

43994

8/17/63 received
George P. Shifflett
COUNTY COURT

Criminal
Docket

Nº 43995 A

Commonwealth

v.

Bond
Edward Lewis Shifflett
Defendant

Appearance Date 8-19-63

Trial Date 9-27-63

GRAND JURY
9-24-63 PRQ. Judge



STATE OF VIRGINIA
~~XXICOUNTY~~ OF Harrisonburg
City

To-Wit: No. _____

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, James R. Sipe

has this day made complaint and information on oath before me, John G. Leake
Justice of The Peace City (Name)
of the said ~~County~~ Rockingham
(Title) Edward Lewis Shifflett in ~~the said~~ County

or about 17th day of August, 19 63: Unlawfully and feloniously
did on the kill and murder one George Pickett Shifflett, against the peace and dignity of the
Commonwealth of Virginia

These are, therefore, to command you, in the name of the Commonwealth, to apprehend and bring before the
Rockingham
County 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 19th day of August, 1963

John G. Leake (Seal)
JUSTICE OF THE PEACE
(Title of Issuing Officer)

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

I, _____ a Judge of the County Court Justice of the Peace in and for the County aforesaid, State of Virginia, do certify

that _____

and _____, as his suret _____, have this day each acknowledged themselves indebted

to the Commonwealth of Virginia in the sum of _____ Dollars

(\$ _____), 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 _____, shall appear before the Circuit Court of _____ County,

of _____ County, on the _____ day of _____, 19____,

at _____ M., at _____, 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 _____ shall keep the peace and be of good behavior for a period of _____ days from the date hereof. Nonappearance shall be deemed to constitute a waiver of trial by jury.

Given under my hand, this _____ day of _____, 19____.

Judge. J. P.

DOCKET NO. 43995

COMMONWEALTH

vs. WARRANT OF ARREST Edward Lewis Shifflett

Executed this, the 19th day of _____, 1963

Handwritten signature and date: 1963

There being sufficient probable cause the defendant is held for action by the Grand Jury of Rockingham County, Virginia.

Given under my hand this 27th day of September, 1963.

Handwritten signature and name: ROCKINGHAM COUNTY JUDGE

Bond \$9500.00

Handwritten note: 10-9-29-63 2:21 PM

Costs _____

Handwritten note: Total \$14.8-10-63

The following witnesses were recognized to appear before the Circuit Court of _____ County, _____

Virginia, at _____ M., on the _____ day of _____, 19____

under penalty of \$ _____

COSTS

Warrant \$ 2.00

Trial 2.00

Bail _____

Clerk 1.25

Commial .50

Witnesses _____

Sheriff/Sergeant: Fees 1.00

Mileage _____

Commonwealth Attorney 5.00

Weighing Fee _____

Total Costs _____

Fine _____

Total _____

STATE OF VIRGINIA
COUNTY OF _____

To-Wit: _____ No. _____

TO ANY SHERIFF OR POLICE OFFICER:

Whereas, _____

has this day made complaint and information on oath before me, _____

(Name)

_____ of the said County, that

(Title)

_____ in the said County

did on the _____ day of _____, 19____: Unlawfully _____

These are, therefore, to command you, in the name of the Commonwealth, to apprehend and bring before the County 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 _____ day of _____, 19____

_____ (Seal)
(Title of Issuing Officer)

STATE OF VIRGINIA—COUNTY OF Harrisonburg City, to-wit:
I, John G. Leake a Judge of the County Court in and for the City County aforesaid, State of Virginia, do certify

that Edward Lewis Shifflett
and Lucy M. Shifflett-Lloyd Shifflett, as his suret ies, have this day each acknowledged themselves indebted
William C. Shifflett & Reva Shifflett
to the Commonwealth of Virginia in the sum of SEVEN THOUSAND FIVE HUNDRED Dollars

(\$ 7500.00), 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 Edward Lewis Shifflett, shall appear before the Circuit Court of Rockingham County, on the 27th day of September, 19 63, at 2 P. M., at Harrisonburg, 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 _____ shall keep the peace and be of good behavior for a period of _____ days from the date hereof. Nonappearance shall be deemed to constitute a waiver of trial by jury.

