

*Handwritten notes at the top of the page, including the word "Indictment" and other illegible text.*

STATE OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

In the circuit court of said county:

The grand jurors in and for the body of said county of Rockingham and now attending said court at its April term, 1921, upon their oaths, do present that Clarence A. Baugher within one year next prior to the finding of this indictment, in the said county of Rockingham, did unlawfully manufacture, sell, offer, keep, store and expose for sale, give away, transport, dispense, solicit, advertise and receive orders for ardent spirits, against the peace and dignity of the Commonwealth of Virginia.

And the jurors aforesaid, upon their oaths, do further present that Clarence A. Baugher within one year next prior to the finding of this indictment in the said county of Rockingham, did unlawfully receive ardent spirits, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of W. L. Dillard and John R. Logan, witnesses sworn in court and sent before the grand jury to give evidence.

We the jury find the accused, Clarence A. Baughner guilty as charged in the indictment and fix his punishment at four months confinement in jail and a fine of four hundred dollars

Motion not ruled to

R. H. Weaver Foreman

STATE OF VIRGINIA

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of said county:

The Grand Jurors in and for the body of said county

Commonwealth vs. ) Indictment  
Clarence A. Baughner

Misdemeanor  
April term, 1921.  
A true bill  
J. C. Stables  
Foreman  
4/19/21  
Supp. 7/10

D. W. Earman  
Commonwealth's Attorney

Viol. Pro. act.

AND the Jurors aforesaid, upon their oaths, do further present that Clarence A. Baughner within one year next prior to the finding of this indictment in the said county of Rockingham, did unlawfully receive argent spirits, against the peace and dignity of the Commonwealth of Virginia. This indictment is found on the testimony of W. L. Dillard and John R. Logan, witnesses sworn in court and sent before the Grand Jury to give evidence.

Virginia, Rockingham County, to-wit:

Be it remembered that this day W. P. Baughen and  
C. C. Conrad, came before me, E. J. Lonergan,  
Justice of the Peace for Rockingham County, and severally and  
respectively acknowledged himself indebted to the Commonwealth  
of Virginia in the sum of \$500.00 to be levied on their  
respective goods and chattels, lands and tenements for the use  
of the Commonwealth rendered, at the same time waiving their  
homestead exemption as to this obligation, and any right to  
discharge any liability arising to the Commonwealth of Virginia  
under this recognizance, with coupons attachend from the bonds  
of this State:

YET UPON THIS CONSIDERATION, that if the said

C. A. Baughen

shall personally appear before Grand Jury.

Monday, April 18<sup>th</sup> 1921

then and there to answer to the Commonwealth for and concerning

charges purposed in the warrant,

of which he stands charged and shall not depart therefrom without  
leave of said court, then this recognizance shall be void, other-  
wise to remain in full force and virtue.

Before entereing into said recognizance said sure justified  
as to sufficiency .

Taken and acknowledged this 1st day of Marcy, 1921.

Edw. J. Lonergan  
J. P.

Certified to the Clerk of the Circuit Court of Rockingham County.

Commonwealth

W.D.  
Darius P. Bayne

J.P. \$100

Certified to the Clerk of the Circuit Court of Rockingham County.

J. P.

*[Signature]*

Taken and acknowledged this 1st day of May, 1921.

atticiency.

Before entering into said recognizance said sure justified

wise to remain in full force and virtue.

leave of said court, then the recognizance shall be void, other-

of which he stands charged and shall not depart therefrom without

charges professed in the warrant.

then and there to answer to the Commonwealth for and concerning

Monday April 18<sup>th</sup> 1921

shall personally appear before *[Signature]*

*[Signature]*

YET UPON THIS CONSIDERATION, that if the said

of this State:

under this recognizance, with coupons attached from the bonds

discharge any liability existing to the Commonwealth of Virginia

homestead exemption as to this obligation, and any right to

of the Commonwealth rendered, at the same time waiving their

respective goods and chattels, lands and tenements for the use

of Virginia in the sum of \$500.00 to be levied on their

respectively acknowledged himself indebted to the Commonwealth

Justice of the Peace for Rockingham County, and severally and

*[Signature]*, came before me, E. J. Lorenzen,

Be it remembered that this day

*[Signature]* W. L. Bayne

Virginia, Rockingham County, to-wit:

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA.

COMMONWEALTH

V.

CLARENCE A. BAUGHER.

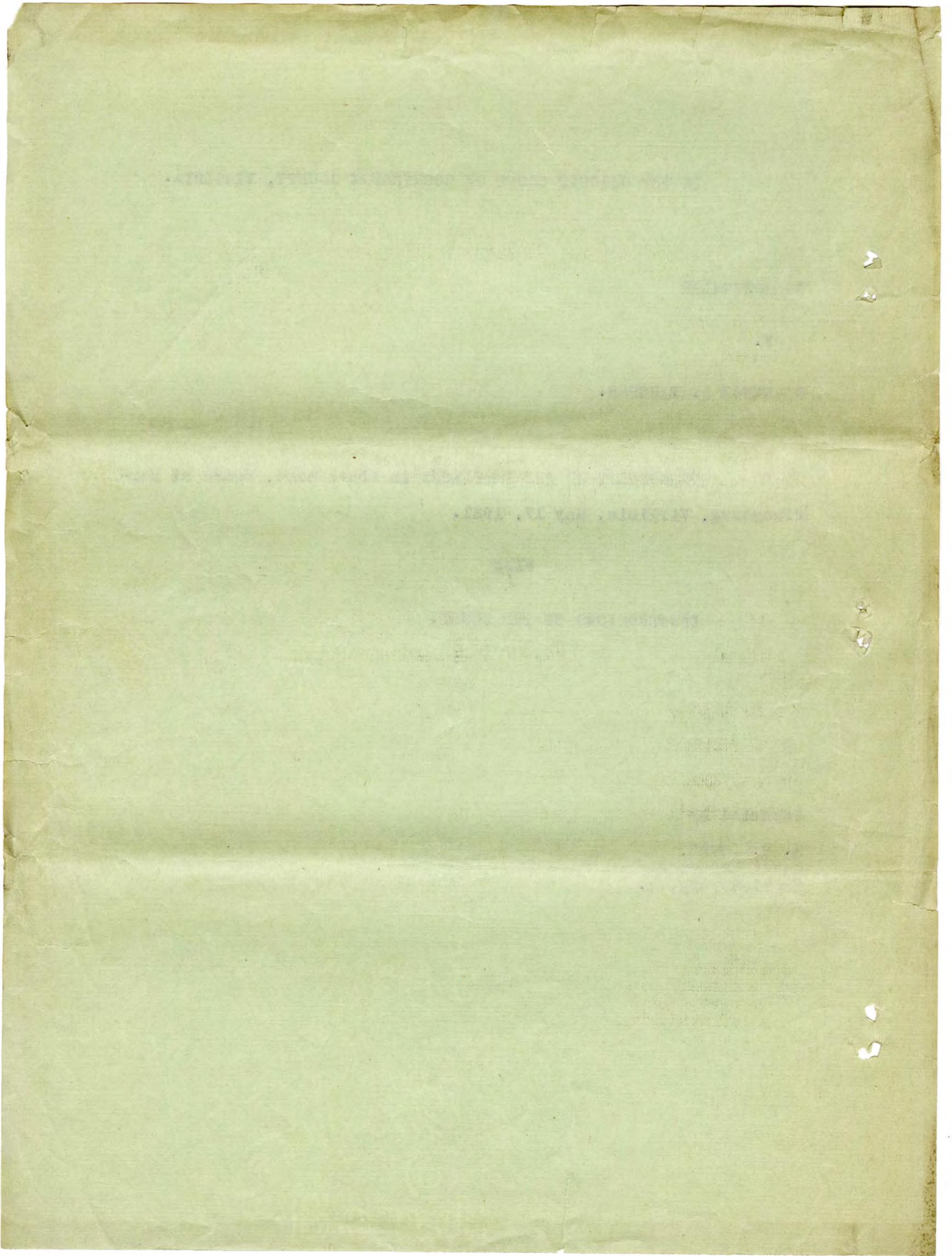
TRANSCRIPT OF THE TESTIMONY in above case, heard at Harrisonburg, Virginia, May 17, 1921.

also

INSTRUCTIONS BY THE COURT.

Reported by

A. U. Lewis,  
Court Reporter,  
Harrisonburg, Va.



IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA.

COMMONWEALTH

v).

CLARENCE A. BAUGHER.

TRANSCRIPT OF THE EVIDENCE IN ABOVE CAUSE, tried at  
Harrisonburg, Va., May 17, 1921.

I N D E X

Witness	In Chief	Cross-ex.	Redirect	Re-Cross.
Mary A. Dolan,	1	6	9	10
J. L. Logan,	14	--	--	--
W. L. Dillard,	17	--	--	--
Mrs. Dolan, recalled,	20	21		
INSTRUCTIONS	22			

Reported by  
A. U. Lewis,  
Court Reporter,  
Harrisonburg, Va.

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA.

COMMONWEALTH

v.

CLARENCE A. SAUGHEN.

TRANSCRIPT OF THE EVIDENCE IN ABOVE CASE, filed as

Harrisonburg, Va., May 14, 1931.

I N D E X

Witness	In Chief	Cross-ex.	Re-direct	Re-cross.
May A. Dolan	1	5	9	10
J. L. Logan	14	--	--	--
W. L. Dillon	14	--	--	--
Mrs. Dolan, recalled	20	21		
INSTRUCTIONS	22			

Reported by  
A. U. Lewis,  
Court Reporter,  
Harrisonburg, Va.

In the Circuit Court of Rockingham County, Virginia.

Commonwealth

V).

Clarence A. Baugher.

BE IT REMEMBERED, That upon the trial of the issue in this cause, the Commonwealth, to maintain the issue upon its part, introduced as a witness Mary A. Dolan, who, being duly sworn, testified as follows:

MARY A. DOLAN, sworn, examined by Mr. Earman for the Commonwealth, testified:

Q What is your name, Mrs. Dolan -- your given name?

A Mary A. Dolan.

Q Where do you live?

A I live on West Market Street; I think, 156; it is called "The Heights."

Q You live at 156 West Market Street, at a place called "The Heights"?

