Hamm
Harin
G.N.C Stephens

Commonwealth

Jurors }

Layton Hensley W
1 A. N. Linewaver
2 R. L. Myers
3 Charles Coffman
4 J. N. Flick
5 C. W. Chapman
6 J. Wm Levers
7 John R. Liskey
8 Wm Long
9 J. A. Coffman
10 F. A. Lanham
11 John W. Holsinger
12 A. J. Lokey

Commonwealth.

Layton Stanleyre.

A. N. Luiesweaver
R. L. Myers
Charles Goffman
T. S. Laughlin
J. N. Fleck
C. D. Chapman
~~E. H. Ragan~~
J. Mm Evers.
~~Samuel Brault~~
John R. Lesley
Ira Long
J. R. Goffman.
John H. Schenger
A. J. Lotley
~~C. M. Brault~~
~~Charles H. Neff~~

State of Virginia, County of Rockingham, To-wit:

TO THE SHERIFF OR ANY CONSTABLE OF THE SAID COUNTY.

Whereas Geo. H. Weast of the said county, has this day made complaint and information on oath before me, WM. J. POINTS, a Justice of the Peace of the said couty, that Layton Hensley of the said county, on the 5th day of December, 1908, in said county, did unlawfully, maliciously and feloniously make an assault upon ~~him~~ affiant on the highway near the residence of affiant by repeatedly throwing stones at affiant, with intent to maim, disfigure or kill him, the said Geo. H. Weast

These are therefore in the name of the Commonwealth of Virginia, to command you forthwith to apprehend and bring before ~~me~~ Justice John D. Wood at Island Ford or some other Justice the body of the said Layton Hensley to answer the said complaint and to be further dealt with according to law.

Given under my hand and seal this 5th day of December 1908

, J. P., [SEAL.]

Summon the following witnesses: Frank Butler -

1908

Executed December 10
by delivering the body
of laton hensley to
Square Wood. J.P.
J a Carickhoff D.S.R

Executed this ..... day of ....., 190 ..., by arresting the above named

..... and bringing ..... before

Judgment on the Nineteenth day of December, 1908.

Defendant Leyton Henaly found guilty upon the testimony on oath of

Geo Wenst as charged in the ~~police warrant~~ fine, and

it is adjudged that Leyton Henaly pay a fine of ~~ten~~ 2 dollars and cost, all of which has been paid, this the 20th day of January 1909

John J Wood J P

Commonwealth of Virginia
vs. } Warrant
Leyton Henaly

FILED
JAN 21 1909
D. H. LEE MARTZ,
CLERK, C. C.

STATE OF VIRGINIA, COUNTY OF ROCKINGHAM, TO-WIT:

TO THE SHERIFF OR ANY CONSTABLE OF THE SAID COUNTY:

Whereas C. J. Carrickhoff of the said county, has this day made complaint and information on oath before me, WM. J. POINTS, a Justice of the Peace of the said county, that Layton Heusley, Reuben Heusley and Henry Heusley of the said county, on the 22nd day of September, 1908, in said county, did unlawfully and feloniously, in the night time enter a certain outhouse called a barn ~~on the premises~~ not adjoining ~~to~~ nor occupied with her residence of Mrs. Sarah Mauzell two miles east of Harrisonburg with intent to commit larceny and ~~take steal~~ and carry away, ~~[illegible]~~ about 10 bushels of grain and seed, of the value of $20.00 of the goods & chattels of said Sarah M. Turpell, there and there being ~~the property of Mrs. Mauzell~~ unlawfully & feloniously did take steal & carry away

These are therefore in the name of the Commonwealth of Virginia, to command you forthwith to apprehend and bring before me or some other Justice the body of the said Layton Heusley, Reuben Heusley and Henry Heusley to answer the said complaint and to be further dealt with according to law.

Given under my hand and seal this 23rd day of September 1908

Wm. J. Points, J. P., [SEAL.]