Given under my hand, this 22nd day of August, 19 63,
John G. Leake Judge. J. P.

DOCKET NO. 43995

COMMONWEALTH

WARRANT OF ARREST

vs.

Executed this, the _____ day of _____, 19 _____

Upon the examination of the within charge, I find the accused

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

COSTS

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

Warrant _____ \$
Trial _____
Bail _____
Clerk _____
Committal _____
Witnesses _____
Sheriff/Sergeant: _____
Fees _____
Mileage _____
Commonwealth Attorney _____
Weighing Fee _____
Total Costs _____
Fine _____
Total _____

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION 1

The Court instructs the Jury that murder in the first degree is any willful, deliberate and premeditated killing of one human being by another with malice.

Murder in the second degree is the willful killing of one human being by another with malice, but without any deliberation and premeditation.

Voluntary manslaughter is the intentional killing of one human being by another without malice, in the heat of sudden passion engendered or brought about by reasonable provocation or in mutual combat.

Involuntary manslaughter is the killing of one accidentally, contrary to the intention of the parties, in the prosecution of some unlawful, but not felonious, act; or, in the improper performance of a lawful act.

H. H.

COMMONWEALTH

v.

EDWARD I. SHIFFERT

INSTRUCTION

The Court instructs the Jury that murder in the first degree is any willful, deliberate and premeditated killing of one human being by another with malice.

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Involuntary manslaughter is the killing of one accidentally, contrary to the intention of the parties, in the prosecution of some unlawful, but not felonious, act; or, in the improper performance of a lawful act.

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION 2

The Court instructs the jury that every unlawful homicide in Virginia is presumed in law to be murder in the second degree. In order to elevate the offense to murder in the first degree, the burden of proof is on the Commonwealth; and in order to reduce the offense to manslaughter, or to show a justification or excuse, the burden is upon the accused.

A, A,

COMMONWEALTH

v.

EDWARD J. SHIFFETT

INSTRUCTION

The Court instructs the jury that every unlawful homicide in Virginia is presumed in law to be murder in the second degree. In order to elevate the offense to murder in the first degree, the burden of proof is on the Commonwealth; and in order to reduce the offense to manslaughter, or to show a justification or excuse, the burden is upon the accused.

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION 3

The Court instructs the jury that if they believe from the evidence in this case beyond a reasonable doubt that the defendant, Edward L. Shifflett, inflicted the mortal blow upon George Pickett Shifflett, the law presumes him to be guilty of murder in the second degree, and the Court further instructs the jury that if the defendant relies upon self-defense to excuse or justify the killing, the burden is upon the defendant to introduce supporting evidence that he acted in self-defense; and in deciding whether or not the plea of self-defense is established by such supporting evidence, it is the duty of the jury to take into consideration all the facts and circumstances proved in the case, both by the Commonwealth and the defendant.

H. H.

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION ↓

The Court instructs the jury that to constitute a willful, deliberate and premeditated killing, it is not necessary that the intention to kill should exist for any particular length of time prior to the actual killing; it is only necessary that there was some deliberation and premeditation given by the accused to his purpose at the time of the killing or at any time previously.

H. H.

COMMONWEALTH

v.

EDWARD J. SHEFFETT


INSTRUCTION

The Court instructs the jury that to constitute a willful, deliberate and premeditated killing, it is not necessary that the intention to kill should exist for any particular length of time prior to the actual killing; it is only necessary that there was some deliberation and premeditation given by the accused to his purpose at the time of the killing or at any time previously.