A Yes, sir. I am not sure of the number, because we did not have any number when we went there -- just went by the name -- and my son put the number on, and I am not very well acquainted with it.

Q How long have you been living there?

A I think, since this last first of April, a year.

Q April 1920?

In the Circuit Court of Rockingham County, Virginia.

Commonwealth

v.

Clarence A. Bughner.

BE IT REMEMBERED, That upon the trial of the issue in this case, the Commonwealth, to maintain the issue upon its part, introduced as a witness Mary A. Dolan, who, being duly sworn, testified as follows:

MARY A. DOLAN, sworn, examined by Mr. Korman for the Commonwealth, testified:

Q What is your name, Mrs. Dolan -- your given name?

A Mary A. Dolan.

Q Where do you live?

A I live on West Market Street; I think, 156; it is called

"The Heights."

Q You live at 156 West Market Street, at a place called "The

Heights"?

A Yes, sir. I am not sure of the number, because we did not

have any number when we went there -- just went by the name -- and

my son put the number on, and I am not very well acquainted with it.

Q How long have you been living there?

A I think, since the first of April, a year.

Q April 1920?

A I cannot give you the exact date.

Q Did Mr. Clarence A. Baugher have a room at your home?

A Yes, sir.

Q By the way, you do, I believe, conduct a -- you run a boarding house or rooming-house?

A No, sir; I just run a rooming house.

Q A rooming house?

A Yes, sir.

MR. HAMMER: How many roomers did you have over there?

WITNESS: I did not have the house full.

MR. HAMMER: Almost full, wasn't it?

WITNESS: I think there is --

MR. HAMMER: Just about how many?

WITNESS: There are 12 or 16 rooms that we rent out. I think it is 12 rooms that we rent out for roomers.

Q Were you renting that many about the time that Baugher was arrested?

A I cannot tell you.

MR. HAMMER: I understood you to ask about the number of rooms in the house, and not the number of roomers.

MR. EARMAN: That is immaterial.

Q You say you have some 12 or 15 rooms that you rent?

A I have twelve rooms that I rent out.

Q Do you know whether they were all rented out when Baugher was there?

A No, sir; I could not say whether they were or not.

Q You had other <sup>rooms</sup> ~~rooms~~ than ~~the room~~ Baugher had at that time?

A Oh, yes, sir.

A I cannot give you the exact date.

Q Did Mr. Clarence A. Baughner have a room at your house?

A Yes, sir.

Q By the way, you do, I believe, conduct a -- you run a board-

ing house or rooming-house?

A No, sir; I just run a rooming house.

Q A rooming house?

A Yes, sir.

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WITNESS: I did not have the house full.

MR. HAMMERS: Almost full, wasn't it?

WITNESS: I think there is --

MR. HAMMERS: Just about how many?

WITNESS: There are 12 or 13 rooms that we rent out. I think it is 12 rooms that we rent out for room-

ing.

Q Were you renting that many about the time that Baughner was

there?

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A I cannot tell you.

MR. HAMMERS: I understood you to ask about the number of rooms in the house, and not the number of roomers.

MR. HAMMERS: That is immaterial.

Q You say you have some 12 or 13 rooms that you rent?

A I have twelve rooms that I rent out.

Q Do you know whether they were all rented out when Baughner

was there?

A No, sir; I could not say whether they were or not.

Q You had other rooms than the room Baughner had at that time?

A Oh, yes, sir.

Q You know when he was arrested, charged with having this liquor in his possession, don't you?

A No, sir; I don't remember the date.

Q You know it is a fact that he was arrested?

A Yes, sir.

Q About when was it do you suppose? About when? Was it this year sometime?

A Oh, yes, sir; it was this year.

THE COURT: Do you know in what month it was?

WITNESS: I don't think I know. Of course, I could tell if I had my book.

THE COURT: It is not necessary to be exact as to the date. About when was it?

WITNESS: I would not like to say, for I did not take any account of the time since he has been away.

MR. EARMAN: Probably, we can establish that.

THE COURT: It was since the first of last January, was it not?

WITNESS: Oh, yes, sir.

THE COURT: You say, you live here in the town of Harrisonburg, on West Market Street?

WITNESS: Yes, sir.

Q You live on West Market Street, in this town?

A Yes, sir.

Q I believe it was on your complaint that this search warrant was issued?

A Yes, sir.

Q Why did you have this search -- Why did you have his room searched, Mrs. Dolan?

A Because I suspicioned for sometime that the business was going on, and I am very much opposed to it.

Q You know when he was arrested, charged with having this

license in his possession, don't you?

A No, sir; I don't remember the date.

Q You know it is a fact that he was arrested?

A Yes, sir.

Q About when was it do you suppose? About what was it this

year something?

A Oh, yes, sir; it was this year.

THE COURT: Do you know in what month it was?

WITNESS: I don't think I know. Of course, I could  
tell if I had my book.

THE COURT: It is not necessary to be exact as to the  
date. About when was it?

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away.

MR. BARNUM: Probably, we can establish that.

THE COURT: It was since the first of last January,  
was it not?

WITNESS: Oh, yes, sir.

THE COURT: You say you live here in the town of  
Harrisburg, on West Market Street?

WITNESS: Yes, sir.

Q You live on West Market Street, in this town?

A Yes, sir.

Q I believe it was on your complaint that this search warrant

was issued?

A Yes, sir.

Q Why did you have this search -- why did you have this room

searched, Mrs. Dolan?

A Because I anticipated for sometime that the business was

going on, and I am very much opposed to it.

MR. HAMMER: I object to that statement, as to what she suspected.

THE COURT: State what you observed, and not what you suspected. What did you observe that caused you to suspect this?

WITNESS: So many strangers going in and out, and they was carrying packages out.

THE COURT: Carrying packages out?

WITNESS: Yes, sir.

MR. HAMMER: I object to that testimony and ask that it be stricken out.

THE COURT: The motion is overruled.

MR. HAMMER: Note an exception.

Q Do you know of your own knowledge anything else that prompted you to have this warrant issued -- this search warrant? Did you know liquor was in his room when you had it issued?

A When I had it issued?

Q Yes.

A Yes, sir, I did.

Q Was anybody else occupying that room other than Mr. Baugher?

A No, sir.

Q How long had he been in that room at the time the warrant was issued?

A I cannot tell you that, unless I refer to my book that I keep a record in.

Q Would you suppose a week, or a month, or two months?

A Oh, yes; he was there possibly two months, maybe longer than that; I don't know whether he had occupied room No. <sup>1</sup>12 --

THE COURT: During how long a time did you observe people going in there and bringing out packages?

MR. HAMMER: We except to your Honor's question and save the point.

MR. HAMMER: I object to that statement, as to what she suggested.

THE COURT: State what you observed, and not what you suspected. What did you observe that caused you to suspect this?

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THE COURT: Carrying packages out?

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Q When I had it issued?

A Yes.

Q Yes, sir, I did.

Q Was anybody else occupying that room other than Mr. Deagney?

A No, sir.

Q How long had he been in that room at the time the warrant was issued?

A I cannot tell you that, unless I refer to my book that I

keep a record in.

Q Would you suppose a week, or a month, or two months?

A Oh, yes; he was there possibly two months, maybe longer than

that; I don't know whether he had occupied room No. 22 --

THE COURT: During how long a time did you observe people going in there and bringing out packages?

MR. HAMMER: We except to your Honor's question and save the point.

THE COURT: Yes, sir. (To witness) Answer the question, Mrs. Dolan.

WITNESS: Practically ever since he came, I noticed that. It was peculiar to anything else that had ever happened. Strangers did not come in there to see other folks that were there. I heard him --

MR. HAMMER: (Interrupting) Don't tell what you heard.

THE COURT: Yes; you can say what you heard. Go on, Mrs. Dolan.

WITNESS: I say, I heard suspicious 'phone calls over the 'phone. He called to Elkton, to Davis' store; and I thought it was rather suspicious.

THE COURT: What 'phone did you hear him call from? Who was at the 'phone? Do you mean that you heard Baugher at the 'phone?

WITNESS: Yes, sir; Baugher would call from my house over the phone to Mr. Davis' store, at Elkton, and ask for somebody, but he wouldn't call the name, and I did not think that looked so well.

MR. HAMMER: I object to that question and to the answer, too, and ask that they be stricken out.

THE COURT: The motion is overruled.

MR. HAMMER: Note an exception.

Q Are you able to state about how long Baugher occupied No. 2 before this arrest was made?

A No, sir; not unless I refer to my book that I keep the record of the roomers in.

THE COURT: Is that the room he had the whole time he was there?

WITNESS: No, sir. He went first in No. 12, on the third floor.

THE COURT: Do you say you can get that by referring to your book?

WITNESS: Yes, sir; I have got it.

THE COURT: You can get that information by letting her examine the book and come back.

Q You can go home and get that book.

THE COURT: After you have finished examining her

THE COURT: Yes, sir. (To witness) Answer the question, Mrs. Dolan.

WITNESS: Practically ever since he came, I noticed that it was peculiar to anything else that had ever happened. Strangers did not come in there to see other folks that were there. I heard him --

MR. HANMER: (Interposing) Don't tell what you heard.

THE COURT: Yes; you can say what you heard. Go on, Mrs. Dolan.

WITNESS: I say, I heard suspicious 'phone calls over the 'phone. He called to Nixon, to Davis' store; and I thought it was rather suspicious.

THE COURT: That 'phone did you hear him call from? Who was at the 'phone? Do you mean that you heard Bangher at the 'phone?

WITNESS: Yes, sir; Bangher would call from my house over the phone to Mr. Davis' store, at Nixon, and ask for somebody, but he wouldn't call the name, and I did not think that looked so well.

MR. HANMER: I object to that question and to the answer, too, and ask that they be stricken out.

THE COURT: The motion is overruled.

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WITNESS: Yes, sir; I have got it.

THE COURT: You can get that information by letting her examine the book and come back.

Q You can go home and get that book.

THE COURT: After you have finished examining her

she can do that.

Q You can bring your **book** here which discloses that information?

A Yes, sir; I think so.

CROSS-EXAMINATION BY MR. HAMMER:

X How did you know the liquor was in the room?

A Why, I went there and looked.

X Do you mean that you opened up the suit case?

A Yes, sir; I did.