Summon the following witnesses:

Executed this 23rd day of September, 1908, by arresting the above named Layton, Kemper & Reuben Heasley and bringing them before Wm J Paults, J.P.

E J Carrickhoff, SRC
Per Crawhorn

Judgment on the 24th day of September, 1908.

Defendants Layton, Kemper & Reuben Heasley found probably guilty upon the testimony on oath of John P. Van Pelt, H. F. Sutherlin, E. J. Carrickhoff and Jesse McDaniel

as charged in the above warrant, and

it is adjudged that they be sent on to the Circuit Court for further examination and be committed to the Common Jail of Rockingham County until further discharged

Wm J. Paults, JP

And the witnesses are recognized in the sum of 50.00 each for their appearance in Court on Sept. 25/08

Commonwealth of Virginia
vs. { Warrant
Layton Heasley, Reuben Heasley & Kemper Heasley

Costs
J. P. 1.50
Witness -
Witnesses
J. P. Van Pelt, .50
H. F. Sutherlin .50
J. F. McDaniel .50
E. J. Carrickhoff .50
Jesse McDaniel .50
W. L. Pollard .50
$3.00

CERTIFICATE OF COMMITMENT FOR TRIAL.

VIRGINIA, COUNTY OF ROCKINGHAM---To-wit:

To the Clerk of the Circuit Court of said County:

I, Wm. J. Poindt, a justice of the peace of said county, do hereby certify that I have this day committed Layton Hawley, Reuben Helsley & Thomas Helsley to the jail of said county, that he may be tried before the circuit court of said county, for a felony by him committed, in this, that he, on the 22nd day of Sept., 1908, in the said county, did unlawfully and feloniously, in the night time enter a certain out house called a barn of Mrs Sarah Van Pelt, not adjoining nor occupied with her residence, two miles east of Harrisonburg, with intent to commit larceny and 10 bushels of grain and seed, of the value of $20.00 of the goods and chattels of said Sarah M. Van Pelt, unlawfully and feloniously did steal take and carry away.

Given under my hand and seal, this 24th day of September, 1908.

Wm. J. Poindt, J. P. [L. S.]

Certificate of Commitment

COMMITMENT TO ANSWER INDICTMENT.

VIRGINIA, COUNTY OF ROCKINGHAM---To-wit:

To the Sheriff, ...of said County, and to the Keeper of the Jail thereof:

These are, in the name of the Commonwealth of Virginia, to command you, the said Sheriff, forthwith to convey and deliver into the custody of the keeper of said jail, together with this warrant, the body of Layton Heasley, Reuben Heasley & Kemper Heasley, charged before me, Wm. J. Pirtle, a justice of the peace of said county, on oath of J. P. Van Pelt & others with a felony by him committed, in this, that he, the said Layton, Reuben & Kemper Heasley, on the 22nd day of Sept, 1908, in said county, did unlawfully and feloniously, in the night time enter a certain outhouse called a barn of Miss Sarah M. Trubell, not adjoining nor occupied with her residence, 2 miles east of Harrisonburg, with intent to commit larceny, and 60 bushels of grain & seed of the value of $20.00 of the goods & chattels of said Sarah M. Van Pelt, fraudulently and feloniously did steal, take and carry away. And being so charged probably guilty are sent on to the Circuit Court of said County for trial.

.....and you, the keeeper of the said jail, are hereby required to receive the said Layton, Reuben & Kemper Heasley into your jail and custody, that he may be tried for the said offence before the ~~county~~ Circuit court of said county, and him there safely keep, until he shall be discharged by due course of law. Given under my hand and seal, this 24th day of Sept 1908.

Wm. J. Pirtle, J. P. [L. S,]

Admitted to Bail in the Sum of One thousand dollars each, Dayton, Kemper & Reuben Hensley with John H. Hensley as surety for each to appear before the Circuit Court of Rockingham County on Friday the 25th day of September 1908 at 10 O'Clock A. M. to answer a present ment to be made before the Grand Jury.

