.

Motions made during the afternoon of Tuesday, June 17, 1969, in the matter of COMMONWEALTH vs. Lawrence Bond and Floyd Whittlesey--which motions were made in the Judge's office, in the presence of said defendants.

MR. HAMMER: Your Honor, please, this morning Your Honor entertained two motion to declare a mistrial on these cases on the ground that again was taken in the cases on certain matters during the absence of the accused. The jury which had been impanelled saw it the box, and has been dismissed.

There has now been a new venire summoned for the trial of these cases.

It is the position of the defendants in this case that the impanelling of a new jury will not rectify the error already committed. The indictment saw originally amended during the arraignment, there were matters [illegible] in the absence of the accused. On this motion, there were [illegible] upon the amended indictment. There was now been for these defendants two arraignments, one on the original indictment, followed by the Grand Jury, and one on the amended indictment. The motion to declare a mistrial in two opinion, the impanelling the motion although two motion a new jury, does not remedy the situation. The section of the court to declare a mistrial saw amended. The section of the court in granting the indictment saw not a void act, but, in two opinion, [illegible]. It would not appear, but it appears to me that [illegible] there is a material variation between the indictment returned by the Grand Jury and the indictment as amended and to which the defendants have objected.

The Court: In the Court's opinion, it is immaterial whether the Court's action in overruling the demurrer and sustaining the motion to strike certain parts of the original indictment was void or voidable. If said action was void, it was without any effect at all. If it was voidable, defendants' counsel moved for a mistrial on the ground that it was an illegal act, prejudicial to the defendants, and was, therefore, void, and when the Court sustained the defendants' motion it then became of no force and effect. It is the Court's opinion, after he sustained the motion to declare a mistrial, that everything, starting with the hearing of the demurrer to the original indictment, from thereon, is annulled, and the situation of the case at this time is that we are proceeding on the original indictment, the arraignment of the two defendants thereon, and their plea of not guilty. Therefore, the Court overrules the said several motions of the defendants by counsel.

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Mr.Hammer: Your Honor, please, we desire to demur to the indictment on the ground that it embodies two complete and several offenses, one a charge of conspiracy and the other of felonious assault, and for the further reason that there is no such thing as a conspiracy to commit felonious assault, under the statute.

Now, Your Honor, please, we move to strike from the indictment, without waiving our former objections, the charge that Lawrence Dean and Floyd Shifflett "did 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" --. We desire that that portion of the indictment be stricken.

The Court: It is true that the Virginia statute authorizing indictments in certain specified cases for conspiracy does not include the offense of malicious assault. However, at common law it is an offense to conspire to commit any illegal act. It is the Court's opinion that the present indictment is a felony indictment, charging the commission of a malicious assault, and the conspiracy, if any is charged in the indictment, is merged into the felony, and that the indictment is not bad as charging two offenses. Therefore, the demurrer is overruled. It is the Court's opinion that any language in the indictment referring to a conspiracy, for reasons stated above, does not charge a separate and distinct offense, but is a matter of inducement or a part of the felony actually charged in the indictment. Therefore, the motion to strike is overruled.

Mr.Hammer: To which counsel for the defendants except, for the reasons heretofore assigned.

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Mr.Hammer:

3 We object to the charge to the jury for the reason that the charge does not embrace therein the elements of conspiracy; although the charge of conspiracy may be merged in an indictment for felony, on proof and conviction, after the grand jury has returned an indictment, charging conspiracy and a felony, it is the position of the accused that this jury could find them guilty of a conspiracy to commit felony, without convicting them of a felony charge; therefore, the element of conspiracy should be embraced in the charge to the jury.

and consideration." -- We desire that that portion of the indictment be stricken.

THE COURT: It is true that the Virginia statute authorizes a conspiracy to commit larceny without specifying what property is involved. However, it seems to me that the indictment should be held in the indictment. Therefore, the demurrer is overruled. If it is the opinion that the language in the indictment referring to property is not sufficient, the motion to strike is overruled.

Mr. Hamner: We desire to argue the motion to strike as overruled.

THE COURT: Yes, sir.

Mr. Hamner: We except to the ruling of the court on the ground that the charge does not contain the elements of conspiracy.

THE COURT: I do not think that the indictment is a felony. It is not an offense to conspire to commit a misdemeanor. Therefore, the demurrer is overruled. It is the opinion that the present indictment is a felony in the court's opinion that the charge in the indictment is a misdemeanor. Conspiring to commit a felony is a felony. It is an offense to conspire to commit larceny. Therefore, the motion to strike is overruled.

Mr. Hamner: Then we except to the ruling of the court on the ground that the charge does not contain the elements of conspiracy.

THE COURT: I do not think that the indictment is a felony. It is not an offense to conspire to commit a misdemeanor. Therefore, the demurrer is overruled. If it is the opinion that the present indictment is a felony in the court's opinion that the indictment is a misdemeanor. Conspiring to commit a misdemeanor is a felony. It is an offense to conspire to commit larceny. Therefore, the motion to strike is overruled.

Mr. Hamner: We except to the ruling of the court on the ground that the charge does not contain the elements of conspiracy.

THE COURT: I do not think that the indictment is a felony. It is not an offense to conspire to commit a misdemeanor. Therefore, the demurrer is overruled. If it is the opinion that the present indictment is a felony in the court's opinion that the indictment is a misdemeanor. Conspiring to commit a misdemeanor is a felony. It is an offense to conspire to commit larceny. Therefore, the motion to strike is overruled.

Mr. Hamner: We except to the ruling of the court on the ground that the charge does not contain the elements of conspiracy.

The Court: (The Court has already ruled that anything referring to a conspiracy in this indictment is merged into the actual allegation that the accused committed a felonious assault and that the indictment charges only the felony.) Therefore, the objection to the charge is overruled.

Mr. Hammer: The defendants, by counsel, object to the ruling of the Court for the reason aforesaid.

The Court: (The Court has already ruled that anything pertaining to a conspiracy in this indictment is merged into the substantive allegation that the accused committed a felonious assault and that the indictment charges only the felony.) Therefore, the motion to the charge is overruled.

Mr. Hammer: The defendants, by counsel, object to the ruling of the Court for the reason aforesaid.

1c

Motions(in said case of Commonwealth vs. Lawrence Dean and Floyd Shifflett) in Judge's Office Friday afternoon, June 18, 1948, just a little while after going into said Office, after court had been adjourned until evening.

Mr. Hammer: Your Honor, please, we desire to renew our motion in this case to declare a mistrial for the reasons heretofore assigned in the opening of this case. We also desire, Your Honor, please, to renew our motion to declare a mistrial in this case, as, under the verbal instruction of the Court in regard to the evidence of Perry Bailey, that it was a singling instruction to the jury, the effect of which was to warn the jury that his evidence should be viewed with undue caution. We also at this time desire to renew our motion to strike the evidence in the case as to Floyd Shifflett, for the reason that there was no evidence that Floyd Shifflett was guilty of unlawful or malicious shooting or of assault and battery. We likewise desire to renew out motion to strike the evidence in the case in regard to Lawrence Dean, for the reasons heretofore assigned and to be assigned more fully in writing.

