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I was aiding the Sheriff, and as a deputy was stationed immediately in the rear of the jury box; I was in position to hear all that the jury could hear in the court room, and at no time did I hear any applause, excepting what occurred in open court, in the immediate presence of the Judge presiding and which was officially noticed by him; No cheering from the outside was heard, excepting during the polling of the jury, after their verdict had been read; I observed no misconduct on the part of any juror, and no communication or attempt to communicate with any member of the jury, except by the officers of Court in the discharge of their official duties.

Plennie Miner, makes affidavit, deposing and saying as follows:

I have seen the affidavit of W. P. Neill made for use in the above stated case and I am the Plennie Miner referred to by Neill in his affidavit; that the incident referred to by the said Neill evidently did not happen in the way and manner described by W. P. Neill but the following are the facts: On one occasion when the jury were retiring from the box to their room in the east end of the courthouse, I saw a spectator sitting who I thought spoke to a member of the jury. He did not rise from his seat nor did he take the juror by his arm nor by his hand nor did he otherwise touch the juror but appeared to speak to some one and at the time I thought said spectator addressed a member of the jury; I immediately went to him for the purpose of taking him before the Judge but he denied that he addressed the remark, which I did not hear, to the Juror and the gentleman sitting next to him assured me that this spectator was not addressing a member of the jury and the two having assured me that I was mistaken and having been thoroughly convinced that I was mistaken, I warned them that an action on the part of a spectator in addressing the jury would be a violation of the law and let the incident drop because of the fact that I was fully convinced that the mistake was mine. This described the incident as it really occurred; At not time any where in my presence did any one other than the officers of the law, acting within the discharge of their duty, address any