G. N. G. D. O. D.
J. B. S.

Commonwealth

Jury }
J. S. Zirkle

1 C. L. Rogers 3.00
2 L. N. J. Neff 4.40
3 Simon C. Myers 5.00
4 J. F. Bogom 4.80
5 Jos. E. Lisby 3.60
6 Jos. A. Garber 4.60
7 Michael L. Driver 5.00

$30.40

Commonwealth

vs

T. S. Zittle

C. L. Rogers.
L. H. J. Heff
Reuben C. Myers
J. F. Begom
Jno. E. Lickey
Jos. A. Garber
Michael L. Downey

STATE of VIRGINIA: In the County of Rockingham Corporation of Mt. Crawford, to-wit:

~~TO THE SERGEANT OF MT. CRAWFORD CORPORATION~~:

Sheriff of Augusta County

Whereas D. B. H. Sutton & Frank H. Lage of the said County and Corporation has this day made complaint on oath before me, M. Linden and ex-officio Justice of the Peace of said County Mayor of said Corporation, that J. S. Zirkle on the 2d day of June in the year ~~189~~ 1908, in the said County and Corporation, did drive his Automobile, No. 1228, faster than 12 miles an hour within the corporate limits of the town of Mt. Crawford, in violation of the laws of the State of Virginia

These are, therefore, to command you forthwith to ~~apprehend~~ summon the said J. S. Zirkle and bring him before me, or some other Justice of the said County to answer the said complaint, and to be further dealt with according to law.

Given under my hand and seal this 6th day of June in the year ~~189~~ 1908

M. Linden Mayor [SEAL.]
of Mt Crawford, and ex-officio, Justice of the Peace of said County

Case heard and defendant find
$20.00 and $5.00 costs and the de-
fendant paid and appeal
which is granted
and Cecil Sprouse H. B. Sprouse as his
surety sign in the sum
of $50.00 to pay the fine and costs in
this Court and the Circuit Court
This 30 the day of June 1908 H. C. Hale J P

Bond by surety
sign and signature

Executed June 18th 1908
as to O. S. Grizzle by
summoning him to appear
before W. Linder May at
Mt Crawford Va on
Tuesday June 23rd 1908
at 10 o'clock a m

W. H. Hilleary S.A.C.

The
Grand jury tried the
accused guilty

Recommend a fine
of fifteen dollars

Jos. H. Garber
Fm

We the jury find the
defendant guilty as charged
in the warrant and assess
his punishment at a fine
of fifteen dollars

Jos. H. Garber
Foreman

The jury are instructed that the burden is upon the Commonwealth to prove, beyond every reasonable doubt, every fact essential to the guilt of the accused, and that the Defendant is entitled to be acquitted if the Commonwealth has failed to so prove any such essential fact beyond every reasonable doubt.

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Sec. 1. of the act provides that it shall be unlawful for any person x x x "to run, drive, or operate" an automobile x x x except and until such person shall comply with sec. 2 of the act. It is manifest here that the words "run," "drive" & "operate" are used as synonymous & interchangeable. Sec. 2 requires "every owner of a machine" to register it, but it is clear that the words "every owner" are not to be taken in a broad sense, for the requirement of registration does not apply to an owner of a machine or of machines who does not use them but keeps them only for sale. The "every owner" then who is required to register is the owner who "runs, drives or operates" his machine. Can it be said that an owner who runs, drives or operates his machine through the instrumentality of another, ~~sitting by his side~~ does not "run, drive or operate" the machine & therefore is not required to register. If not, an owner may be a "driver" or an "operator"

tho' he does not do the mechanical labor with his own hand, — at least within the meaning of those terms as used in sec. 1. of the act. — Within the meaning of that sec., the owner is the "operator" of the machine is run under his control — While the word "operator" in sec. 5., may be more restricted in its application, possibly than the word "operate" in sec. 1., I do not think it is to be so narrowly limited as counsel for accused contend, but is to be understood to extend to and include the master in control of his own machine tho' not actually engaged in its mechanical operation. J. D. H.

Case v. Gardner

Refused

The jury are instructed that in order to a conviction of the Defendant on the charge contained in the warrant, it is essential that the Commonwealth shall have proven beyond a reasonable doubt that the Defendant, in fact, operated the automobile therein referred to, on a public highway, in the town of Mt. Crawford, and that a failure of the Commonwealth so to prove such fact entitles the Defendant to an acquittal.

In the argument of this motion by Counsel, the interpolation put upon it by both sides was that the jury must believe that the accused personally performed the labor required in the mechanical operation of the machine -

J. M. H.

Refused

The jury are instructed also that even though they believe from the evidence that car No. 1228 named in the warrant passed through the town of Mt. Crawford on the 2d day of June 1908, and that the Defendant was at that time an occupant of the car, yet this is insufficient to support a finding that the same was being operated by him.

Refused

The jury are instructed that the entries in the toll books introduced in evidence in this case, are not evidence tending to show that the machine mentioned in the warrant was operated by the Defendant in this case while passing through Mt. Crawford.

Pan.
v
Zittle

Reprod
Instmedicine