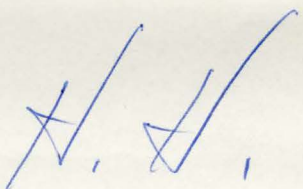
COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION 

The Court instructs the jury that malice necessary to constitute the crime of murder may be either express or implied. The word "malice" in the foregoing definitions of murder is used in a technical sense, and includes not only anger, hatred and revenge, but every unlawful and unjustifiable motive. It is not confined to ill will to any one or more particular persons, but is intended to denote an action flowing from any wicked and corrupt motive, done with an evil mind and purpose and wrongful intention, where the act has been attended with such circumstances as to carry in them the plain indication of a heart regardless of social duty and deliberately bent on ^{harm} ~~mischief~~; therefore malice is implied by law from any willful, deliberate and cruel act against another however sudden.



INSTRUCTION

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H. A.

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION 6

The Court instructs the jury that in the absence of proof to the contrary, malice may be implied from the deliberate use of a deadly weapon, when used to cause another death or serious bodily injury.

A. A.

COMMONWEALTH

v.

EDWARD J. SHIFFLETT

INSTRUCTION

The Court instructs the jury that in the absence of proof to the contrary, malice may be implied from the deliberate use of a deadly weapon, when used to cause another death or serious bodily injury.

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION

7

The Court instructs the jury 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 and wilfully, but not maliciously, intending thereby either to maim, disfigure, disable or kill such other.

H. A. V.

COMMONWEALTH

v.

EDWARD J. SHIFFRITT

INSTRUCTION

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COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION 8

The Court instructs the jury that the difference between a malicious cutting, with intent to maim, disfigure, disable or kill, and unlawful cutting, with like intent, depends upon the presence or absence of malice on the part of the accused.

H. H.

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION

9

The Court instructs the jury that a man is presumed to intend the natural and probable consequences of his act.

H. H.

COMMONWEALTH

v.

EDWARD L. SHIFFLETT

9 INSTRUCTION

The Court instructs the jury that a man is presumed to intend the natural and probable consequences of his act.

Edward L. Shifflett

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION 10

In considering whether or not the Commonwealth has met its burden of proving the guilt of the accused beyond reasonable doubt, the Court instructs the jury that you should not overlook the word "reasonable" nor its meaning. A reasonable doubt is a doubt which is founded on reason, and is not to be confused with imaginable or possible doubt, for the law does not say that a man must be proved guilty beyond every imaginable, conceivable or possible doubt.

In passing upon the sufficiency of the proof of the charge, the jury must limit its consideration to the evidence presented at the trial of this case, including the natural and reasonable inferences ~~of guilt~~ *to be drawn therefrom.*

Furthermore, the jury should bear in mind that any doubt arising from lack of evidence, from conflicting testimony or from questionable proof of any particular fact, should be a doubt of a material fact essential to the proof of the guilt of the accused and not a mere doubt concerning immaterial and non-essential circumstances.

If, after a reasonable and honest consideration of all of the evidence, your minds are left in such a state of doubt as to prevent you from reaching a convinced belief of the guilt of the accused, then the Commonwealth has failed to meet its burden.

If, on the other hand, after an impartial and reasonable consideration of all the evidence in the case, you have an abiding conviction of the truth of the charge, you are then satisfied beyond all reasonable doubt.

[Handwritten signatures]

10 INSTRUCTION

In considering whether or not the Commonwealth has met its burden of proving the guilt of the accused beyond reasonable doubt, the Court instructs the jury that you should not overlook the word "reasonable" nor its meaning. A reasonable doubt is a doubt which is founded on reason, and is not to be confused with imaginable or possible doubt, for the law does not say that a man must be proved guilty beyond every imaginable, conceivable or possible doubt.

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If, on the other hand, after an impartial and reasonable consideration of all the evidence in the case, you have an abiding conviction of the truth of the charge, you are then satisfied beyond all reasonable doubt.

COMMONWEALTH

V.

EDWARD L. SHIFFLETT

INSTRUCTION 11

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and 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 opportunity of the witnesses to know whereof they speak, the relationship of the witnesses to the parties, if any, the interest of the witness in the result of the trial, if any appear, and from all other surrounding circumstances appearing on the trial, the jury has the right to 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.

COMMONWEALTH

v.