Given under my hand this 24th day of September 1908.

H. V. Beckham Bail Commr

Rec'd
NW

Commitment

John P. VanBelt +
W. H. VanBelt +
W. F. Fitzwiler +
C. J. Carrickhoff +
Jesse McDaniel +
~~John Henely~~ +
W. L. Dillard

The Court instructs the jury that to authorize a conviction of perjury there must be two witnesses testifying to the falsity of the statement alleged to be perjured, or to facts showing the falsity of ~~the~~ such statement, or the same must be established by one witness and corroborating circumstances of such a character as clearly to turn the scale and overcome the oath of the accused and the legal presumption of his innocence - This requirement, however, of two witnesses or of one witness and corroborating circumstances applies only to proof of the falsity of the testimony given by the accused alleged to be perjured. As to all other facts material or necessary to be proven to establish the guilt of the accused, one witness is sufficient if believed by the jury.

The Court instructs the jury that in so far as witnesses have been permitted in this case to tell what was testified to on the trial of the Hensleys, the same (except as to the testimony of Lipe on that trial) was admitted and is to be considered by the jury only upon the question of whether or not the testimony of Lipe on that trial was of a material character, and is not to be considered by this jury upon the question of whether the testimony of Lipe on that trial was in fact true or false unless the witnesses were sworn in this case and gave the testimony over again on this trial. The testimony given by Lipe himself on the Hensley trial may, of course, be considered by the jury upon the question of whether the testimony charged in the indictment to be perjured testimony was in fact true or false.

If you find the prisoners not guilty you will say so and no more.

If you find the prisoners guilty of entering in the night time without breaking, or of breaking and entering either in the day time or night time the barn of Mrs. Sarah M. ~~Xxxxxxx~~ VenPelt with intent to commit larceny therein, you will say so and ascertain their punishment which may be confinement in the penitentiary not less than one nor more than ten years, or in the discretion of the jury, confinement in jail not exceeding twelve months and fined not exceeding five hundred dollars.

If you find the prisoners not guilty of the felony aforesaid but guilty of petit larceny you will say so and ascertain their punishment which shall be confinement in jail not ~~xxxx~~ less than ~~five~~ fifteen days nor more than six months, or by fine of not less than five dollars nor more than one hundred dollars, or both.

Instruction No. _____.

The Court instructs the jury that a person who is present at, and aids or abets in the commission of the crime of house-breaking is a principal in the first degree and subject under the law to the same penalty as the actual perpetrator of the crime, and to constitute such presence, it is unnecessary to be actually and visibly present, but if a person accompany another to commit a crime, and keep within hearing or upon watch, and ready to assist, such presence is sufficient, in law. The aider and abettor must share in the criminal intent of the principal, and there must be something done or said by him, showing his consent to the felonious purpose and contributing to its execution.

Instruction No. _____.

The Court instructs the jury that, if they believe from the evidence that the barn of Mrs. Sarah M. VanPelt was entered in the night-time by Reuben Hensley, Kemper Hensley and Layton Hensley, with the intent as charged in the indictment, or if they believe from the evidence that one or more of the accused in the night-time entered said barn with the intent aforesaid, and that the other or the others did not actually enter the said barn but was or were present, aiding or abetting in the commission of the crime, then the accused are equally punishable.

Instruction No. _____.

The Court instructs the jury that, if they believe from the evidence that the barn of Mrs. Sarah M. Vanfelt was entered in the night-time by Reuben Henaley, Kemper Henaley and Layton Henaley, with the intent as charged in the indictment, or if they believe from the evidence that one or more of the accused in the night-time entered said barn with the intent aforesaid, and that the other or the others did not actually enter the said barn but were present, aiding or abetting in the commission of the crime, then the accused are equally punishable.