X Was the suit case locked?

A No, sir.

X You had a key to the room yourself?

A Oh, yes, sir. I have to all the rooms.

X How many roomers have you in the house?

A We rent twelve, but they are not always full.

X You had twelve to fifteen persons in the house?

A No, sir; I cannot say whether I did or whether I did not.

X You had ten or twelve? Did you have as many as half a dozen?

A I cannot say.

X Well, when you went in and looked, what did you do when you found this liquor? What did you do, then?

A I called for, I suppose it was the sheriff.-- No; I called for Mr. Logan.

X You called for Mr. Logan?      A (Unanswered).

THE COURT: Mr. Logan is a policeman, Mrs. Dolan?

WITNESS: Yes, sir.

THE COURT: You mean the policeman?

WITNESS: Yes, sir.

X When Mr. Logan came where did you have the liquor?

she can do that.

Q You can bring your book here which discloses that informa-

tion?

A Yes, sir; I think so.

CROSS-EXAMINATION BY MR. HAMMER:

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A No, sir.

X You had a key to the room yourself?

A Oh, yes, sir. I have to all the rooms.

X How many rooms have you in the house?

A We rent twelve, but they are not always full.

X You had twelve to fifteen persons in the house?

A No, sir; I cannot say whether I did or whether I did not.

X You had ten or twelve? Did you have as many as half a dozen?

A I cannot say.

X Well, when you went in and looked, what did you do when you

found this liquor? What did you do, then?

A I called for, I suppose it was the sheriff.-- No; I called

for Mr. Logan.

X You called for Mr. Logan? (Unanswered).

THE COURT: Mr. Logan is a policeman, Mrs. Logan?

WITNESS: Yes, sir.

THE COURT: You mean the policeman?

WITNESS: Yes, sir.

X When Mr. Logan came where did you have the liquor?

A Where did he have it?

X Where did you have it? Had you bothered it until then?

A No; no, indeed.

X What did you and Mr. Logan do, leave it in the closet or where?

A Yes, sir.

X You did not take it out?

A I don't think Mr. Logan went up there and looked at it until Mr. Dillard, the sheriff, came. I am not positive of that, but I don't think he did, he might have. My memory is not so good, and I would not say positive whether he went up there or whether he did not.

X Was he there first?

A Yes, sir; he was there first; Mr. Logan was there first.

X Now, when you went in the room was the door locked?

A Yes, sir; the doors are always locked; some of the roomers do not lock their doors, but his was always locked.

X You had a pass-key to the door?

A They are all pass-keys, because the keys are lost to the house up there and we have to get this kind.

X One key will open most any room door in the house?

A Yes, sir.

X And you had a key and you opened his room and went in?

A Yes, sir.

X Speaking about Davis' store, in Elkton; you are mistaken about that, aren't you? There is no Davis' store in Elkton, is there?

A I don't know. He called Elkton and asked for Davis' store, and that's all I know -- whether it is in Elkton or where it is.

X Had the search warrant been issued when the officers came there? (To the Sheriff) Have you got that search warrant, Mr. Dillard?

A Where did he have it?

X Where did you have it? Had you bothered it with them?

A No, no, indeed.

X What did you and Mr. Logan do, leave it in the closet or where?

A Yes, sir.

X You did not take it out?

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Mr. Dillard, the sheriff, came. I am not positive of that, but I

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house up there and we have to get this kind.

X One key will open most any room door in the house?

A Yes, sir.

X And you had a key and you opened his room and went in?

A Yes, sir.

X Speaking about Davis' store, in Elston; you are mistaken about

that, aren't you? There is no Davis' store in Elston, is there?

A I don't know. He called Elston and asked for Davis' store,

and that's all I know -- whether it is in Elston or where it is.

X Had the search warrant been issued when the officers came

there? (To the Sheriff) Have you got that search warrant, Mr.

Dillard?

MR. DILLARD: There it is. (Indicating.)

X Had the search warrant been issued when the room was entered?

A Yes, sir. It was read to me.

X Baugher was not there at that time, was he?

A No, sir.

X He was working here in town, I believe, wasn't he?

A I suppose so.

X Don't you know so?

A He was away from the house.

X Don't you know he was working?

A I don't know where they are working when they are away from the house.

X You know he was working in town, when he had his room at your place?

A Yes, sir; I guess he worked sometimes, and sometimes he did not have work. I cannot say whether he had work or not, or whether he was working or not.

X What time of day was it when you went in there and found that liquor?

A It was right early in the morning.

X After Baugher had gone; and there was nobody else in the room at that time, I reckon?

A No, sir;

X At what part of the house is that room located, in front or back?

A On the east side of the house.

X On the east side, you say?

A Yes, sir.

MR. BILBARD: There it is. (Indicating.)

X Had the search warrant been issued when the room was

entered?

A Yes, sir. It was read to me.

X Hanger was not there at that time, was he?

A No, sir.

X He was working here in town, I believe, wasn't he?

A I suppose so.

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A He was away from the house.

X Don't you know he was working?

A I don't know where they are working when they are away from

the house.

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place?

A Yes, sir; I guess he worked sometimes, and sometimes he did not have work. I cannot say whether he had work or not, or whether

he was working or not.

X What time of day was it when you went in there and found that

light?

A It was right early in the morning.

X After Hanger had gone; and there was nobody else in the room

at that time, I reckon?

A No, sir.

X At what part of the house is that room located, in front

or back?

A On the east side of the house.

X On the east side, you say?

A Yes, sir.

X In the front, near the West Market Street entrance?

A Well, yes, sir; it is the first room to the right, when you go up the first flight of stairs.

X The first room to the right as you go up the first flight of stairs?

A Yes, sir.

X Who made up the bed in that room that day?

A I did.

X What time did you make that up?

A Well, I think, I had just about finished and came downstairs.

X What time did Baugher leave his room that morning, do you know?

A No, sir.

REDIRECT EXAMINATION BY MR. EARMAN:

Q What time of day was the search warrant executed?

A Well, I suppose, it was something towards noon, about noon -- just before noon -- I couldn't tell you just the time.

Q Do you remember whether it was before or after dinner?

A Oh, it was before dinner.

Q You think it was before dinner?

A Yes, sir.

Q Do you know whether Baugher returned? You said he usually left your home about seven o'clock, or about that time, did you not?

A No, sir; I did not say anything about what time he left for I don't know.

Q After he left your home that morning, did you see him back there between then and the time the search warrant was issued?

A Yes, sir.

Q Ma'am?

A Yes, sir.

X In the front, near the west marked street entrance?  
 A Well, yes, sir; it is the first room to the right, when  
 you go up the first flight of stairs.  
 X The first room to the right as you go up the first flight of  
 stairs?

A Yes, sir.  
 X Who made up the bed in that room that day?  
 A I did.  
 X What time did you make that up?  
 A Well, I think, I had just about finished and came downstairs.  
 X What time did Bangher leave his room that morning, do you

know?  
 A No, sir.

DIRECT EXAMINATION BY MR. WALKER:

Q What time of day was the search warrant executed?  
 A Well, I suppose, it was something towards noon, about noon --  
 just before noon -- I couldn't tell you just the time.  
 Q Do you remember whether it was before or after dinner?  
 A Oh, it was before dinner.  
 Q You think it was before dinner?  
 A Yes, sir.

Q Do you know whether Bangher returned? You said he usually  
 left your home about seven o'clock, or about that time, did you not?  
 A No, sir; I did not say anything about what time he left for  
 I don't know.

Q After he left your home that morning, did you see him back  
 there between then and the time the search warrant was issued?

A Yes, sir.  
 Q No, sir?  
 A Yes, sir.

Q Who was with him, anybody?

A No one with him.

Q Was anyone with you when you saw him?

A Yes, sir.

Q Who was it?

A Mr. Logan.

Q Where was he then?

A Who, Mr. Logan?

Q No, Mr. Baugher?

A He had went up to his room and came back down.

Q What did he have, if anything, with him, or was he carrying anything?

A Yes, sir; he had a package with him.

CROSS-EXAMINATION RESUMED BY MR. HAMMER:

X Do you mean that Mr. Logan was there when Baugher came down with the package?

A Yes, sir.

X Where were you and Mr. Logan at that time?

A In the parlor.

X Did Mr. Baugher see you and Mr. Logan?

A No, sir.

X What was Mr. Logan doing there?

A He was there because I had called him up to tell him about this, and I had just finished telling him.

X Did not Mr. Logan, or did not Mr. Dillard, after that, go out and find Baugher at his work and arrest him?

A Sir?

X Just as soon as they found that liquor there, they went out and arrested Mr. Baugher, didn't they?

A I beg pardon!

Q Who was with him, anybody?

A No one with him.

Q See anyone with you when you saw him?

A Yes, sir.

Q Who was it?

A Mr. Logan.

Q Where was he then?

A The Mr. Logan?

Q No, Mr. Baughner?

A He had went up to his room and came back down.

Q What did he have, if anything, with him, or was he carrying

anything?

A Yes, sir; he had a package with him.

GROSS-EXAMINATION RESUMED BY MR. HANMER:

X Do you mean that Mr. Logan was there when Baughner came down

with the package?

A Yes, sir.

X Where were you and Mr. Logan at that time?

A In the parlor.

X Did Mr. Baughner see you and Mr. Logan?

A No, sir.

X What was Mr. Logan doing there?

A He was there because I had called him up to tell him about

this, and I had just finished talking him.

X Did not Mr. Logan, or did not Mr. Dillard, after that, go

out and find Baughner at his work and arrest him?

A Sir?

X Just as soon as they found that liquor there, they went

out and arrested Mr. Baughner, didn't they?

A I beg pardon!

Q Had you at that time told Mr. Logan about the liquor being there?

A I had just finished telling him.

Q You say, now, that Baugher came out of his room with a package --

A (Interposing) Mr. Logan was standing there.

Q And "Zack" Baugher came down from his room with a package?

A Yes, sir.

Q What kind of a package?

A Looked like a quart bottle wrapped up.

Q And you had told Mr. Logan that there was liquor in that room? That is what you tell this jury; that there was liquor in this man's room, and here he was coming down with a package under his arm right before the officer and the officer did not arrest him?

A I don't know why he didn't arrest him. That was not my business. I could not swear whether it was whiskey or what it was. I don't think Mr. Logan had been up to his room.