EDWARD I. SHIFFLET

INSTRUCTION

The Court instructs the jury that the credibility of witnesses is a question exclusively for the jury; and 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 opportunity of the witnesses to know whereof they speak, the relationship of the witnesses to the parties, if any, the interest of the witness in the result of the trial, if any appear, and from all other surrounding circumstances appearing on the trial, the jury has the right to determine which witnesses are more worthy of credit and what is the relative weight of any such testimony and to give credit accordingly.

A

The court instructs the jury that in order for the killing to amount to murder in the first degree it must involve on the part of the defendant wilfulness, deliberation and premeditation, with malice aforethought, and if the Commonwealth has not proved such beyond all reasonable doubt, then the defendant cannot be guilty of that crime.

A. A.

A

The court instructs the jury that in order for the killing to amount to murder in the first degree it must involve on the part of the defendant willfulness, deliberation and premeditation, with malice aforethought, and if the Commonwealth has not proved such beyond all reasonable doubt, then the defendant cannot be guilty of that crime.

A.H.

B

The court instructs the jury that in order for the killing to amount to murder in the second degree, it must involve on the part of the defendant malice, though not necessarily ~~wilfulness~~, deliberation and premeditation. If the Commonwealth has not proved such beyond all reasonable doubt, then the defendant is not guilty of that crime.

H H

114

of the
the court, when the defendant is not guilty of the
if the commission has not proved such beyond all reason-
necessarily ~~disproved~~ deprecation and presumption.
in fact on the part of the defendant, which, though not
sufficient to amount to murder in the second degree, is what
the court instructs the jury that in order for the

15

e

The court instructs the jury that in order for the killing to amount to voluntary manslaughter, such killing must involve on the part of the defendant an intentional act, but without malice, such as upon sudden heat of passion, and if the Commonwealth has not proved such beyond all reasonable doubt, then the defendant cannot be guilty of that crime.

H H

D

The court instructs the jury that in order for the killing to amount to involuntary manslaughter it must involve on the part of the defendant a killing contrary to intention, in the prosecution of some unlawful but not felonious act, or in the improper performance of a lawful act. If the Commonwealth has not proved such beyond all reasonable doubt, then the defendant cannot be guilty of that crime.

H H

D

The court instructs the jury that in order for the killing to amount to involuntary manslaughter it must involve on the part of the defendant a killing contrary to intention, in the prosecution of some unlawful but not felonious act, or in the improper performance of a lawful act. If the Commonwealth has not proved such beyond all reasonable doubt, then the defendant cannot be guilty of that crime.

H
H

EVERETT

E

The court further instructs the jury, that, every homicide in Virginia is presumed to be murder in the second degree. In order to elevate the homicide to murder in the first degree, the burden of proof is upon the Commonwealth, and in order to reduce the offense to manslaughter, or to justify or excuse it, the burden of proof is upon the accused. It is, however, the duty of the jury to consider all of the testimony, no matter by whom introduced, and ascertain therefrom if the accused is guilty or innocent, and if guilty, of what offense.

H H

The court further instructs the jury that every homicide in Virginia is presumed to be murder in the second degree, in order to elevate the homicide to murder in the first degree, the burden of proof is upon the Commonwealth, and in order to reduce the offense to manslaughter, or to justify or excuse it, the burden of proof is upon the accused. If in, however, the duty of the jury to consider all of the testimony, no matter by whom introduced, and ascertain therefrom if the accused is guilty or innocent, and if guilty, of what offense.

F

The court instructs the jury that it is not sufficient to surmise that the licks struck by the defendant might or possibly or probably did result in the death of George Pickett Shifflett, but you must believe from all the evidence beyond a reasonable doubt that the death was the actual result of the blows before you can find the defendant guilty of murder or manslaughter.

H. H.

W. BENTON FIBER

A. A.

May 1902

before you can find the defendant guilty of murder or
a reasonable doubt that the death was the actual result of the
defendant, but you must believe from all the evidence beyond
possibility or probability the result in the death of George Hackett
to believe that the stick struck by the defendant which is
the cause in fact the only that it is not sufficient

H

6

The court further instructs the jury that if one is unjustifiably ~~and feloniously~~ assaulted he does not have to retreat, but may stand his ground and repel force by force and may use such force as to him may seem reasonably necessary to repel the attack, even to the taking of the life of the assailant.