The Court instructs the jury that by reasonable doubt as used in other instructions in this case is meant such a doubt as is based on the evidence or grows out of the evidence or that is suggested by the evidence, it must not be an arbitrary doubt without evidence to sustain it. It must be serious and substantial to warrant an acquittal. It must be adoubt of a material fact or facts necessary for the jury to believe to find a verdict of conviction and not of immaterial and non-essential circumstances.

Williams vs. Com. 85 Va. 607-9.

Mohns vs. Commonwealth 103 Va. 870.

The Court instructed the jury that if reasonable doubt as to guilt arose in their minds as to any case in which the evidence was wholly circumstantial, it should be their duty to give the accused the benefit of the doubt and to find a verdict of acquittal. It was not necessary that the evidence should exclude every hypothesis but guilt, but it was necessary that the jury should be satisfied of the truth of the hypothesis on which they based their verdict. It was not sufficient that the evidence should be consistent with guilt, it must be such that it could not be explained on any other hypothesis than that of guilt. The court instructed the jury that if they found a doubt as to the existence of the fact on which the verdict was based, it was their duty to find the defendant not guilty. The court also instructed the jury that if they found a doubt as to the existence of any fact on which the verdict was based, it was their duty to find the defendant not guilty. The court also instructed the jury that if they found a doubt as to the existence of any fact on which the verdict was based, it was their duty to find the defendant not guilty.

MOORE v. COMMONWEALTH OF VIRGINIA.

ARTICLE IV, SEC. 2, CL. 1 OF CONSTITUTION.

.O'Ran, J., delivered the opinion of the court.

The Court instructs the jury that they are the sole judges of the weight and the credibility of the witnesses who have testified in the case and may consider the bearing of the witness on the stand, relationship, bias or interest, the reasonableness or unreasonableness of the evidence given and all other surrounding facts and circumstances of the case appearing in the evidence and determine whether the testimony is to be believed and the weight to be attached thereto. The jury is not obliged to be controlled by the number of witnesses who testify upon any particular point being greater then the number who testify to the contrary upon such point, but the credibility and weight to be attached to the evidence is a matter entirely with the jury.

The Court instructs the jury that they are the sole judges of the weight and the credibility of the witnesses who have testified in the case and may consider the bearing of the witness on the stand, the weight and the credibility which such witness seems to have when he testifies to the contents upon such point, and the credibility of the witness and weight to be attached to the evidence as a whole entirely with the jury.

No. 1.

The Court instructs the jury that the law presumes the accused to be innocent until they are proven guilty beyond a reasonable doubt, and if there is upon the minds of the jury any reasonable doubt of the guilt of the accused, the law makes it their duty to acquit them, and that mere suspicion or probability of their guilt, however strong, is not sufficient to convict, nor is it sufficient if the greater weight or preponderance of evidence supports the charge in the indictment, but to warrant their conviction, their guilt must be proved so clearly that there is no reasonable theory consistent with the evidence, upon which they can be innocent.

No. 1.

The Court instructs the Jury that if they believe the evidence beyond a reasonable doubt, that the Jury find the defendant guilty of the charge in the indictment, then it is the duty of the Jury to find the defendant guilty of the charge in the indictment, but if they believe from the evidence that there is a reasonable doubt of the guilt of the defendant, then it is their duty to find the defendant not guilty.

However before, in order to authorize a conviction, the evidence must be such as to exclude every reasonable hypothesis other than that of the guilt of the defendant, it is not sufficient to convict, nor is it sufficient that the evidence should merely raise a suspicion of guilt, and that there exists a probability of guilt, but it must be such as to produce a moral certainty of guilt in the mind of the Jury, before they can find the defendant guilty.

If the Jury believe from the evidence, upon which we can be innocent.

No. 2.