The Court: Gentlemen, all these motions have been heretofore considered, and the Court adheres to his previous ruling, and overrules all of said motions. exception

Motions(in said case of Commonwealth vs. Lawrence Dean and Floyd Schiffleti) in Judge's Office Friday afternoon, June 18, 1943, just a little while after going into said Office, after court had been adjourned until evening.

Mr. Hammer: Your Honor, please, we desire to renew our motion in this case to declare a mistrial for the reasons heretofore assigned in the opening of this case. We also desire, Your Honor, please, to renew our motion to declare a mistrial in this case, as, under the verbal instruction of the Court in regard to the evidence of Perry Bailey, that it was a singling instruction to the jury, the effect of which was to warn the jury that his evidence should be viewed with undue caution. We also at this time desire to renew our motion to strike the evidence in the case as to Floyd Schiffleti, for the reason that there was no evidence that Floyd Schiffleti was guilty of unlawful or malicious shooting or of assault and battery. We likewise desire to renew our motion to strike the evidence in the case in regard to Lawrence Dean, for the reasons heretofore assigned and to be assigned more fully in writing.

The Court: Gentlemen, all these motions have been heretofore considered, and the Court adheres to his previous ruling, and overrules all of said motions.

The Court's rescinding of ruling on certain former motions, and the renewal of said motions, and overruling of same by the Court,

in the Judge's Office, Friday evening, June 18,1948, just before the re-convening of Court for the evening session.

The Court: Gentlemen, counsel, when we came back to Chambers for the purpose of considering the instructions, and after some of the instructions had been offered to the Court, counsel for the defendants renewed certain motions and made certain other motions in connection with this trial, which the Court at that time overruled. It has been suggested to the Court that the defendants were not personally present when these motions were renewed and made, and the Court, being uncertain as to whether they were, or were not, the Court doth now, in the presence of both the accused and before having ever returned to the court room from Chambers, rescind any ruling he may have made on said motions, and does now offer to the said defendants the right and option to renew said motions.

Mr.Hammer: Without waiving any right,-which I understand the law or counsel cannot waive any rights of the accused, nor can the accused themselves waive said rights,-however, in view of the Court's ruling, we at this time renew said motions as heretofore dictated.

The Court: All of these motions, now being made in the presence of both defendants, have been made and considered, before, during the trial of this case, and for the reasons then stated from time to time, all of said motions are overruled.

Mr. Hammer:n To the ruling of the Court, the defendants by counsel except.

(1)

1/358

June 17, 1948.

Commonwealth

vs. On an indictment for a felony (felonious assault)

Lawrence Dean and Floyd Shifflett

This day came the attorney for the commonwealth, and the accused, Lawrence Dean and Floyd Shifflett, came pursuant to their recognizance and by their attorneys, Charles A. Hammer, Jr., and Sam P. Conrad. And counsel for both the accused having here-

~~Counsel for both the accused having heretofore~~ tofore, in the absence of both of the accused, demurred to the indictment and moved to quash the same on the ground that it included charges of two offenses--one a misdemeanor and the other a felony--and the Court having heretofore informally overruled the said demurrer and motion to quash in the absence of both of said accused, and counsel for both the accused having also heretofore moved to strike out the allegations in the indictment as to conspiracy, and the Court in the absence of both of said accused having sustained said motion, and counsel this day having appeared and renewed said motions and both accused having appeared before the bar of this Court this day, and the aforesaid demurrer and motions having been renewed and counsel having also this day made a motion for change of venire on the ground that some of the jurors sat on the trial of the accused, Lawrence Dean, for another offense tried at this term of Court; the Court, after consideration of said demurrer and motions both overruled said demurrer and motion to quash and the motion for a change of venire and sustained the motion to strike from the indictment the portions thereof charging a conspiracy, and thereupon both of the accused were arraigned on the ~~xxxxxxx~~ indictment as amended by striking the portions charging conspiracy, and thereupon ~~xxx~~ each in person pleaded not guilty to the same.

June 17, 1948.

COMMONWEALTH

vs. On an indictment for a felony (felonious assault)

Lawrence Dean and Floyd Spillers

This case came the attorney for the commonwealth, and the accused, Lawrence Dean and Floyd Spillers, came personal to gether with their attorneys, Charles A. Hammer, Esq., their recognizance and by their attorneys, Charles A. Hammer, Esq., and Sam P. Conley. And counsel for both the accused pravye peremptory challenges to the panel of jurors herein.

(2)

And from persons summoned by the sheriff under a writ of venire facias, twenty persons were examined by the court and found duly qualified and free from exception; whereupon a list containing the names of said twenty persons was handed to the attorney for the commonwealth and counsel for the accused, who each alternately struck therefrom the names of four persons, the remaining twelve, namely: W. T. Leavel, Ashby Fitzwater, C. B. Reubush, M. G. Newman, A. R. Scott, Roy S. Heatwole, Claude Berry, G. Roscoe Knicely, J. B. Moyers, Joe Kagey, Turner Sandy, and C. E. Lokey, selected as aforesaid to constitute the jury, were sworn to well and truly try and true deliverance make between the commonwealth and the prisoners at the bar and a true verdict render according to the law and the evidence, ~~xxxx~~

And thereupon ~~motion that~~ the Court, both of the said defendants, by counsel moved declare a mistrial on the ground that the Court passed informally on the demurrer above referred to and ~~the motion~~ to strike certain parts of the indictment above referred to when neither of accused ~~were~~ WAS present in person, ~~The~~ and thereupon the Court sustained said motions and declared a mistrial and discharged the jury from attendance on this case. And it appearing to the Court that there are insufficient jurors present to try both the accused, the Court,

acting under Section 4896, selected from the jury list as provided by Sections 5988 and 5990 the following twenty-four jurors to try said case,

namely: J. A. Hollen, Harry C. Long, Robert F. Garber, Chas. W. Wampler, Jr., A. S. Kiser, Isaac C. Shifflett, Raymond Weaver, Roy L. Frank, J. F. Byerly, Beery H. May, J. O. Beard, John D. Moore, Dee C. Smucker, L. C. Hutton, Joe R. Rhodes, John P. Zirkle, H. Westbrook Hawkins, John H. Rolston, Paige P. Price, Hubert B. Layman, Garold Myers, D. C. Stickley, Harold E. Shomo, and C. William Frank. The following motions were made during the afternoon of this day in this case in the chambers in the presence of the accused and counsel:

3

The defendants ~~thereupon~~, by counsel, moved the court to quash the original and the amended indictment and further to dismiss the new venire summoned in this case on the ground that there is a material variation between the indictment returned by the grand jury and the indictment as amended and to which the defendants have pleaded, ~~which motions the court overruled~~ (see attached slip).

insert - page 3

Whereupon, the court ruled that the previous action of the court upon the demurrer and motion to strike part of the indictment was void or voidable and that all such previous rulings were nulled by the action of the court in declaring a mistrial, and that the case now stands on the original indictment, the arraignment of the two defendants thereon and their respective pleas of not guilty, and that the said motion to quash the indictment and dismiss the venire should be, and is accordingly, hereby overruled.