Q You had Mr. Logan right there, then, and you did not say anything to Mr. Baugher yourself, right there before the officer, did you, about it?

A How is that?

Q You did not say a word to Baugher about having liquor in his room?

A Not then, I did not, nor at any time. I told him my sentiments.

Q You had an officer right there and then present, and there he was carrying a package out of the room, and you did not stop him or say a word to him?

A No.

Q Why didn't you do it?

Q Had you at that time told Mr. Logan about the liquor

being there?

A I had just finished telling him.

Q You say, now, that Baughner came out of his room with a

package --

A (Interposing) Mr. Logan was standing there.

Q And "Sack" Baughner came down from his room with a package?

A Yes, sir.

Q What kind of a package?

A Looked like a quart bottle wrapped up.

Q And you had told Mr. Logan that there was liquor in that

room? That is what you tell this jury; that there was liquor in

this man's room, and here he was coming down with a package under

his arm right before the officer and the officer did not arrest him?

A I don't know why he didn't arrest him. That was not my

business. I could not swear whether it was whiskey or what it was.

I don't think Mr. Logan had been up to his room.

Q You had Mr. Logan right there, then, and you did not say

anything to Mr. Baughner yourself, right there before the officer, did

you, about it?

A How is that?

Q You did not say a word to Baughner about having liquor in

his room?

A Not then, I did not, nor at any time. I told him my senti-

ments.

Q You had an officer right there and then present, and there

he was carrying a package out of the room, and you did not stop him

or say a word to him?

A No.

Q Why didn't you do it?

A There was no warrant issued. I did not know whether he had authority to do it or not. I asked Mr. Logan to have a search warrant issued and to have it searched.

Q Why did you want a search warrant, after you had seen it?

A I did not know whether he had whiskey in there.

Q Hadn't you been in there yourself?

A Yes, sir. I did not know that he was carrying any at the time. I did not know what was in the package.

Q You knew it was in the room?

A Yes, it was in the room, but I couldn't say that he had whiskey in the package.

Q I say, you knew liquor was in the room?

A Yes, sir.

Q That is what I am talking about. There was no necessity, so far as you were concerned, for a search warrant?

A Sir?

THE COURT: Pass on, Mr. Hammer. No use to dwell on that.

Q What time, the night before, did Mr. Baugher come into the room?

A I don't know what time they come in. I could not tell one time from another.

Q What time did they get up that morning?

A Couldn't tell that.

Q Did you see him when he got up?

A No.

Q Did you see him when he came in?

A When, at noon?

Q No, the night before?

A No, sir; I did not.

A There was no warrant issued. I did not know whether he had

authority to do it or not. I asked Mr. Logan to have a search

warrant issued and to have it searched.

Q Why did you want a search warrant, after you had seen it?

A I did not know whether he had whiskey in there.

Q Haven't you been in there yourself?

A Yes, sir. I did not know that he was carrying any at the time.

I did not know that was in the package.

Q You know it was in the room?

A Yes, it was in the room, but I couldn't say that he had

whiskey in the package.

Q I say, you know liquor was in the room?

A Yes, sir.

Q That is what I am talking about. There was no necessity,

so far as you were concerned, for a search warrant?

A Sir?

THE COURT: Back on Mr. Hammer. He was to dwell on that.

Q That time, the night before, did Mr. Hanger come into the

room?

A I don't know what time they come in. I could not tell one

time from another.

Q What time did they get up that morning?

A Couldn't tell that.

Q Did you see him when he got up?

A No.

Q Did you see him when he came in?

A When, at noon?

Q No, the night before?

A No, sir; I did not.

Q Do you know whether he was there the night before at all or not?

A I do not remember whether I seen him the night before or not.

Q Do you conduct that house by yourself or do you have help?

A My son and I are in partnership.

Q Your son and yourself are in partnership in the operation of it, but who helps to do the work in and around the house?

A Well, sometimes I have a girl and sometimes I haven't.

Q Who was the girl you had helping you at that time?

A I don't think I had any or I wouldn'd have been doing the chamber-work. Yes, I had. I had Eleanor Smith working for me. It was washing-day with us and that is why I was doing the chamber work.

DIRECT EXAMINATION RESUMED BY MR. EARMAN.

Q Where did you say this liquor was found in his room, when you first found it?

A In the press or closet or whatever you call it.

Q In what was it, in the press or closet?

A In a suit case and a hand-bag.

Q Do these look like the same things (indicating suit case and hand-bag) that the liquor was in?

A As near as I can tell. The hand-bag was black, and the suit case was the same color as this one; and, I suppose, they are the same.

Q They have the same general appearance as the suit case and the hand-bag that you say in the closet?

A Yes, sir.

THE COURT: Did you ever see that hand-bag and suit case before?

WITNESS: Oh, yes, sir; when I would sweep.

Q Did you ever see them brought into the house? Did you ever

Q Do you know whether he was there the night before at all?

or not?

A I do not remember whether I seen him the night before or not.

Q Do you conduct that house by yourself or do you have help?

A My son and I are in partnership.

Q Your son and yourself are in partnership in the operation of

it, but who helps to do the work in and around the house?

A Well, sometimes I have a girl and sometimes I haven't.

Q Who was the girl you had helping you at that time?

A I don't think I had any or I wouldn't have been doing the

chamber-work. Yes, I had. I had Eleanor Galthworking for me. It

was wearing-day with us and that is why I was doing the chamber work.

DIRECT EXAMINATION REQUESTED BY MR. BARNUM.

Q Where did you say this liquor was found in the room, when

you first found it?

A In the press or closet or whatever you call it.

Q In what was it, in the press or closet?

A In a suit case and a hand-bag.

Q Do these look like the same things (indicating suit case and

hand-bag) that the liquor was in?

A As near as I can tell. The hand-bag was black, and the

suit case was the same color as this one; and, I suppose, they are

the same.

Q They have the same general appearance as the suit case and

the hand-bag that you say in the closet?

A Yes, sir.

THE COURT: Did you ever see that hand-bag and suit case before?

WITNESS: Oh, yes, sir; when I would sweep.

Q Did you ever see them brought into the house? Did you ever

see Mr. Baugher with them?

A I don't remember. We see so many of those things that I cannot tell. I can't remember whether I seen them. They often came in that way when they go away on visits. I cannot recall those things.

Q Will you please bring that book over here which you have showing when Mr. Baugher went into room No. 2, if you please?

A Witness told to stand aside.

And the Commonwealth to further maintain the issue upon its part introduced J. L. Logan, who, being duly sworn, testified as follows:

J. L. LOGAN, sworn, examined on behalf of the Commonwealth by Mr. Earman, testified:

Q You are Mr. John Logan?

A Yes, sir.

Q You are a policeman of the City of Harrisonburg?

A Yes, sir.

Q Mr. Logan, please state to the jury what you know about this case of your own knowledge?

A Well, along about the first of the month, I think it was, I was at dinner and someone 'phoned to me, some man, I don't know who he was, and says that Mrs. Dolan wanted me to come down right away. I said, "I am at dinner, now; if there is any immediate trouble I will come; if not, I will come after dinner." "Well," he said, "she was not in any immediate hurry, but to come by there." So I went by, and Mrs. Dolan told me that in room No. 2 --

MR. HAMMER: (Interrupting) Don't state what Mrs. Dolan told you.

THE COURT: You need not state what Mrs. Dolan told you.

A (Contd.) Well, I went to Mrs. Dolan's house and asked her did she 'phone for me and she said that she did.

MR. HAMMER: I object to that.

THE COURT: Objection is overruled.

see Mr. Baugher with those

A I don't remember. We see so many of those things that I can-  
not tell. I can't remember whether I seen them. They often come in  
that way when they go away on visits. I cannot recall those things.  
Q Will you please bring that book over here which you have  
showing when Mr. Baugher went into room No. 2, if you please?

A Witness told to stand aside.

And the Commonwealth to further maintain the issue upon the  
part introduced J. J. Logan, who, being duly sworn, testified as  
follows:

J. J. LOGAN, sworn, examined on behalf of the Commonwealth by  
Mr. Hammer, testified:

Q You are Mr. John Logan?

A Yes, sir.

Q You are a policeman of the City of Harrisburg?

A Yes, sir.

Q Mr. Logan, please state to the jury what you know about this  
case of your own knowledge?

A Well, along about the first of the month, I think it was, I  
was at dinner and someone 'phoned to me, some man, I don't know who  
he was, and says that Mrs. Dolan wanted me to come down right away.  
I said, "I am at dinner, now; if there is any immediate trouble I  
will come; if not, I will come after dinner." "Well," he said, "she  
was not in any immediate hurry, but to come by there." So I went

by, and Mrs. Dolan told me that in room No. 2 --

MR. HAMMER: (Interupting) Don't state what Mrs.  
Dolan told you.

THE COURT: You need not state what Mrs. Dolan told you.

A (Contd.) Well, I went to Mrs. Dolan's house and asked her

did she 'phone for me and she said that she did.

MR. HAMMER: I object to that.

THE COURT: Objection is overruled.

MR. HAMMER: It is a conversation that occurred not in the presence of the accused and is not binding on him.

A (Contd.) She complained of having a quantity of liquor in the room upstairs,--

MR. HAMMER: I object.

THE COURT: Mrs. Dolan has already given testimony to that effect herself and it is an unimportant objection.

MR. HAMMER: I think it is important, and I want to exercise my rights in the matter.

A (Contd.) There was a search warrant issued for room No. 2, at Mrs. Dolan's house; a search warrant was issued and there was liquor found.

Q Who was with you? Did you execute the search warrant or not?

A Mr. Dillard.

Q Were you with him when he executed it?

A Yes, sir. I read the warrant to Mrs. Dolan, and searched the room.

Q What was found in this room when it was searched?

A This hand-bag and that suit case (indicating) were found in the closet.

Q What was found in the hand-bag?

A In the hand-bag, three jars of stuff that looked just like *memo. being 1/2 gallon jars, full and the third nearly full* that. *The jars with their contents were exhibited on a table before me. The jars - likewise the hand bag and suit case were placed before the jury.*

Q Was anything else found?

A A towel was in it.

Q Was there any laundry mark on it?

A (Unanswered).