The Court instructs the jury that in order to convict the accused of the crime alleged against them in the indictment, every material fact necessary to constitute such crime must be proved beyond a reasonable doubt, and if the jury have a reasonable doubt upon a material fact, or element, necessary to constitute the crime, it is their duty to give the prisoners the benefit of such doubt and acquit them.

No. 3.

The Court instructs the Jury that in order to convict the accused of the crime alleged against them in the indictment, every material fact necessary of constitute such crime must be proved beyond a reasonable doubt, and if the Jury have a reasonable doubt upon a material fact, or element, necessary to constitute the crime, it is their duty to give the prisoner the benefit of such doubt and acquit them.

3

No. _____

The Court instructs the jury that the guilt of the accused is not to be inferred because the facts proven may be consistent with their guilt, but they must be inconsistent with their innocence.

No. _____

The Court instructs the jury that the guilt of the accused is not to be inferred because the facts proven may be consistent with their guilt, but they must be inconsistent with their innocence.

4

No. _____.

The Court instructs the jury that it is not incumbent upon the defendants in this case to point out by evidence any other person as the perpetrator of the offense charged in the indictment, but that they are entitled to be acquitted unless the evidence shows, beyond every reasonable doubt that they are guilty of the crime as charged in the indictment.

No. _____.

The Court therefore find that it is not incumbent upon the defendants in this case to point out by evidence any other person as the perpetrator of the offence charged in the indictment, but that they are entitled to be acquitted unless the evidence proves, beyond every reasonable doubt that they are guilty of the crime as charged in the indictment.

The Court further instructs the jury that in the absence of proof beyond every reasonable doubt by the Commonwealth that the timothy seed and the barley found in the possession of the accused when arrested was the same stolen from the barn of S.M.Van Pelt on the 22nd., day of September 1908 then such possession is no proof against the accused that they committed the crime charged in the indictment.

The court further instructs the jury that in the absence of proof beyond every reasonable doubt by the Commonwealth that the firearm seed and the pistol found in the possession of the accused mayhem entered was the same stolen from the Rev. M.S. Neff on the 28th. day of September 1961 then such possession is no proof against the accused that they committed the crime charged in the indictment.

6

The Court instructs the jury that although they may believe from the evidence that the sack found on the premises of Layton Hansley was the property of S.M.Van Pelt,yet if they further believe from the evidence that the accused did not commit the crime charged in the indictment they must acquit them.

The court instructs the jury that although they may believe from the evidence that the sack found on the premises of Ralph Hem-
ley was the property of S.M. Ney, they if they further believe from the evidence that the accused did not commit the crime charged in the indictment they must acquit them.

The Court instructs the jury that although they may believe from the evidence that the sack found in Layton Hensley's corn-crib was the property of S. M. Van Pelt, yet such possession of itself is not a presumption of guilt, if the jury believe from the evidence of the case that a reasonable account of the presence of the sack in the corn-crib has been given.

THE COURT THEREFORE FOUND THAT ALTHOUGH THEY WEN BELIEVE FROM THE EVIDENCE THAT THE SACK FOUND IN LEYTON HENSLEY'S COMMERCIAL ROW THE PROPERTY OF S. M. NEW BELT, YET SUCH POSSESSION OF THE SACK IN THE COUN-CITY HAS BEEN STATED.

THERE IS NOT A PRESUMPTION OF FRAUD IN THE TWO BELIEVE FROM THE EVIDENCE OF THE CASE THAT A REASONABLE ACCOUNT OF THE PRESENCE OF THE SACK IN THE COUN-CITY HAS BEEN STATED.

No. _____

The Court instructs the jury that if the Commonwealth relies for a conviction in this case upon evidence in whole or in part circumstantial, then it is essential that the evidence and every material part thereof should, to a moral certainty, actually exclude every hypothesis but the one proposed to be proved, viz:- that the said Hensleys broke and entered, or entered without breaking the barn of the said Van Pelt with intent to commit larceny, and that unless the circumstances and every material part thereof do, to a moral certainty, actually exclude every hypothesis but the one proposed to be proved, viz:- that the said Hensleys broke and entered or entered without breaking the said barn with intent to commit larceny, then they should find the prisoners not guilty.