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", (and moved that that portion of the indictment be stricken,) which demurrer and motion aforesaid the court overruled, to which action ~~ruling~~ of the court in overruling said demurrer and motion, the defendants, by counsel, excepted.

And the defendants, by counsel, ~~further~~ object to the change to the jury" for the reason that the charge does not embrace therein the elements of conspiracy; although the charge of conspiracy may be merged in an indictment for felony, on proof and conviction, after the grand jury has returned an indictment, charging conspiracy and a felony, and ~~that~~ it is the position of the accused that this jury could find them guilty of a conspiracy to commit felony without convicting them of a felony charge; therefore,

3

The defendants ~~thereupon~~, by counsel, moved the court to quash the original and the amended indictment and further to dismiss the new venire summoned in this case on the ground that there is a material variation between the indictment returned by the grand jury and the indictment as amended and to which the defendants have pleaded, (see attached slip) ~~which motions the court overruled~~.

Thereupon ~~The~~ defendants, by counsel, ~~thereupon~~ demurred to the ORIGINAL indictment on the ground that it embodies two complete and several offenses, one a charge of conspiracy and the other of felonious assault, and for the further reason that there is no such thing as a conspiracy to commit felonious assault, under the statute; and the defendants, by counsel, also thereupon moved the court to strike from the indictment, without waiving former objections, the charge that Lawrence Dean and Floyd Shifflett "did 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", (and moved that that portion of the indictment be stricken,) which demurrer and motion aforesaid the court overruled, to which action ~~ruling~~ of the court in overruling said demurrer and motion, the defendants, by counsel, excepted.

And the defendants, by counsel, ~~further~~ object to the charge to the jury for the reason that the charge does not embrace therein the elements of conspiracy; although the charge of conspiracy may be merged in an indictment for felony, on proof and conviction, after the grand jury has returned an indictment, charging conspiracy and a felony, and ~~that~~ it is the position of the accused that this jury could find them guilty of a conspiracy to commit felony without convicting them of a felony charge; therefore,

The defendants ~~[illegible]~~ by counsel moved the court to draw from the original and the amended indictment and limited to dismiss the new results announced in this case on the ground that there is a material variation between the indictment returned by the grand jury and the indictment as amended and to which the defendants have pleaded, which motions the court overruled.

The defendants by counsel then moved the court to strike from the indictment, without waiving their objections, and the defendants by counsel also thereupon moved the court to quash the indictment and the order of testimony assault, under the charge of conspiracy and the order of testimony assault, on the ground that it embodies two complete and several offenses, one a charge of conspiracy and the other of testimony assault, and for the further reason that there is no such finding as a conspiracy and a testimony, and if is the position of the accused that this indictment find them guilty of a conspiracy to commit testimony without contracting them of a testimony charge; therefore, and conspirators confederat for the purpose of committing an assault and podilly injury upon H. E. Taylor, with intent him the said H. E. Taylor to make distinct disabla, to kill, and in pursuance of said conspiracy and confederation, and moved that that portion of the indictment be stricken, which motion
motion
demurrer and motion sitoressbla the court overlinled, to which
exception
maxim of the court in overlinjing said demurrer and motion, the defendants by counsel excepted.

and the defendants by counsel, ~~[illegible]~~ object to the charge to the jury for the reason that the charge does not embrace therein the elements of conspiracy: although the charge of conspiracy was be merged in an indictment for testimony, on proof and conviction, after the grand jury has returned an indictment, charging conspiracy and a testimony, and ~~[illegible]~~ if is the position of the accused and for the further reason that there is no such finding as a conspiracy to commit testimony assault, under the arraign; and the defendants by counsel also therenpon moved the court to strike from the indictment, without waiving former objections, and the defendants ~~[illegible]~~ by counsel moved the court to draw

(4)

the element of conspiracy should be embraced in the charge to the jury; ~~and thereupon~~ whereupon, (~~the court having already ruled that anything referring to a conspiracy in this indictment is merged into the actual allegation that the accused committed a felonious assault and that the indictment charges only the felony~~) the court ~~doth~~ overruled said objections to the charge, to which action of the court the defendants, by counsel, excepted.

the element of conspiracy should be emphasised in the charge of the jury: mens rea intention, (the court having already ruled that evidence of motive, or premeditation, or malice in fact is not necessary to establish the offence charged) the result, but that the indictment contain only the (wrong) the court deem overrule said objections to the charge, of which section 10 the court the defendant's counsel, excepted.

5

And from the venire this day summoned as aforesaid [redacted] for the trial of this case, only sixteen (16) of the persons in said venire having responded and being found duly qualified and free from exception, thereupon, the attorney for the commonwealth, with the consent of the court, waived the striking of his four names from the said panel, and the defendants, by their attorneys, struck therefrom the names of four persons therefrom, the remaining twelve, namely: J. A. Hollen, Robert F. Garber, A. S. Kiser, Isaac C. Shifflett, Roy L. Frank, J. F. Byerly, Beery H. May, J. O. Beard, Jno. P. Zirkle, H. Westbrook Hawkins, Harold E. Shomo, and L. C. Hutton, selected as aforesaid to constitute the jury, were sworn to well and truly try and true deliverance make between the commonwealth and the prisoners at the bar and a true verdict render according to the law and the evidence, and having heard a portion of the evidence, were adjourned until tomorrow morning at nine-thirty o'clock.

7/358 6/17/48

~~And from the venire/summoned this day for the~~
aforesaid

VIRGINIA:

In the Supreme Court of Appeals held at the Court-Library Building in the City of Richmond on Wednesday, *the* 17th *day of* November, 1948.

Upon the petition of Lawrence Dean and Floyd Shifflett a writ of error and supersedeas is awarded them to a judgment rendered by the Circuit Court of Rockingham county on the 23rd day of June, 1948, in a prosecution by the Commonwealth against the said petitioners for a felony; but said supersedeas is not to operate to discharge the petitioners from custody, if in custody, or to release their bond if out on bail.