A Now, what was found in the suit case, Mr. Logan?

A If I am not mistaken, two pints and a quart, and some shirts; I wouldn't be sure about that -- I think, two pints and a quart.

*Answer - These bottles also exhibited before the jury with their contents.*

MR. HANMER: It is a conversation that occurred not in the presence of the accused and is not binding on him.

A (Gontz): She complained of having a quantity of liquor in

the room upstairs.

MR. HANMER: I object.

THE COURT: Mrs. Dolan has already given testimony to that effect herself and it is an important objection.

MR. HANMER: I think it is important, and I want to exercise my rights in the matter.

A (Gontz): There was a search warrant issued for room No. 2,

at Mrs. Dolan's house; a search warrant was issued and there was liquor

found.

Q Who was with you? Did you execute the search warrant or not?

A Mr. Gillard.

Q Were you with him when he executed it?

A Yes, sir. I read the warrant to Mrs. Dolan, and searched the

room.

Q What was found in this room when it was searched?

A This hand-bag and that suit case (indicating) were found in

the closet.

Q What was found in the hand-bag?

A In the hand-bag there were three pairs of socks that looked just like

that. The first pair was white, the second pair was white with blue stripes, and the third pair was white with blue stripes.

Q Was anything else found?

A A towel was in it.

Q Was there any laundry mark on it?

A (Unanswered).

A Now, what was found in the suit case, Mr. Logan?

A If I am not mistaken, two pints and a quart, and some shirts;

I wouldn't be sure about that -- I think, two pints and a quart.

~~There is a handwritten note at the bottom of the page, possibly a signature or correction, which is mostly illegible due to the image quality.~~

Q Just open up that suit case (indicating.)

A (Suit case opened by witness, who took out two pint bottles of liquor and one quart bottle having about 3 inches of liquor in it) That is what was in there.

MR. HAMMER: Which was in the suit case?

WITNESS: This was in the suit case, this stuff here.  
(Indicating two pint bottles and the quart bottle).

MR. HAMMER: The liquor on this side?

WITNESS: Yes, sir.

MR. HAMMER: That is less than a gallon?

WITNESS: It was not taken out of the suit case; it was left as it was found.

MR. HAMMER: It was less than a gallon in the suit case?

WITNESS: Yes, sir; that is all that was in the suit case; just what you see there.

MR. HAMMER: Not quite three pints that you found?

WITNESS: No.

Q Did you find anything else in the room there that indicated ardent spirits or not?

A Sheriff Dillard searched and got a jar, one like that, in a hunting-coat hanging in the closet; and he got these bottles out of the bureau drawer.

Q I believe you went to the home of Mrs. Dolan prior to the time the warrant was executed?

A Yes, sir; I went to her home.

Q In response to this telephone call?

A In response to the telephone call; yes, sir.

Q While you were there, did you see anything of Baugher or not, Mr. Logan?

A While we were in the room talking, Mr. Baugher went out, down

Q Just open up that suit case (indicating).  
A (Suit case opened by witness, who took out two pint bottles of liquor and one quart bottle having about 3 inches of liquor in it) That is what was in there.

MR. HAMMER: Which was in the suit case?

WITNESS: This was in the suit case, this stuff here. (Indicating two pint bottles and the quart bottle).

MR. HAMMER: The liquor on this side?

WITNESS: Yes, sir.

MR. HAMMER: That is less than a gallon?

WITNESS: It was not taken out of the suit case; it was left as it was found.

MR. HAMMER: It was less than a gallon in the suit case?

WITNESS: You, sir; that is all that was in the suit case; just what you see there.

MR. HAMMER: Not quite three pints that you found?

WITNESS: No.

Q Did you find anything else in the room there that indicated  
urgent spirits or not?  
A Sheriff Dilford searched and got a jar, one like that, in a hunting-coat hanging in the closet; and he got three bottles out of the bureau drawer.

Q I believe you went to the home of Mrs. Polan prior to the time the warrant was executed?

A Yes, sir; I went to her home.

Q In response to this telephone call?

A In response to the telephone call; yes, sir.

Q While you were there, did you see anything of Baughner or

not, Mr. Logan?

A While we were in the room talking, Mr. Baughner went out, down

the front steps and around, I suppose, around the house. He went down the steps and I can't say where he went after he went down the steps from where I was in the front room on the west side. I don't know where he went -- which way he went.

Q Did you notice whether he was carrying anything?

A He had a package under his arm. Looked like the package might have been a newspaper. I couldn't say as to that, but it was in the form of a package.

Q That was before the warrant was issued?

A Yes, sir; that was while I was in conversation with her about this liquor.

Witness told to stand aside.

And the Commonwealth to further maintain the issue upon its part introduced W. L. Dillard, who, being duly sworn, testified as follows:

W. L. DILLARD, sworn, examined by Mr. Earman on behalf of the Commonwealth, testified:

Q Mr. Dillard, I believe the search warrant was placed in your hands for execution by Justice Lonergan, and you did search room No. 2, in the home of Mrs. Dolan, did you not, in executing that search warrant?

A I executed the search warrant on March 1st; yes, sir.

Q Just tell the jury the date of the search warrant and when it was executed

A The search warrant was issued March 1st, 1921, and I went there about dinner-time, between 12 and 1 o'clock, to Mrs. Dolan's. The policeman came to me about it, and on his information I executed it. I went up there to see Mrs. Dolan, and went in the room with the policeman.

Q What policeman do you mean, now?

the front steps and around, I suppose, around the house. He went down the steps and I can't say where he went after he went down the steps from where I was in the front room on the west side. I don't know where he went -- which way he went.

Q Did you notice whether he was carrying anything?

A He had a package under his arm. Looked like the package

might have been a newspaper. I couldn't say as to that, but it

was in the form of a package.

Q That was before the warrant was issued?

A Yes, sir; that was while I was in conversation with her

about this liquor.

Witness told to stand aside.

And the Commonwealth to further maintain the issue upon the part introduced W. L. Dillard, who, being duly sworn, testified as follows:

W. L. DILLARD, sworn, examined by Mr. Logan on behalf of the Commonwealth, testified:

Q Mr. Dillard, I believe the search warrant was placed in your hands for execution by Justice Donagan, and you did search room No. 2, in the house of Mrs. Dolan, did you not, in executing that search warrant?

A I executed the search warrant on March 1st, yes, sir.

Q Just tell the jury the date of the search warrant and when

it was executed.

A The search warrant was issued March 1st, 1931, and I went

there about dinner-time, between 12 and 1 o'clock, to Mrs. Dolan's.

The policeman came to me about it, and on his information I executed it. I went up there to see Mrs. Dolan, and went in the room with the policeman.

Q What policeman do you mean, now?

A Mr. Logan. I asked her if Mr. Baugher had a room in there and she said he did; and I asked her if it was her desire to have the room searched and she said it was. I got the key from her and searched the room. I went with the policeman up to the room -- she gave me the key and I went up and searched the room, Mr. Logan and I. Mr. Logan opened the closet door while I went to the dresser drawer and got these empty bottles. Mr. Logan opened the closet and brought out this suit case which contained those bottles (indicating). I went into the same closet and in a coat that hung there I taken that can out; and those two bottles I got out of the dresser. On executing the warrant, I left Mr. Logan there in the room in charge of the whiskey, the contents that we could. I went over on what is called High Street, to where Mr. Conrad is building two houses.

THE COURT: You mean, C. C. Conrad?

WITNESS: C. C. Conrad; yes, sir. It is called the "Old Hyde property."

THE COURT: On South High Street?

WITNESS: On North High Street -- the old Hyde property.

A (Contd.) Mr. Baugher was working there. He was on the back porch. I went through the house to the back porch, and he was Polishing some lumber there. I told him that I wanted him to go along over with me to his room. We started out through the hall and got out to the front door, and he said, "Mr. Dillard" -- I told him what we had found. He said, "Mr. Dillard, I got some stuff over there. What can I do about it?" He said, "On account of my little child, is there anything I can do?" He said, "I would like to do something about this." I told him that I knew he had it, that I had the policeman over there. So we went on over to his room

A Mr. Logan. I asked her if Mr. Sawyer had a room in there and she said he did; and I asked her if it was her desire to have the room searched and she said it was. I got the key from her and searched the room. I went with the policeman up to the room -- she gave me the key and I went up and searched the room. Mr. Logan and I. Mr. Logan opened the closed door while I went to the dresser drawer and got these empty bottles. Mr. Logan opened the closet and brought out this suit case which contained these bottles (indicating). I went into the case closet and in a coat that hung there I taken that one out; and those two bottles I got out of the drawer. On examining the warrant, I left Mr. Logan there in the room in charge of the whiskey, the contents that we could. I went over on what is called High Street, to where Mr. Conroy is building two houses.

THE COURT: You mean, C. C. Conroy?

WITNESS: C. C. Conroy; yes, sir. It is called the "Old High Property."

THE COURT: On North High Street?

WITNESS: On North High Street -- the old High Property.

A (Cont'd.) Mr. Sawyer was working there. He was on the back porch. I went through the house to the back porch, and he was polishing some lumber there. I told him that I wanted him to go along over with me to his room. He started out through the hall and got out to the front door, and he said, "Mr. Dillard" -- I told him what we had found. He said, "Mr. Dillard, I got some stuff over there. What can I do about it?" He said, "On account of my little child, is there anything I can do?" He said, "I would like to do something about this." I told him that I knew he had it, that I had the policeman over there. So we went on over to his room

and when we got over there, he said a fellow gave it to him but he did not know who it was -- he did not know the fellow. He wanted to know if there was something we could do without getting him into trouble and without bringing him down. I told him that there was nothing we could do. Mr. Baugher came with me on down to the sheriff's office, and policeman Logan staid back there and brought the whiskey down, or the containers of whiskey down.

Q Do you know whose clothes they are in that suit case?

A I do not know whose clothes they are, gentlemen. I judge they are Mr. Baugher's clothes. In fact, he wanted the clothes, at first, but I wouldn't let the clothes go out of the suit case. I have it down here (reading) "C. A. Baugher, Harrisonburg, Virginia; age, 29 years; registered;" and the date of this is "January 31st."

MR. HAMMER: What are you reading from?

WITNESS: I am reading from a pamphlet.