A. H.

①

The court further instructs the jury that if one is unjustifiably and unlawfully assaulted he does not have to retreat, but may stand his ground and repel force by force and may use such force as to him may seem reasonably necessary to repel the attack, even to the taking of the life of the assailant.

11/17

H

The court instructs the jury that where there is more than one assailant, the slayer has the right to act upon the hostile demonstration of either one or all of them, and to kill either one or all of them, if it reasonably appears to him that they were present for the purpose and acting together to take his life or to do him some serious bodily injury.

H. H.

#

The court instructs the jury that where there is
more than one assailant, the slayer has the right to act
upon the hostile demonstration of either one or all of
them, and to kill either one or all of them, if it reasonably
appears to him that they were present for the purpose and
acting together to take his life or to do him some serious
bodily injury.

H. A.

11111

I

The court instructs the jury that if they believe from the evidence that George Pickett Shifflett or George Pickett Shifflett with others, did any act or that there were circumstances brought about by them of such a character as to afford the defendant a reasonable grounds for believing that the said George Pickett Shifflett, or he in conjunction with others, designed to kill him, the said defendant, or to inflict on him great bodily harm, and there was imminent danger of carrying such design into immediate execution, then, under these circumstances, the killing is excusable, although it may have turned out afterwards that the appearances were deceptive, and there was no design on the part of George Pickett Shifflett to kill the defendant or to do him great personal injury, and the jury must acquit the defendant.

A. A.

The court instructs the jury that if they believe from the evidence that George Pickett Shifflet or George Pickett Shifflet with others, did any act or that there were circumstances brought about by them of such a character as to afford the defendant a reasonable ground for believing that the said George Pickett Shifflet, or he in conjunction with others, designed to kill him, the said defendant, or to inflict on him great bodily harm, and there was imminent danger of carrying such design into immediate execution, then, under these circumstances, the killing is excusable, although it may have turned out afterwards that the appearances were deceptive, and there was no design on the part of George Pickett Shifflet to kill the defendant or to do him great personal injury, and the jury must acquit the defendant.

J

The court instructs the jury that in passing upon the danger, if any, to which the accused was exposed, you will consider the circumstances as they reasonably appeared to the accused and draw such conclusions from these circumstances as he could reasonably have drawn, situated as he was at the time; in other words, the court instructs you that the accused is entitled to be tried and judged by facts and circumstances as they reasonably appeared to him and not by any intention that may or may not have existed in the mind of the deceased.

H. J.

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as they reasonably appeared to him and not by any intention
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as he could reasonably have drawn, situated as he was at the
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consider the circumstances as they reasonably appeared to
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The court instructs the jury that in passing upon the

K

The court instructs the jury that if they believe that threats were communicated ^{to the accused}, which he believed, it is immaterial whether the threats were true or false, so far as their influence upon the action of the defendant is concerned.

H. H.

K

The court instructs the jury that if they believe that
threats were communicated, which he believed, it is immaterial
whether the threats were true or false, so far as
their influence upon the action of the defendant is con-
cerned.

H
H

L

The court instructs the jury that when a person reasonably apprehends that another intends to attack him for the purpose of killing him or doing him serious bodily harm, then such person has a right to arm himself for his own necessary self-defense.

A. D.

The court instructs the jury that when a person reasonably apprehends that another intends to attack him for the purpose of killing him or doing him serious bodily harm, then such person has a right to arm himself for his own necessary self-defense.

M

The court instructs the jury that the failure of the evidence to disclose any other criminal agent than the accused is not a circumstance which may be considered by the jury in determining whether or not he is guilty of the crime wherewith he is charged. The prisoner is presumed to be innocent until his guilt is established, and he is not to be prejudiced by the inability of the Commonwealth to point to any other criminal agent; nor is he called upon to vindicate his own innocence by naming the guilty agent.