A Copy,

Teste:

Clerk

7/404

Order of Supreme Court

1 W. T. Learel
2 ashly Fitzpatrick
3 Co B. Rehburk
4 M. G. Newman
5 a A Scott
6 Roy S. Heatwole
7 Leland Perry
8 G. Norvel Kinney
9 J B. Mayer
10 Joe Kagey
11 Turner Sandy
12 Le E Lokey
2 Jury

1 J. A. Holler
2 Robert F. Garber
3 a. S. Kiser
4 Isaac Le Shifflett
5 Roy F. Francy
6 J. F. Myers
7 Benj H. Wray
8 J. C Beard
9 Jno. P. Zirkle
10 H Westbrook Hankins
11 Harold E Shomo
12 L. C. Hutton

OCT 1949 #2138

Evidence
Motion

COMMONWEALTH AUG 1948
OCT 1949

VS. Felony (fa)

LAWRENCE DEAN N.G
and
FLOYD SHIFFLETT N.G
C & N

T.J. Trial
no ~~[illegible]~~ G.J.

June 17 –
Bond to 7 5000 [illegible]

Dec
1363 37

7/365 – 60 days to appeal
~~[illegible] Hardie 4/7/49~~

~~amended indictment~~
~~arraigned 6/7/48 – NG~~

7 rd Trial Oct 10-11-49
argument not made 10/12/49

Sheriff Fees 5-40

2nd Trial Oct 15th-49

1 Ira Campbell
2 L F. Elias
3 Arnold B Smith
4 D W Coker
5 Harry W Esley
6 A L Nussen
7 F E ~~Fuhlhauer~~ Hoffman
8 Paul L Lester
9 Roy Lee Minnich
10 S W Carr
11 W E Propst
12 C W. Jordan

Jury Mag 104 32

Sentenced Oct-4/-
4 1/2 yrs - Circuit
4 11 days

Commonwealth vs. Lawrence Dean and Floyd Shifflett
On an indictment for a felony (felonious assault)

This day came the attorney for the commonwealth, and the accused, Lawrence Dean and Floyd Shifflett, came pursuant to their recognizance and by their attorneys, Charles A. Hammer, Jr., and Sam P. Conrad; and

Counsel for both the accused having heretofore, in the absence of both accused, demurred to the indictment and moved to quash the same on the ground that it included charges of two offenses--one a misdemeanor and the other a felony--and the Court having heretofore informally overruled the said demurrer and motion to quash in the absence of both accused, and counsel for both the accused having also heretofore moved to strike out the allegations in the indictment as to conspiracy, and the Court in the absence of both accused having sustained said motion, and counsel this day having appeared and renewed said motions and both accused having appeared before the bar of this Court this day, and the aforesaid demurrer and motions having been renewed and counsel having also this day made a motion for change of venire on the ground that some of the jurors sat on the trial of the accused, Lawrence Dean, for another offense tried at this term of Court; the Court, after consideration of said demurrer and motions both overruled said demurrer and motion to quash and the motion for a change of venire and sustained the motion to strike from the indictment the portions thereof charging a conspiracy, and thereupon both accused were arraigned on the ~~original~~ indictment as amended by striking the portions charging a conspiracy and thereupon each in person pled not guilty to the same

~~Swearing~~ of the jury ~~and~~ the jury charged. (1) see attached sheet

* And thereupon on motion of accused by counsel that the Court declare a mistrial on the ground that the Court passed informally on demurrer above referred to and the motion to strike certain parts of the indictment above referred to when neither of accused were present in person, The Court sustained said motion and declared a mistrial and discharged the jury from attendance on this case. And it appearing to the Court that there are insufficient jurors present to try both the accused, the Court,

acting under Section 4896, selected from the jury list as provided by Sections 5988 and 5990 the following twenty-four jurors to try said case.

(2) see attached sheet.

Commonwealth

vs. On an indictment for a felony (felonious assault)

Lawrence Dean and Floyd Shifflett

This day came again the attorney for the commonwealth, and the accused, Lawrence Dean and Floyd Shifflett, came pursuant to their recognizance and by their attorneys, Charles A. Hammer, Jr., and Sam P. Conrad; and the jury impanneled and sworn for the trial of this case came and having completed the hearing of the evidence, the jury was discharged until seven o'clock p. m. And thereupon, the court, the attorney for the commonwealth, and attorneys for the accused, retired into chambers, and counsel for both of said accused renewed the following motions: to declare a mistrial for reasons heretofore assigned in the opening of this case; to dedlare a mistrial in this case as, under the verbal instruction of the Court in regard to the evidence of Perry Bailey, that it was a singling instruction to the jury, the effect of which was to warn the jury that his evidence should be viewed with undue caution; to strike the evidence in the case as to Floyd Shifflett, for the reason that there was no evidence that Floyd Shifflett was guilty of unlawful or malicious shooting or of assault and battery; to strike the evidence in this case in regard to Lawrence Dean, for the reasons heretofore assigned and to be assigned more fully in writing. Whereupon, the court, having heretofore considered said motions, adhered to its previous ruling and doth now overrule all of said motions; to which action of the court, the said defendants, by counsel, excepted. And before the re-convening of court at seven o'clock p. m., the judge of this court, together with the attorney for the commonwealth, attorneys for the accused, and both of the accused in person, retired into chambers, and it having been suggested to the court that neither of the accused was present in chambers when certain motions were renewed and certain other motions were made by counsel for the defendants, thereupon, the court in the presence of both of the accused, before having returned into the court room, rescinded any ruling made on the

Pursuant to adjournment

Judge Ellis

aforesaid motions and offered to the said defendants the right and option to renew said motions. And the said defendants, without waiving any rights, renewed said motions as heretofore made; and all of said motions, now having been made in the presence of both of the accused, and having been heretofore considered by the court, the court doth now overrule all of said motions, to which action of the court the defendants, by counsel, excepted. And the court having re-convened, thereupon, came again the attorney for the commonwealth, both of the accused, pursuant to their recognizance and by their attorneys, Charles A. Hammer, Jr., and Sam P. Conrad; and the jury impanelled and sworn as aforesaid for the trial of this case came pursuant to adjournment, And having received the instructions of the court and having heard the argument of counsel, the jurors thereupon retired to their room to consider their verdict, and after some time they came again into court and returned the following verdict: "We, the jury, find the defendant, Lawrence Dean, guilty of wounding H. E. Taylor with malicious intent, as charged in the indictment, and fix his punishment by confinement in the penitentiary for two years. We, the jury, find the defendant, Floyd Shifflett, guilty as charged in the indictment, of aiding and abetting the defendant, Lawrence Dean, and fix his punishment by confinement in the Penitentiary for fifteen months. H. E. Shomo, Foreman." And thereupon, both of the accused, by counsel, moved the court to set aside said verdict and grant a new trial on the ground that the verdict is contrary to the law and the evidence and for other reasons to be hereafter assigned in writing and filed in this case.

JULIAN K. HICKMAN
ATTORNEY AT LAW
HOSTETTER BUILDING
HARRISONBURG, VIRGINIA

TELEPHONES
OFFICE 1098
RESIDENCE 947-R

September 10, 1948

Honorable George D. Conrad
Commonwealth's Attorney
Harrisonburg, Virginia

Re: Commonwealth of Virginia
vs.
Lawrence Dean and Floyd
Shifflett

Dear Mr. Conrad:

This is to advise that we will on this date apply to the Clerk of the Circuit Court for Rockingham County, Virginia, for a transcript of the record in the above captioned case.