THE COURT: An identification card?  
*Witness - Yes Sir, an identification card.*

Q Where did you get that?

A That was in the suit case. I also have some pictures in there, and I judge that it is his baby's picture. There are clothes here that show.

MR. HAMMER: That was in the suit case?

WITNESS: It was in the suit case. There was nothing in the grip, except these three <sup>the ~~three~~ bottles</sup> (indicating) and this towel; the balance was clothes, shirts, pants, &c. I am of opinion --

MR. HAMMER: Don't express your opinion.

WITNESS: I will not express my opinion. I don't suppose there is any question about it being Baugher's. I don't think he will deny it. I have that much confidence in him.

MR. EARMAN: That is all.

MR. HAMMER: Stand aside.

and when we got over there, he said a fellow gave it to him but he  
 did not know who it was -- he did not know the fellow. He wanted to  
 know if there was something we could do without getting him into  
 trouble and without bringing him down. I told him that there was  
 nothing we could do. Mr. Baughner came with me on down to the sheriff's  
 office, and policeman Logan said back there and brought the whiskey  
 down, or the contents of whiskey down.

Q Do you know whose clothes they are in that suit case?  
 A I do not know whose clothes they are, gentlemen. I judge  
 they are Mr. Baughner's clothes. In fact, he wanted the clothes,  
 at first, but I wouldn't let the clothes go out of the suit case.  
 I have it down here (reading) "C. A. Baughner, Harrisonburg, Vir-  
 ginia; age, 39 years; registered; and the date of this is "January  
 21st."

MR. HAMMER: That are you reading from?

WITNESS: I am reading from a register.

THE COURT: An identification card?

WITNESS: Yes, sir, an identification card.

Q Where did you get that?

A That was in the suit case. I also have some pictures in  
 there, and I judge that it is his body's picture. There are clothes  
 here that show.

MR. HAMMER: That was in the suit case?

WITNESS: It was in the suit case. There was nothing

in the grip, except these three (indicating) and this towel; the

balance was clothes, shirts, pants, &c. I am of opinion --

MR. HAMMER: Don't express your opinion.

WITNESS: I will not express my opinion. I don't  
 suppose there is any question about it being  
 Baughner's. I don't think he will deny it. I  
 have that much confidence in him.

MR. HAMMER: That is all.

MR. HAMMER: Stand aside.

MR. EARMAN: That completes the Commonwealth's case, except one or two questions I wish to ask Mrs. Dolan.

THE COURT: You gentlemen may go on.

MR. HAMMER: One minute, please, Sir.

BY MR. EARMAN:

Q Mr. Dillard, you had this liquor analyzed, or some of it, did you?

A Yes, sir.

THE COURT: Do you want Prof. Johnston brought here to prove the analysis?

MR. HAMMER: I take it that it is apple brandy. These gentlemen (Jury) know enough about apple brandy to know it. Don't you, Mr. Dillard? You can ask Mr. Dillard about the analysis. Let Dillard testify as to the analysis. ~~The bottles and~~

MR. DILLARD: The analysis is 54 per cent alcohol. *These. The bottles and jars were passed to the jurors who sampled of this contents.*

THE COURT: Fifty-four per cent alcohol?

WITNESS: Yes, sir; 54% alcohol; it was taken from one of these half gallon jars.

THE COURT: Let Mr. Dillard state what kind of liquor it is.

WITNESS: "Moonshine"; no doubt about it. It is "Moonshine." None of it is apple brandy. This is what the analysis was taken from (indicating). From this can, one of the half-gallon can's.

MEMO: Liquor passed to the jury for inspection.

JUROR: That's apple brandy; and this is the same thing. Every bit of it is apple brandy.

Witness told to stand aside.

And the Commonwealth to further maintain the issue upon its part recalled Mary A. Dolan who further testified as follows:

MRS. DOLAN recalled, examined by Mr. Earman, further testified on behalf of the Commonwealth, as follows:

Q Have you here your book in which you kept the record of when Mr. Baugher went into room No. 2?

A Yes, sir.

MR. HANMAN: That completes the Commonwealth's case, except

one or two questions I wish to ask Mrs. Dolan.

THE COURT: You gentlemen may go on.

MR. HANMAN: One minute, please, Sir.

BY MR. HANMAN:

Q Mr. Dillard, you had this liquor analyzed, or some of it, did

you?

A Yes, sir.

THE COURT: Do you want Mrs. Johnston brought here to prove the analysis?

MR. HANMAN: I take it that it is apple brandy. These gentlemen (jury) know enough about apple brandy to know it. Don't you, Mr. Dillard? You can ask Mr. Dillard about the analysis. Let Dillard testify as to the analysis.

MR. DILLARD: The analysis is 54 per cent alcohol.

THE COURT: Fifty-four per cent alcohol?

WITNESS: Yes, sir; 54 per cent; it was taken from one of these half gallon jars.

THE COURT: Let Mr. Dillard state what kind of liquor it is.

WITNESS: "Koonshine"; no doubt about it. It is "Koonshine". None of it is apple brandy. This is what the analysis was taken from (indicating). From this can, one of the half-gallon can's.

MEMO: Liquor passed to the jury for inspection.

JURY: That's apple brandy; and this is the same thing. Every bit of it is apple brandy.

Witness told to stand aside.

And the Commonwealth to further maintain the issue upon its part recalled Mrs. A. Dolan who further testified as follows:

MRS. DOLAN recalled, examined by Mr. Hanman, further

testified on behalf of the Commonwealth, as follows:

Q Have you here your book in which you kept the record of

when Mr. Paugher went into room No. 2?

A Yes, sir.

*Handwritten note:* This is the analysis of the liquor which was brought to the jury.

Q What does that book show?

A (After inspecting book) It shows that he went into room No. 2 in February, I cannot remember the date.

Q You have the book with you?

A Yes, sir.

Q Just get it from the book?

A The book shows February 1st.

Q February 1st?

A Yes, sir.

CROSS-EXAMINATION BY MR. HAMMER:

X Speaking about Mr. Baugher coming down with a package under his arm; he frequently went in and out of your home with his overalls under his arm of mornings, didn't he, or do you know that?

A I hardly ever see any of the boys go out.

X Haven't you seen him going out and coming in with his overalls, with his package under his arm?

A Possibly at noon I did.

X And this was at noon?

A Sir?

X The occasion when you and Mr. Logan saw him was just about noon, wasn't it?

A Yes, sir.

Witness told to stand aside.

MR. EARMAN: I do not think I have proven the quantity of liquor in these various containers here.

MR. HAMMER: Let the record show that in the suit case in which you found that little book with Baugher's name in there were two pints.

Q What does that book show?  
 A (After inspecting book) It shows that he went into room No. 3 in February. I cannot remember the date.  
 Q You have the book with you?  
 A Yes, sir.  
 Q Just get it from the book?  
 A The book shows February 1st.  
 Q February 1st?  
 A Yes, sir.

CROSS-EXAMINATION BY MR. HAMMER:

X Speaking about Mr. Baughner coming down with a package under his arm; he frequently went in and out of your home with his over-alls under his arm on mornings, didn't he, or do you know that?  
 A I hardly ever see any of the boys go out.  
 X Haven't you seen him going out and coming in with his over-alls, with his package under his arm?  
 A Possibly at noon I did.  
 X And this was at noon?  
 A Sir?  
 X The occasion when you and Mr. Logan saw him was just about noon, wasn't it?  
 A Yes, sir.  
 Witness told to stand aside.

MR. BARKMAN: I do not think I have proven the quantity of liquor in these various containers here.  
 MR. HAMMER: Let the record show that in the unit case in which you found that little book with Baughner's name in there were two pints.

THE COURT: Mr. Dillard and Mr. Logan testified that there were two pints and a quart in one, and in the other two half-gallon jars full and another nearly full.

MR. SWANK: <sup>two</sup> ~~one~~ pint-bottles and a quart-bottle were in the suit case.

MR. EARMAN: The State rests.

This being all the evidence in the case, the defendant offering no evidence whatever, the accused thereupon, by counsel, moved the Court to instruct the jury as follows:

INSTRUCTION No. 1.

The Court instructs the jury that the failure of the accused to testify in this case creates no presumption against him, and the same is not to be considered by them in arriving at their conclusion as to his guilt.

INSTRUCTION No. 2.

The Court instructs the jury that even though they may believe from the evidence that the whiskey was found in a room which the accused occupied at night, still they cannot convict unless the Commonwealth has proved beyond all reasonable doubt that the liquor was in the exclusive possession of the accused, and that no other person had access, or means of access, to the room.

THE COURT: Mr. Wilson and Mr. Logan testified that there were two quarts and a quart in one, and in the other two half-gallons less half and another nearly full.

MR. SWANN: <sup>1/2</sup>weight-bottles and a quart-bottle were in the suit case.

MR. SWANN: The State route.

This being all the evidence in the case, the defendant offering no evidence whatever, the accused thereupon, by counsel, moves the Court to instruct the jury as follows:

INSTRUCTION No. 1.

The Court instructs the jury that the failure of the accused to testify in this case creates no presumption against him, and the case is not to be considered by them in arriving at their conclusion as to his guilt.

INSTRUCTION No. 2.

The Court instructs the jury that even though they may believe from the evidence that the whiskey was found in a room which the accused occupied at night, still they cannot convict unless the Commonwealth has proved beyond all reasonable doubt that the liquor was in the exclusive possession of the accused, and that no other person had access, or means of access, to the room.

*And the Court thereupon gave to the jury said instruction No. 1, but refused to give said instruction No. 2.*

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~~To the giving of which instructions, and each of them, the attorney for the Commonwealth objected, which objection the Court sustained as to instruction No. 2 referred to above: to which action of the Court in sustaining the objection of the attorney for the Commonwealth and in refusing to give said instruction No. 2, the accused, by counsel, excepted.~~

*And the Court also, on the request of the attorney for the Commonwealth, instructed the jury orally as follows:*  
~~And, thereupon, on motion of the attorney for the Commonwealth, the Court orally instructed the jury, as follows:~~

#### ORAL INSTRUCTION BY THE COURT

The Court, Gentlemen of the Jury, will give you, orally, this further instruction: It is, of course, contrary to the law for anyone to store or keep ardent spirits for sale. And the statute provides that the possession of more than one gallon of ardent spirits shall raise the presumption that the ardent spirits were designed for sale, and puts upon the accused the burden of rebutting that presumption. The possession of ardent spirits in excess of one gallon of itself raises the presumption that he had it for sale, and puts upon the accused the burden of rebutting that presumption, after the evidence of possession has been introduced.