Refused as to entered or entering barn

Reference

No. _____

Reference

The COMMONWEALTH of MASSACHUSETTS

vs.

Indictment for Larceny, Yonkers, N.Y.

Now comes the defendant and moves that the one proposed to be proved, viz:- that the alleged larceny took place and entered to entered without breaking and entering and that the defendant cannot be tried for a crime committed in another county, and moves that the indictment be quashed.

Henry Ford

State of Virginia, Rockingham County, to=wit:

In the ~~County~~ Circuit Court of the said County:

The Jurors of the Commonwealth of Virginia, in and for the body of the County of Rockingham, and now attending the said Court, UPON THEIR OATH PRESENT, that Laylon Hinsley, Reuben Hinsley and Kemper Hinsley on the 22d day of September in the year 1908, in the said county, a certain outhouse, called a barn the property of one Mrs. Sarah M. Van Pell not adjoining to or occupied with the dwelling-house of the said Sarah M Van Pell there situated in the night time of that day, feloniously did ~~break and~~ enter without breaking with intent the goods and chattles of the said Sarah M. Van Pell in the said outhouse then and there being, feloniously to steal, take and carry away, and two bushels of barley of the value of $1.50, two bushels of timothy seed of the value of $4.60 of the goods and chattels of Sarah M. Van Pell and one sack of shorts ~~of the goods and chattels of John P. Van Pell then and there being found feloniously did steal take and carry away~~ of the value of sixty cents of the goods and chattels of ~~the said~~ John P Van Pell in the said outhouse, then and there being found, then and there feloniously did steal, take and carry away, against the peace and dignity of the Commonwealth of Virginia. And the Jurors aforesaid, upon their oath aforesaid, do further present, that Laylon Hinsley, Reuben Hinsley and Kemper Hinsley on the 22d day of September, in the year 1908, in the said County, a certain ~~out~~house, called a barn, the property of one Sarah M. Van Pell not adjoining to or occupied with the dwelling-house of the said Sarah M. Van Pell there situated, in the night time of that day feloniously did break and enter, with intent the goods and chattels of the said Sarah M. Van Pell in the said barn then and there being, feloniously to steal, take and carry away, and two bushels of barley of the value of one dollar and fifty cents, and two bushels of timothy seed of the value of four dollars and sixty cents of the goods and chattels of said Sarah M. Van Pell and one sack of shorts of the value of sixty cents of the goods and chattels of ~~the said~~ John P. Van Pell in the said ~~out~~house, then and there being found, then and there feloniously did steal, take and carry away, against the peace and dignity of the Commonwealth of Virginia. ~~And the Jurors aforesaid, upon their oath aforesaid, do further present, that, on the day of, in the year 189, in the said County, a certain outhouse, called a, the property of one, not adjoining to or occupied with the dwelling house of the said, there situated, in the night time of that day feloniously did enter, without breaking the same, with intent the goods and chattels of the said in the said outhouse then and there being feloniously to steal, take and carry away. And of the goods and chattels of the said in the said outhouse then and there being found, then and there feloniously did steal, take and carry away, against the peace and dignity of the Commonwealth of Virginia.~~

This indictment is found on the testimony of J. P. Van Pelt, E. J. Conichoff, H. S. Tutwiler & Jesse McDaniel witness sworn in Court and sent before the Grand Jury to give evidence.

We the jury find the prisoners Layton Hensley, Reuben Hensley & Kimper Hensley not guilty

Foreman

A. L. Lineaum

W. Hyman

Commonwealth

vs

Indictment for a felony

Layton Hensley, Reuben Hensley and Kimper Hensley

A true Bill

Enoch Rolston

M. L. Horsman

Wits 12/08