Yours very truly,

Julian K. Hickman

JKH/pbp

Legal and timely service of the foregoing notice is hereby accepted.

Geo. D. Conrad
Commonwealth's Attorney

Filed 6/23/48

VIRGINIA: IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY

COMMONWEALTH OF VIRGINIA

VS.

FLOYD SHIFFLETT

This day came the defendant, Floyd Shifflett, in person and by counsel, and assigned the following as the grounds of his motion to set aside the verdict of the jury returned on June 18, 1948, finding him guilty of malicious assault, and fixing his punishment at confinement in the State Penitentiary for a period of fifteen months:

(1) That the verdict of the jury was contrary to the law.

(2) That the verdict of the jury was contrary to the evidence.

(3) That the verdict of the jury was contrary to the law and the evidence.

(4) That the Court erred in admitting certain evidence offered by the Commonwealth and in refusing to admit certain evidence offered by the defendant.

(5) That the Court erred in overruling the defendant's motion to quash the indictment.

(6) That the Court erred in overruling the defendant's motion to strike the evidence at the conclusion of the Commonwealth's case.

(7) That the Court erred in overruling the defendant's motion to strike the evidence after all the evidence had been introduced and to declare a mistrial.

(8) That the Court erred in granting certain instructions offered by the Commonwealth over the objection of the defendant.

(9) That the Court erred in refusing certain instructions offered by the defendant.

(10) That the Court erred in singling out this defendant as being an aider and abettor and in singling out Lawrence Dean as being the principal.

Shifflett v. Va 5/48

VIRGINIA: IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY

COMMONWEALTH OF VIRGINIA

vs.

FLOYD SHIFFLETT

This day came the defendant, Floyd Shifflett, in person and by counsel, and assigned the following as the grounds of his motion to set aside the verdict of the jury returned on June 18, 1948, finding his guilty of malicious assault, and fixing his punishment at confinement in the State Penitentiary for a period of fifteen months:

(1) That the verdict of the jury was contrary to the law.

(2) That the verdict of the jury was contrary to the evidence.

(3) That the verdict of the jury was contrary to the law and the evidence.

(4) That the Court erred in admitting certain evidence offered by the Commonwealth over the objection of the defendant.

(5) That the Court erred in overruling the defendant's motion to quash the indictment.

(6) That the Court erred in overruling the defendant's motion to strike the evidence at the conclusion of the Commonwealth's case.

(7) That the Court erred in overruling the defendant's motion to strike the evidence after all the evidence had been introduced and to declare a mistrial.

(8) That the Court erred in granting certain instructions offered by the Commonwealth over the objection of the defendant.

(9) That the Court erred in refusing certain instructions offered by the defendant.

(10) That the Court erred in singling out this defendant as being an aider and abettor and in singling out witnesses been as being the principal.

VIRGINIA: IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY Filed 6/23/48

COMMONWEALTH OF VIRGINIA

VS.

LAWRENCE DEAN

This day came the defendant, Lawrence Dean, in person and by counsel, and assigned the following as the grounds of his motion to set aside the verdict of the jury returned on June 18, 1948, finding him guilty of malicious assault, and fixing his punishment at confinement in the State Penitentiary for a period of two years:

(1) That the verdict of the jury was contrary to the law.

(2) That the verdict of the jury was contrary to the evidence.

(3) That the verdict of the jury was contrary to the law and the evidence.

(4) That the Court erred in admitting certain evidence offered by the Commonwealth and in refusing to admit certain evidence offered by the defendant.

(5) That the Court erred in overruling the defendant's motion to quash the indictment.

(6) That the Court erred in overruling the defendant's motion to strike the evidence at the conclusion of the Commonwealth's case.

(7) That the Court erred in overruling the defendant's motion to strike the evidence after all the evidence had been introduced and to declare a mistrial.

(8) That the Court erred in granting certain instructions offered by the Commonwealth over the objection of the defendant.

(9) That the Court erred in refusing certain instructions offered by the defendant.

(10) That the Court erred in singling out Floyd Shifflett as being an aider and abettor and in singling out this defendant as being the principal.

August 29, 1948

Honorable George D. Conrad
Attorney for the Commonwealth
Harrisonburg, Virginia

Re: Commonwealth of Virginia
vs.
Lawrence Dean and
Floyd Shifflett

Dear Mr. Conrad:

This is to notify you that on September 1, 1948, at 10:00 A. M., the undersigned, as attorney for the two above named defendants, shall present to Honorable William V. Ford, Judge of the Circuit Court of Rockingham County, Virginia, in the Court room at Harrisonburg, Virginia, Certificates of Exception in the above captioned case.

Yours very truly,

Julian K. Wickman

Julian K. Wickman

JKH/pbp

Legal and timely service of the foregoing notice is hereby accepted.

Geo. D. Conrad

Commonwealth's Attorney

Notice for Presenting of Certificates of Exception to Com. Atty.

Notice for Presenting of
Certificates of Exception,
to Com. Atty.

August 29, 1948

Honorable George D. Conrad
Attorney for the Commonwealth
Harrisonburg, Virginia

Re: Commonwealth of Virginia
vs.
Lawrence Dean and
Floyd Shifflett

Dear Mr. Conrad:

This is to notify you that on September 1, 1948, at 10:00 A. M., the undersigned, as attorney for the two above named defendants, shall present to Honorable William V. Ford, Judge of the Circuit Court of Rockingham County, Virginia, in the Court room at Harrisonburg, Virginia, certificates of Exception in the above captioned case.

Yours very truly,

William R. Hickman

WRH/pbp

Legal and timely service of the foregoing notice is hereby accepted.

Commonwealth's Attorney

INSTRUCTION NO. J. 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 bounded in connection with their credibility as witness & as to their intent

---

Refused
H.T.J.

INSTRUCTION NO. 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.

Refused
H.T.G.

INSTRUCTION NO. 3.

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.

Refused
WH

p----------

INSTRUCTION NO. 9.

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.

Refused
VOTT.

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.

Refused

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 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.

Refused

INSTRUCTION NO. X.

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

Refused
~~not~~ defining reasonable.
Court discourages
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.

Refused
~~NOT~~ defining
Court discourage, innocently,
would be confusing

INSTRUCTION NO. 4

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 neessary 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 ~~Floyd~~ Lawrence Dean in assaulting H.E. Taylor,

Refused
No evidence
HHT

INSTRUCTION NO. 4

The Court instructs the jury that it does

believe from the evidence in this case that H.E.Taylor

was the aggressor and that Floyd Shillitoe reasonably

apprehended bodily harm, that he had the right to use such

force as was necessary to protect himself, and if you be-

lieve that the said Shillitoe used only such force as he

reasonably deemed necessary to protect himself then you

should find him not guilty. [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible]

[illegible]

[illegible]

We the jury, find the defendant Lawrence Dean, guilty of wounding H. E. Taylor with malicious intent, as charged in the indictment, and fix his punishment by confinement in the penitentiary for two years.