It is contrary to law to transport ardent spirits from one point to another within the State, or from ~~one~~<sup>a</sup> point within or without the State to a point within the State, no matter how great or how short the distance may be. So if the jury believe from the evidence that the accused in this case brought this liquor to the place where he had his room, ~~that~~ he is guilty of ~~the~~ violation of the law, regardless of the quantity.

The law also provides that no one shall receive ardent spirits, or accept the delivery of ardent spirits, except that he may receive one quart of distilled liquor in a single container not oftener than

And the Court therefore goes to the first and last instructions  
No. 1. and refers to five last instructions No. 5.

~~The giving of these instructions, and each of them, are  
entirely for the benefit of the defendant, which objection the Court  
will not sustain. It is the duty of the Court to give the law to the jury  
as best it can be understood, and in so doing to give the law in the most  
clear and concise manner. The Court will not give the law in a way  
that will mislead the jury, or that will be calculated to prejudice  
the defendant. The Court will give the law in a way that will be  
understood by the jury, and that will be calculated to bring about  
a just verdict.~~

ORAL INSTRUCTION BY THE COURT

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upon the accused the burden of rebutting that presumption. After the  
evidence of possession has been introduced,

It is contrary to law to transport ardent spirits from one  
point to another within the state, or from one point within or with-  
out the state to a point within the state, no matter how great or  
how short the distance may be. So if the jury believe from the evi-  
dence that the accused in this case brought this liquor to the place  
where he had his room, he is guilty of the violation of the  
law, regardless of the quantity.

The law also provides that no one shall receive ardent spirits,  
or accept the delivery of ardent spirits, except that he may receive  
one quart of distilled liquor in a single container not otherwise than

once a month, provided that every container in which distilled liquor, wine or beer is carried shall have on it a card not less than twelve inches long, by six inches wide, upon which shall be stated, in letters not less than one inch high, the kind and quantity of its contents, and so forth, and containing a great many requirements as to which there is no evidence in this case.

So, if the jury believe from the evidence that the accused in this case received ardent spirits, though he received it at the house where he has a room, he is guilty of violating the law.

To which oral instruction the accused, by counsel, objected, but the Court overruled said objection and gave said instruction, to which action of the Court, the accused, by counsel, <sup>and also to the action of the Court in refusing to give defendant's instruction No. 2.</sup> excepted,

Thereupon, the case being submitted to the jury without argument, the jury retired to consider of their verdict, and, thereafter, returned into court and rendered the following verdict:

"We, the jury, find the accused, Clarence A. Baugher, guilty as charged in the indictment and fix his punishment at four months confinement in jail and a fine of four hundred dollars  
H. H. Weaver, Foreman."

And thereupon the accused, by counsel, moved the court to set aside the said verdict as contrary to the law and the evidence, which motion the Court overruled and entered judgment in accordance with the finding of the jury, and, in addition thereto, required the accused, ~~as a further punishment,~~ to execute a bond in the penalty of two thousand dollars conditioned <sup>not to violate the prohibition law</sup> ~~upon good behavior~~ for the period of twelve months; and, thereupon, the accused, by counsel, moved the Court to admit him to bail for a reasonable time in order that he might apply to the Supreme Court of Appeals of Vir-

once a month, provided that every container in which distilled  
 liquor, wine or beer is carried shall have on it a card not less than  
 twelve inches long, by six inches wide, upon which shall be stated,  
 in letters not less than one inch high, the kind and quantity of  
 its contents, and so forth, and containing a great many requirements  
 as to which there is no evidence in this case.

So, if the jury believe from the evidence that the accused in  
 this case received or sent spirits, though he received it at the  
 house where he has a room, he is guilty of violating the law,  
 to which only instruction the accused, by counsel,

objected, but the Court overruled said objection and gave said  
 instruction, to which action of the Court the accused, by counsel,

*and also to the action of the Court in refusing to give the instruction*

accepted.  
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 the penalty of two thousand dollars conditional upon good behavior

*not to violate the prohibition law*

for the period of twelve months; and, thereupon, the accused, by  
 counsel, moved the Court to admit him to bail for a reasonable time  
 in order that he might apply to the Supreme Court of Appeals of Vir-

ginia for a writ of error, which motion the Court refused to grant, to which action of the Court the accused again by counsel excepted, and prays that this, his Bill of Exceptions, may be signed, sealed and enrolled and made a part of the record in this case, all of which is accordingly done, this 2<sup>o</sup> day of May, 1921, within thirty days from the date of the rendition of the judgment hereinbefore complained of.