A. H.

M

The court instructs the jury that the failure of the
 evidence to disclose any other criminal agent than the
 accused is not a circumstance which may be considered by
 the jury in determining whether or not he is guilty of the
 crime with which he is charged. The prisoner is presumed to
 be innocent until his guilt is established, and he is not
 to be prejudiced by the inability of the Commonwealth to point
 to any other criminal agent; nor is he called upon to vindicate
 his own innocence by naming the guilty agent.

W. H.

Case 4

PROVINCIAL BARRISTERS

N

The court further instructs the jury that circumstances of suspicion, no matter how grave or strong, are not proof of guilt, and that the accused must be found not guilty unless the fact of his guilt is proven beyond every reasonable doubt to the actual exclusion of every reasonable hypothesis of his innocence consistent with the fact proven.

H. A.

M

The court further instructs the jury that circumstances of suspicion, no matter how grave or strong, are not proof of guilt, and that the accused must be found not guilty unless the fact of his guilt is proven beyond every reasonable doubt to the actual exclusion of every reasonable hypothesis of his innocence consistent with the fact proven.

H. A.

COMMONWEALTH

V.

SHIFFLETT

CHARGE TO JURY

If you find the accused, Edward Lewis Shifflett, guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, and that it was willful, deliberate and premeditated, you will find him guilty of murder in the first degree and fix his punishment at death, or by confinement in the penitentiary for life, or for any term not less than twenty years.

If you find him guilty of murder, as charged in the indictment, and that the same was committed with malice aforethought, but that it was not willful, deliberate and premeditated, then you will find him guilty of murder in the second degree, and fix his punishment at confinement in the penitentiary for not less than five nor more than twenty years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, but that he killed George Pickett Shifflett without malice aforethought, actual or implied, upon sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, nor of voluntary manslaughter, but find him guilty of involuntary manslaughter, you will say so and fix his punishment at confinement in the penitentiary for not less than one nor more than five years, or, in your discretion, by a fine of not exceeding one thousand dollars, or by confinement in jail not exceeding one year, or by both such fine and imprisonment.

If you find him not guilty of murder or manslaughter, but find him guilty of maliciously cutting and wounding George Pickett Shifflett, with a knife, with intent to maim, disfigure, disable or

CHARGE TO JURY

If you find the accused, Edward Lewis Shifflett, guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, and that it was willful, deliberate and premeditated, you will find him guilty of murder in the first degree and fix his punishment at death, or by confinement in the penitentiary for life, or for any term not less than twenty years.

If you find him guilty of murder, as charged in the indictment, and that the same was committed with malice aforethought, but that it was not willful, deliberate and premeditated, then you will find him guilty of murder in the second degree, and fix his punishment at confinement in the penitentiary for not less than five nor more than twenty years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, but that he killed George Rickett Shifflett without malice aforethought, actual or implied, upon sudden heat, on reasonable provocation, or in mutual combat, you will find him guilty of voluntary manslaughter and fix his punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find him not guilty of murder in the first degree, nor of murder in the second degree, nor of voluntary manslaughter, but find him guilty of involuntary manslaughter, you will say so and fix his punishment at confinement in the penitentiary for not less than one

nor more than five years, or, in your discretion, by a fine of not exceeding one thousand dollars, or by confinement in jail not exceeding one year, or by both such fine and imprisonment.

If you find him not guilty of murder or manslaughter, but find him guilty of maliciously cutting and wounding George Rickett Shifflett, with a knife, with intent to maim, disfigure, disable or

kill, you will say so and fix his punishment by confinement in the penitentiary for a period of not less than three years nor more than twenty years. 5

If you find him not guilty of murder or manslaughter or maliciously cutting or wounding as aforesaid, but find him guilty of unlawful cutting and wounding with a knife, 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. 6

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

kill, you will say so and fix his punishment by confinement in the penitentiary for a period of not less than three years nor more than twenty years.

If you find him not guilty of murder or manslaughter or maliciously cutting or wounding as aforesaid, but find him guilty of unlawful cutting and wounding with a knife, 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 find him not guilty, you will say so and no more.