We, the jury, find the defendant Floyd Shifflett, as charged in the indictment guilty of aiding and abetting the defendant, Lawrence Dean, and fix his punishment by confinement in the penitentiary for fifteen months.

H. E. Shomo
Foreman

Wanted

And each of the accused having indicated that he would apply to the Supreme Court of Appeals of Virginia for a writ of error to the judgment of this court, and it being suggested to the court that they might not be financially able to have the record herein copied, the court suspended execution of said sentence until July 8, at which time, if it is made to appear that the record is being copied, said accused, or either of them, may apply to this court to have the suspension extended. And the attorney for the commonwealth having made a motion for additional security on the bail of said defendants, thereupon, Ernest C. Shifflett and Blanche B. Stanley, being examined and sworn according to law, and having thereupon justified as to their sufficiency, the said Lawrence Dean and Floyd Shifflett, with the said Ernest C. Shifflett and Blanche B. Stanley as their surety, entered into and acknowledged bond payable to the Commonwealth of Virginia, each in the penalty of Twenty-five Hundred Dollars, ($2500.00), each, and conditioned and payable according to law for their personal appearance before this court on the 8th day of July next, and to such other time or times to which this case may be continued or further heard, and not to depart thence without leave of court, and be bound under this recognizance until this charge is finally disposed of or is declared void by order of a competent court.

J. A. Holler
Robert F. Gaster
~~Lucian W. Wampler Jr~~
A. S. Kiser
Isaac de Shuffett

Roy F. Frank
J. F. Myers
Berry H. Riley
J. C. Beard
Jno. P. Noble

H. Westbrook Hawkins
~~Jno. H. Ralston~~
~~H. C. Blackley~~
Harold E. Stevens
~~C. Wm. Frank~~

L. C. Hutton

March 18, 1949

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

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

Dear Mr. Watts:

As requested in your letter of yesterday, I am sending you herewith by registered mail "Commonwealth's Exhibit 1" and "Exhibit 1 of Defendant" in the above case.

Mr. J. K. Hickman, attorney for the defendants, selected these from the record.

Yours very truly,

J. Robert Switzer, Clerk

JRS:mb
Encs. 2.

March 18, 1949

Re: Lawrence Dean and Floyd
Shifflett v. Commonwealth
Record No. 3913

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

Dear Mr. Watts:

As requested in your letter of yesterday, I am sending you herewith by registered mail "Commonwealth's Exhibit I" and "Exhibit I of Defendant" in the above case.

Mr. J. K. Hickman, attorney for the defendants, selected these from the record.

Yours very truly,

J. Robert Switzer, Clerk

JRS:mb
Encs. 2.

SUPREME COURT OF APPEALS
OF VIRGINIA

Richmond 10
March 17, 1949

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

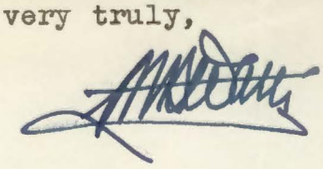
Mr. J. Robert Switzer, Clerk
Circuit Court of Rockingham County
Harrisonburg, Virginia

Dear Mr. Switzer:

In the case of Commonwealth v. Lawrence Dean and Floyd Shifflett (now in this court under the style of Dean and Shifflett v. Commonwealth), it appears from the judge's certificate at the end of the transcript that there were certain original exhibits which were directed to be certified to this court. I cannot find that these exhibits have ever been received.

Will you kindly look into the matter and if you have them, forward them to me at your earliest convenience.

Yours very truly,



MBW:lch

Clerk

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

Dear Mr. Switzer:

In the case of Commonwealth v. Lawrence Dean and Floyd Shifflett (now in this court under the style of Dean and Shifflett v. Commonwealth), it appears from the judge's certificate at the end of the transcript that there were certain original exhibits which were directed to be certified to this court. I cannot find that these exhibits have ever been received.

Will you kindly look into the matter and if you have them, forward them to me at your earliest convenience.

Yours very truly,

MEW:lch

Com v Dean +
Shiffett
6/17/48

1 W-T- Leavel
2 Andy Fitzwalter
3 Le-B Rehbusch
4 M-G. Newman -
~~W B Beilly~~

~~Edward Hurst~~
5 a-R- Scott
6 Roy A Healiwale
~~J Rich Coffman~~
7 Delaude Berry

8 G Roscoe Knicely
~~Curty A Crum~~
9 J. B. Myers
10 Joe Kagey
~~Jeff D. Kleit~~

11 Turner Acuff
~~Elmer R. Hatcher~~
12 C. E. Lohey
~~F. H. Holler~~
~~J. E. Cook~~

a.g.w
E.A.
C.W.L

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Dr. N. M. Canter, Dr. Hollen Helbert, John Roach, Tom Bailey and John Duff

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10:00 o'clock, a. m., on the 10th day of October 19 49, to testify and the truth to say in behalf of the Commonwealth against

LAWRENCE DEAN and FLOYD SHIFFLETT

who stands charged with and indicted for a felony ~~misdemeanor~~.

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

Witness, ~~J. ROBERT SWITZER, Clerk of our said Court~~, at the Court House, the 30th day of September, 19 49, and in the 174th year of the Commonwealth.

Commonwealth's Attorney, ~~Clerk~~

THE SERVICE PRESS, HARRISONBURG, VA.

COM.

V .) Subpoena

LAWRENCE DEAN AND FLOYD
SHIFFLETT

To October 10, 1949 at
10:00 a.m.

590

Sheriff's fee $2.00

Executed 9-30-49 by delivering a true copy of the within summon to Lawrence Dean and Floyd Shiffletts and John Beach

---

each in person. R. T. Strawderman, Jr. Sheriff B. Bollinger, Dep.

Executed the within summons at the office of Dr. N. M. Canter, Professional Building, S. Main St., Harrisonburg, in Rockingham County, Virginia, the usual place of business of Dr. N. M. Canter, by delivering a true copy thereof and giving information of its import to Thelma Brunk, the person found in charge of such place of business, this 30th day of September, 1949.

R. L. Thaudman, Dep.
for Sam H. Callender, S.R.C.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Clem S. Whitesel, Jim Shifflett, Benny Goodin & Russell Shifflett

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 *o'clock, a. m., on the* 10th *day of* Oct. 19 49 *to testify and the truth to say* ***in behalf of the Defendant*** *in the prosecution of the Commonwealth against* Lawrence Dean & Floyd Shifflett

who stands charged with and indicted for a felony ~~misdemeanor.~~

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

Witness, J. ROBERT SWITZER, *Clerk of our said Court, at the Court House, the* 8th *day of* Oct. 19 49, *and in the* 174th *year of the Commonwealth.*

J. Robert Switzer, *Clerk*

By M. Bowers, D. C.

