

State  
against  
Jesse Clapp & others.

The Court is respectfully asked to change the  
jury

I That 1<sup>st</sup> & 2<sup>d</sup> Counts in the bill are faulty, &  
no conviction can be had on them, or either  
of them, because the same taken either singly  
or together, do not set <sup>forth</sup> an illegal purpose,  
or a legal purpose to be accomplished in an  
unlawful manner: This; because if the  
defendants had the right of entry, they would  
have been justified in doing all they were  
charged with doing; & therefore the indictment  
ought to have negatived such right, or if the  
defendants were in actual possession of the  
premises, then, they would have been justified  
in doing all they did, in defence of their possession,  
against all the world, except the owners of the  
legal title: & therefore the indictment should  
have negatived their having actual possession,  
& asserted title in the prosecutors:

II That no conviction can be had on 3<sup>d</sup> Count,  
because it is inconsistent & contradictory in  
itself; & because it charges no actual breach  
of the peace, & no act manifestly endangering  
the peace.

III That no conviction can be had on the 4<sup>th</sup> Count.

Because it sets out no illegal purpose of  
the Assembly by any words legally sufficient.

IV That if the Jury believe that the Defendants had the possession  
of the House in the morning of the difficulty, before <sup>claiming the right to the property</sup> ~~the~~ <sup>was</sup>  
the defendant had a right to keep out the ~~plaintiff~~ <sup>them</sup> & if  
necessary to use force in so doing.

V That if Defendants ~~do not~~ <sup>are</sup> in possession as stated  
in the 4th instruction asked for, nothing else being  
shown as to <sup>the</sup> title, the law presumed title in the Defendants  
~~as possession~~.

VI But if they are convinced from  
the evidence that it was a mere intrusion  
then it was not possession.  
The jury must be convinced that the  
defendants were in rightful  
possession.

Wife Instructions  
asked for -

Place of instructions  
(M. D.)