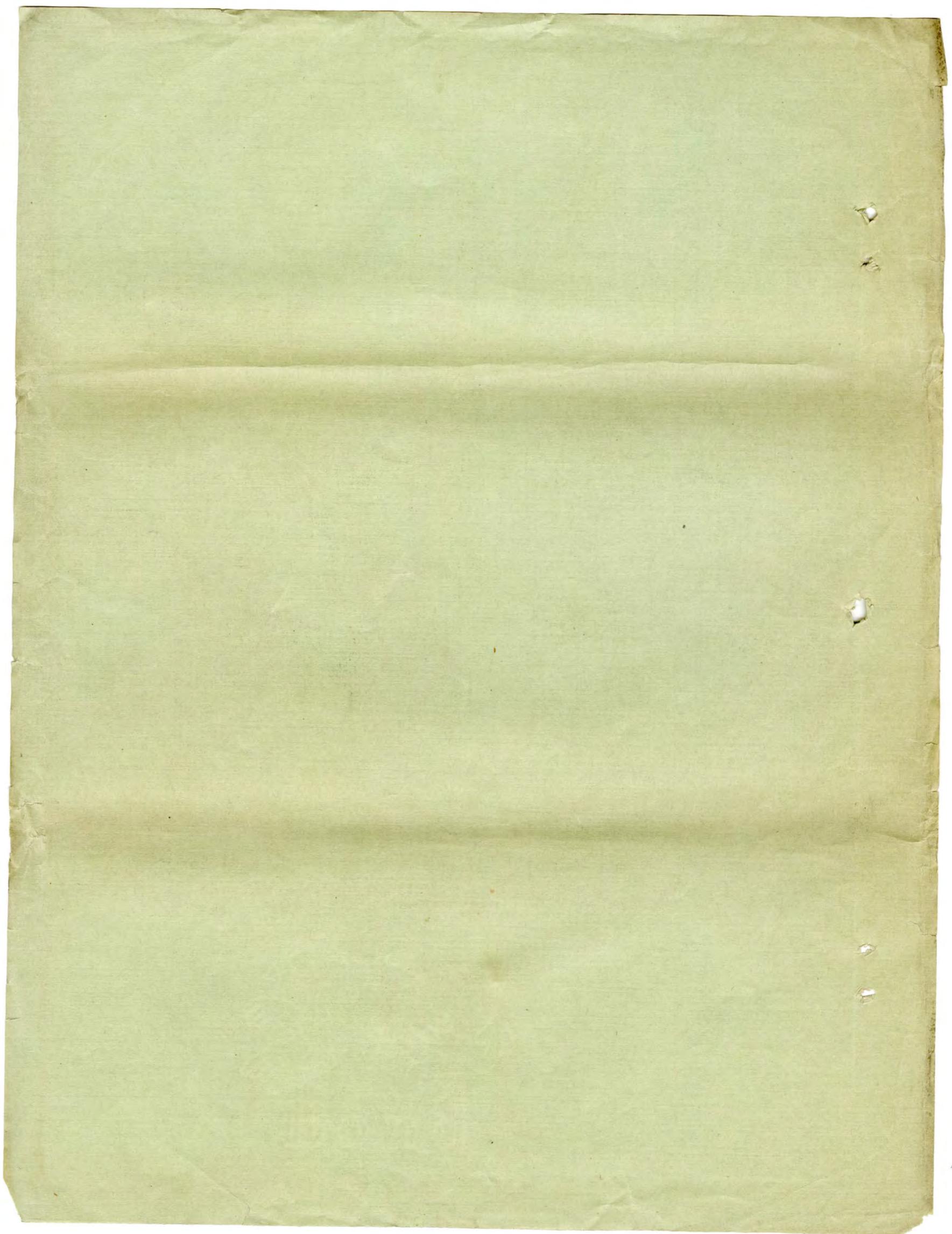
J. H. Haas

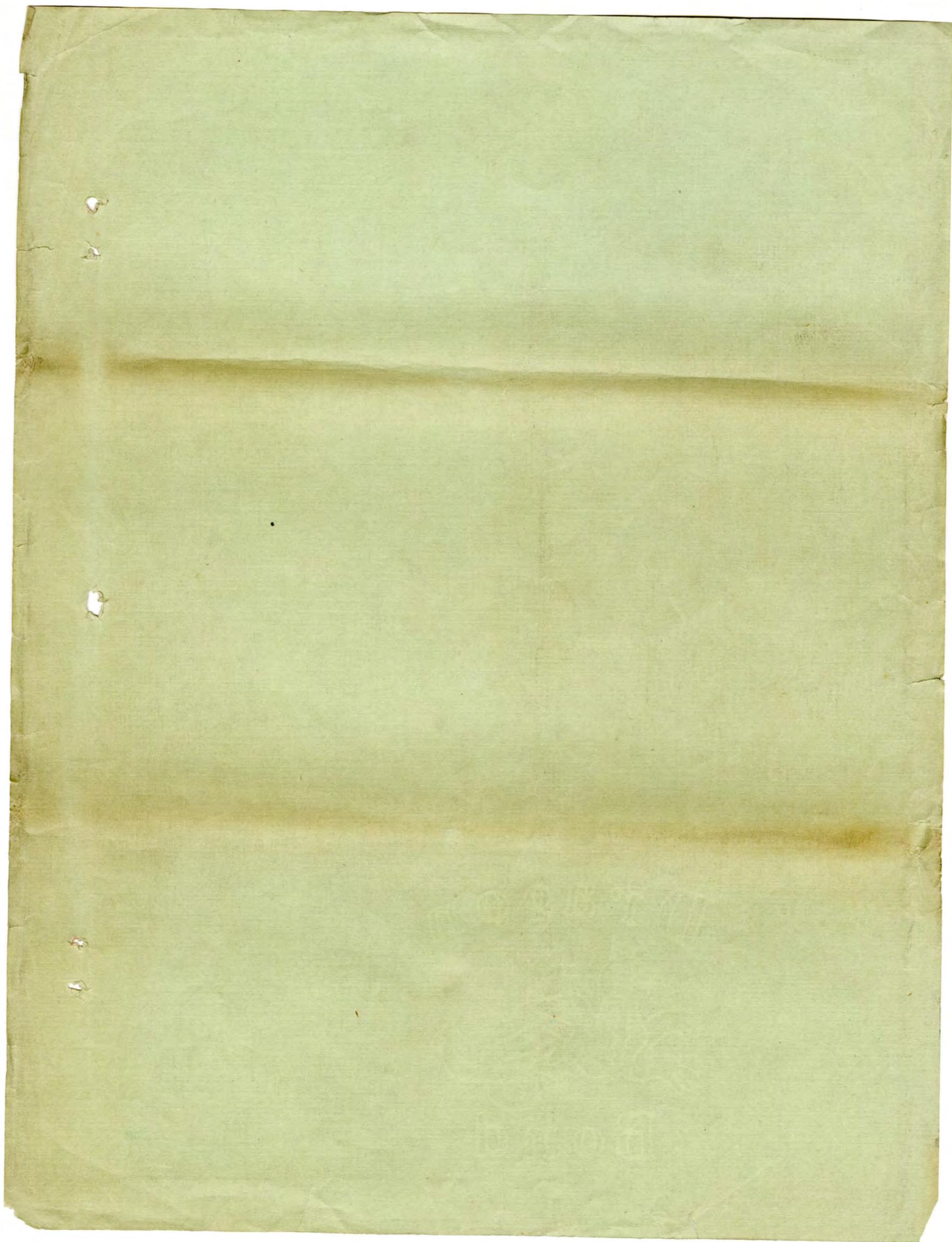
JUDGE (SEAL.)

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 to which motion of the Court the accused again by counsel excepted.  
 and says that this, his Bill of Exceptions, may be signed, sealed  
 and entered and made a part of the record in this case, all of  
 which is accordingly done, this 20th day of May, 1881, within  
 thirty days from the date of the rendition of the judgment herein-  
 before complained of.

\_\_\_\_\_  
 JUDGE (SEAL) *J. H. Wood*

RECEIVED  
 MAY 20 1881  
 U.S. DISTRICT COURT  
 DISTRICT OF COLUMBIA





Ref.  
Instruction No. 2.

The Court instructs the jury that even though they may believe from the evidence that the whiskey was found in a room which the accused occupied at night, still they cannot convict the accused unless the Commonwealth has proved beyond all reasonable doubt that the liquor was in the exclusive possession of accused, and that no other person had access, or means of access, to the room.

The Court instructs the jury that  
 even though they may believe from the evidence that the witness  
 was lying in 1934, they cannot convict the witness unless the Commonwealth has  
 proved beyond all reasonable doubt that the injury was in the  
 exclusive possession of accused, and that no other person had  
 access, by means of access, to the room.

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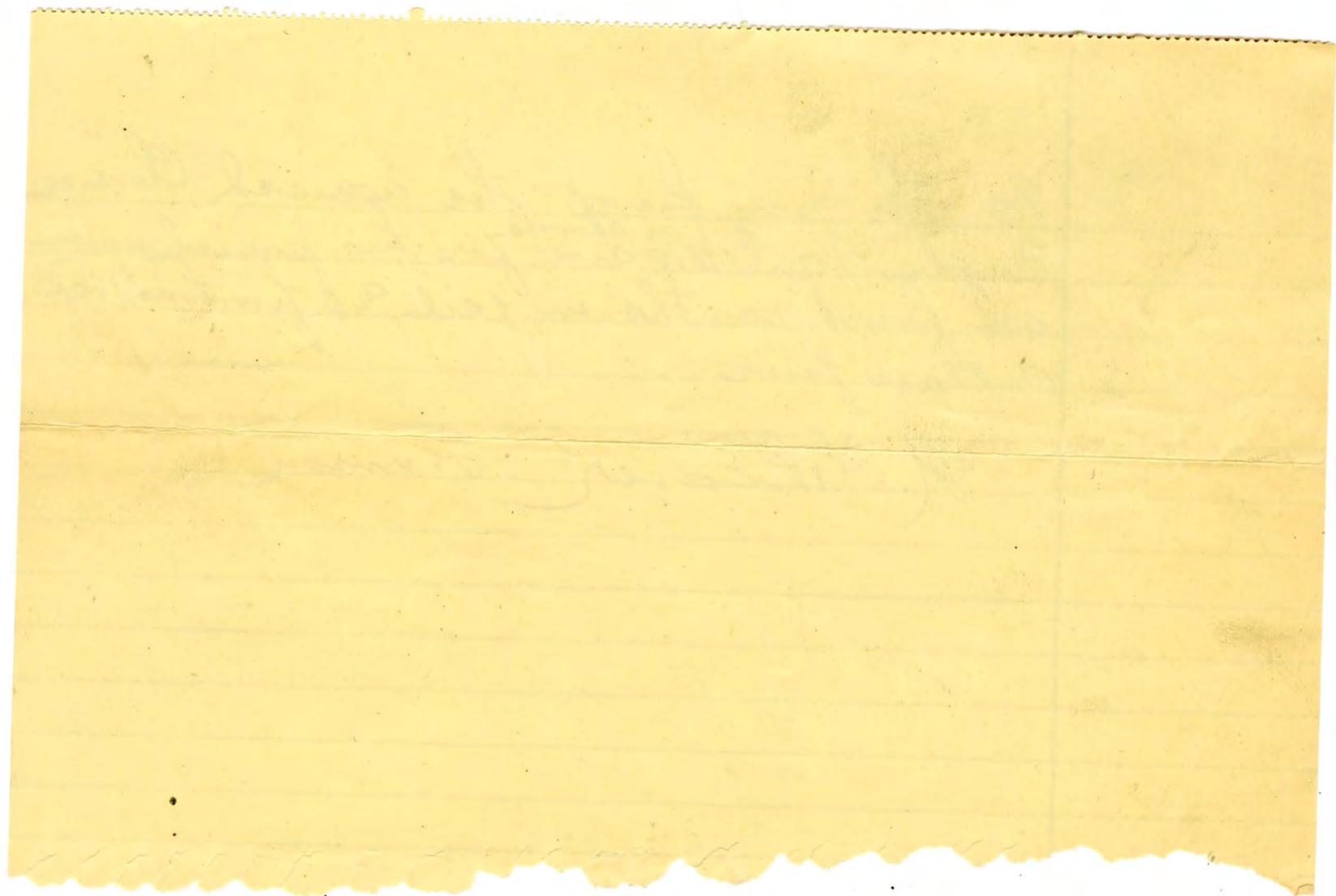
5.45  
 1.25  
 1.60  
 7.30

Com  
 Attorney  
 for  
 Defense  
James

WARD SWANK  
 ATTORNEY AT LAW  
 HARRISBURG, PA

We The Jury find the accused Clarence  
Bughy <sup>as charged</sup> guilty and fix his punishment  
at four months in jail and four hundred  
dollars fine

H. H. Weaver Foreman



COMMONWEALTH OF VIRGINIA,

City.....of Harrisonburg....., To-Wit:

To the Sheriff of said City.....:

Whereas.....W.L.Dillard, Sheriff.....of the said city  
of Harrisonburg..... has this day made complaint and information on oath  
before me, E.J.Lonergan....., a Justice of the Peace of said City,  
that he has cause to believe and does believe that ardent spirits are being manufactured or stored  
for sale, barter, gift, or use, in violation of law, in a certain dwelling house or outbuildings,  
situate in the City of Harrisonburg.....and in the County of Rockingham, Virginia,  
and occupied by Frank Dolan and mother in which house C.A.Baughner has a room.

These are, therefore, in the name of the Commonwealth of Virginia to command you forth-  
with to search said buildings for ardent spirits and their containers, and bring the same and the  
person in whose possession they are found before me or some other Justice of the said City.....  
to answer the said complaint and to be further dealt with according to law.

Given under my hand this 1st day of March....., 1921.

*Edu J Lonergan*..... (SEAL)  
Justice of the Peace.



To J. F. Blackburn, Clerk of the Court,  
Commonwealth vs. Clarence Baugher

To Chemical Analysis of Beverage.....\$3.50

*Jama C. Johnston*, Analyst

April 11, 1921

To J. W. Blackburn, Clerk of the Court,  
Commonwealth vs. Clarence Baughner

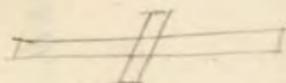
To Chemical Analysis of Beverages.....\$8.50

*James C. Johnston*  
Analyst

April 11, 1931

Baughes

~~\_\_\_\_\_~~ 4/17/21



R. A. Titmus

J. S. Ewing

J. W. Hauck

~~J. H. Hester~~

J. R. Rhodes

J. B. Hammon

V. L. Bridler

H. H. Wooley

~~Herbert Hastings~~

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Circuit Court of Rockingham County, ..... Term, 191.....

*ORDERED, That*..... *pay unto*

..... *a witness for*..... *in suit at law of*

..... *vs.*.....

..... *Dollars and*..... *cents for*.....

*days' attendance and traveling*..... *miles and*.....

*Cents Toll.*

*Atteste:*

§.....

..... *Clerk*

CLARENCE BAUGHER

ADS

Indictment for a  
Misdemeanor.

COMMONWEALTH

R. A. Gibbons	1.50
J. S. Ewing	1.50
J. T. Hancock	1.50
J. R. Rhodes	2.00
L. B. Harmon	2.20
V. L. Biedler	2.90
H. H. Weaver	1.50

1) 13.10
2.00
1.50
2) 16.60
<u>\$ 8.30</u>

no plea

Plea of  
*[Signature]*

wit Mr. Holan 50  
J. R. L. Logan 50

C



20-4446