Lawrence Brown x
Floyd Shifflett
do.
Com.
Julian F. Hackman,
P.S.

Not finding Russell Shifflett at his usual place of abode, Executed 10-8-49 by delivering a true copy of this Summons to Annie Shifflett his mother in person, at said Russell Shifflett's usual place of abode Annie Shifflett being a member of his family above the age of 16 years, and explaining the purport thereof to her.

E. O. Reed deputy for
Sam H. Callender SRC

Fees $1.60 Paid

Oct. 10 1949

Executed 10-8-49 by delivering a true copy of the within summons to Jim Shifflett
Bonnie Hamilton Chas. Shifflett
M. Shifflett
E. O. Reed deputy for
Sam H. Callender SRC

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Harry Lam, Blanch Stanley, Charles Sly, + Perry Bailey,

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 10th *day of* October 1949 *to testify and the truth to say in behalf of the Defendant in the prosecution of the Commonwealth against* Lawrence Dean + Floyd Shiffler

who stands charged with and indicted for a felony ~~misdemeanor~~.

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

Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the 4th *day of* October 1949, *and in the* 174th *year of the Commonwealth.*

J. Robert Switzer, *Clerk*

Lawrence Dean &
Floyd Shifflett

Received 10-5-49 by delivering a true copy
of the within summon to Larry Bailey
Blanch Bailey wife.
Charles Bly

E. P. Keel Dep for
Jane A. Calhoun N.P.C.

Sheriff's fee Pl.
$1.60

1949
Oct. 10

Not finding Larry Dean at his usual place of abode, Executed 10-5-49 by delivering a true copy of this summons to Mrs Larry Dean wife in person, at said Larry Dean's usual place of abode Mrs Larry Dean, being a member of his family above the age of 16 years, and explaining the purport thereof to her.

E. P. Keel Dep for
Jane A. Calhoun N.P.C.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Charles Slye, Harry Lam, Lawrence Shifflett, Guy Monger & Perry Bailey

Elkton

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 17th *day of* June 1948 *to testify and the truth to say in* ***behalf of the Defendant*** *in the prosecution of the Commonwealth against* Lawrence Dean & Floyd Shifflett

who stands charged with and indicted for a felony ~~misdemeanor.~~

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

Witness, J. ROBERT SWITZER, *Clerk of our said Court, at the Court House, the* 15th *day of* June 1948, *and in the* 172 *year of the Commonwealth.*

J. Robert Switzer, *Clerk*

Lawrence Dean &
Floyd Shufflett
adj
Com

Received 6-15-48 by delivering a true copy
of the within summon to Jerry Lane
Perry Bailey, Leg Manager

S.P. Conrad, p.d.

Sheriff Fees 2.00

1948
June 17

each in person. E. V. Red. Atty for
Jane H. Calhoun. Pltf.

[illegible] years, and explai[illegible]
to her.

Not finding Lawrence Shifflett at his usual place of abode, Executed 6-15-48 by delivering a true copy of this Summons to Mrs Lawrence Shifflett his Wife in person, at said Lawrence Shifflett usual place of abode Mrs Lawrence Shifflett a member of his family above the age of 16 years, and explaining the purport thereof to her.

E. V. Reed Dep for
Sam H Callender Sh.

Not finding Charles Slye at his usual place of abode, Executed 6-15-48 by delivering a true copy of this Summon to Mrs Charles Slye his Wife in person, at said Charles Slye usual place of abode Mrs Charles Slye, being a member of his family above the age of 16 years, and explaining the purport thereof to her.

E. O. Reed Dep for
Sam. H. Calhoun Sheriff

*

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2.00
1.60
1.60
5.60 *
150
---
71 0

7/	
12/6	
5.00	
1.00	
1.00	
2.00	
4.0	

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon John Crawford

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10:00 o'clock, a. m., on the 10th day of October 19 49, to testify and the truth to say in behalf of the Commonwealth against

LAWRENCE DEAN and FLOYD SHIFFLETT

who stands charged with and indicted for a felony ~~misdemeanor.~~

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

Witness, ~~J. ROBERT SWITZER, Clerk of our said Court~~, at the Court House, the 28th day of September, 1949, and in the 174th year of the Commonwealth.

Clerk

Commonwealth's Attorney, Clerk

THE SERVICE PRESS, HARRISONBURG, VA.

COM.

V.) Subpoena

LAWRENCE DEAN and FLOYD
SHIFFLETT

To October 10, 1949 at
10:00 a.m.

Sheriff Fees $.40

EXECUTED 9-29-49 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN Summons
TO John Crawford
IN PERSON.

E. L. Reed Dep for
Dan H. Callaway S.R.C.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Dr. N. M. Canter, Dr. H. Helbert, and H. E. Taylor

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 17th day of June 1948, to testify and the truth to say in behalf of the Commonwealth against Lawrence Dean and Floyd Shifflett

who stand~~s~~ charged with and indicted for a felony ~~misdemeanor~~.

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

Witness, ~~J. ROBERT SWITZER, Clerk of our said Court,~~ at the Court House, the 9th day of June, 1948, and in the ~~16~~ 172nd year of the Commonwealth.

Geo Carrad, ~~Clerk~~
Commonwealth's Attorney

THE SERVICE PRESS

COMMONWEALTH

V.) Witness Subpoena

LAWRENCE DEAN and
FLOYD SHIFFLETT

To June 17, 1948 at
9:30 a.m.

Witnesses:

1. Dr. Canter
2. Dr. Helbert
3. H. E. Taylor

Sheriff Fees 1.20

Executed 6-16-48 by delivering a true copy of the within summon to Dr Canter, Dr Helbert and H E Taylor

Tom Bailey a BC Inv

each in person.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon John Roach, John Duff and Tom Bailey

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 17th day of June 19 48, to testify and the truth to say in behalf of the Commonwealth against Lawrence Dean and Floyd Shifflett

who stands charged with and indicted for a felony ~~misdemeanor.~~

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

Witness, ~~J. ROBERT SWITZER, Clerk of our said Court,~~ at the Court House, the 9th day of June, 1948, and in the ~~16~~ 172nd year of the Commonwealth.

Geo Conrad, ~~Clerk~~
Commonwealth's Attorney

THE SERVICE PRESS

EXECUTED 6-16-48 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN summons TO John Duff IN PERSON. Tom Bailey deputy

COMMONWEALTH

V.) Witness Subpoena

LAWRENCE DEAN and
FLOYD SHIFFLETT

To June 17, 1948 at
9:30 a.m.

Witnesses:

1. John Roach
2. John Duff
3. Tom Bailey

Sheriff Fees $1.20

EXECUTED 6/16/48 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Subpoena TO Tom Bailey IN PERSON. C. L. Kiser Deputy for Sam H. Collier Jr. S.R.C.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon C. W. Saunders, Jr., V. O. Smith and John Crawford

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 17th day of June 1948, to testify and the truth to say in behalf of the Commonwealth against Lawrence Dean and Floyd Shifflett

who stands charged with and indicted for a felony ~~misdemeanor.~~

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

Witness, ~~J. ROBERT SWITZER, Clerk of our said Court,~~ at the Court House, the 9th day of June, 1948, and in the ~~16~~ 172nd year of the Commonwealth.

Commonwealth's Attorney, ~~Clerk~~

THE SERVICE PRESS

COMMONWEALTH

V.) Witness Subpoena

LAWRENCE DEAN and
FLOYD SHIFFLETT

To June 17, 1948 at
9:30 a.m.

Witnesses:

1. C. W. Saunders, Jr.
2. V. O. Smith
3. John Crawford

Sheriff Fee $1.20

Executed 6-14-48 by delivering a true copy of the within summon to C. W. Saunders Jr., V. O. Smith and John Crawford

Tom Bailey a Bailiff

Each in person.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Joe Sugaroo

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 20th day of May 19 48, to testify and the truth to say in behalf of the Commonwealth against Lawrence Dean

who stands charged with and indicted for a felony ~~misdemeanor~~.

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

Witness, ~~J. ROBERT SWITZER, Clerk of our said Court~~, at the Court House, the 18th day of May, 19 48, and in the ~~16~~ 172nd year of the Commonwealth.

Commonwealth's Attorney, ~~Clerk~~

THE SERVICE PRESS

COMMONWEALTH

V.) Witness Subpoena

LAWRENCE DEAN

To May 20, 1948 at
9:30 a.m.

Witness:

Joe Sugaroo

EXECUTED 5-18-48 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN Summons
TO Joe Sugaroo
IN PERSON.

E. O. Reed, Dep for
Sam H. Calhoun S.P.C.

Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon John Crawford and Harless E. Taylor

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 17th *day of* May 19 48, *to testify and the truth to say in behalf of the Commonwealth before the GRAND JURY* in the case of Lawrence Dean and Floyd Shifflett

who stands charged with a felony ~~*misdemeanor*~~.

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

Witness, ~~*J. ROBERT SWITZER, Clerk of our said Court,*~~ *at the Court House, the* 8th *day of* May 19 48, *and in the* 172nd *year of the Commonwealth.*

Geo. E. Carrier, ~~Clerk~~

Commonwealth's Attorney

THE SERVICE PRESS, HARRISONBURG, VA.

COMMONWEALTH

V.) ~~Grand Jury~~ GRAND JURY Summons

LAWRENCE DEAN AND
FLOYD SHIFFLETT

To May 17, 1948 at
9:30 a.m.

EXECUTED 2-3-48 IN THE COUNTY OF ROCKINGHAM BY DELIVERING A TRUE COPY OF THE WITHIN Summons TO John Crawford and Ms E IN PERSON.

Taylor Via & BC Atkins, Richmond
Tom Baily & BC Shue

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon Millard Davis

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 9:30 o'clock, a. m., on the 17th day of June 1948, to testify and the truth to say in behalf of the Commonwealth against Lawrence Dean and Floyd Shifflett

who stands charged with and indicted for a felony ~~misdemeanor.~~

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

Witness, ~~J. ROBERT SWITZER, Clerk of our said Court~~, at the Court House, the 17th day of June, 19 48, and in the ~~16~~ 172nd year of the Commonwealth.

Commonwealth's Attorney, ~~Clerk~~

THE SERVICE PRESS

COMMONWEALTH

V.) Witness Subpoena

LAWRENCE DEAN and FLOYD
SHIFFLETT

To June 17, 1948 at
9:30 a.m.

Sheriff fee 40

EXECUTED 6-17-48 IN THE COUNTY OF
ROCKINGHAM BY DELIVERING A TRUE
COPY OF THE WITHIN summons
TO Millard Davis
IN PERSON.

Tom Bailey
R.B.C. Sur

List of persons ~~drawn~~ selected from the regular jury list as provided by law, to be summoned forthwith to serve as jurors upon the trial of Lawrence Dean and Floyd Shifflett, charged with felony, set for trial this 17th day of June, 1948:

J. A. Hollen	471	A.	Dee C. Smucker		P.
Harry C. Long		A.	L. C. Hutton		P.
Robert F. Garber		A.	Joe R. Rhodes	in Baltimore	P.
Chas. W. Wampler, Jr.	930W	A.	John P. Zirkle		P.
A. S. Kiser		C.	H. Westbrook Hawkins	52	H.
Isaac C. Shifflett		C.	John H. Rolston	1727	H.
Raymond Weaver		C.	Paige P. Price	16	H.
Roy L. Frank		C.	Hubert B. Layman	469-R	H.
J. F. Byerly		L.	Garold Myers	158 Bath 952-J	H. vacation
Beery H. May		L.	D. C. Stickley	422 937-L	H.
J. O. Beard		L.	Harold E. Shomo	728-J	H.
John D. Moore		P.	C. William Frank	1318	H.

711

Drawn this 17th day of June, 1948.

_____, Clerk.

Drawn in my presence.

_____, Judge.

_____, Angle.

Please be in my presence.

_____, Grace.

Please make this day of June, 1918.

List of persons chosen from the regular jury list as selected

Provided by law, to be summoned to serve as jurors upon the trial of Lawrence Dean and Floyd Spillers, charged with larceny.

Set for trial June 17th day of June, 1918:

A. A. Hollen	A.	Doe C. Sanders	P.
Harry C. Lowe	A.	L. C. Hatton	P.
Robert P. Carter	A.	Joe H. Hodges	P.
Chas. W. Mumford, Jr.	A.	John P. Kirkle	P.
A. S. Kirby	C.	H. Hempstead Hawkins	H.
Isaac C. Spillers	C.	John H. Holston	H.
Raymond Gewart	C.	Hayle P. Price	H.
Roy L. Frank	C.	Robert B. Lawson	H.
A. P. Shortly	L.	Charles Hayes	H.
Henry H. Ney	L.	D. C. Ballowley	H.
J. O. Bonds	L.	Harold E. Shomo	H.
John L. Moore	L.	C. Allison Tacon	H.

RICHMOND
MAR 21
1 30 PM
1949
VA.

PART OF THE TEAM
FOR SECURITY
ARMY DAY, APRIL

Mr. J. Robert Switzer, Clerk

Circuit Court of Rockingham County

Harrisonburg, Virginia

SUPREME COURT OF APPEALS OF VIRGINIA

Richmond March 21, 1949

DEAR SIR:

I am in receipt of two original exhibits

in the case of—

Dean & Shifflett vs. Commonwealth

Which will have proper attention.

Clerk.