

Commonwealth

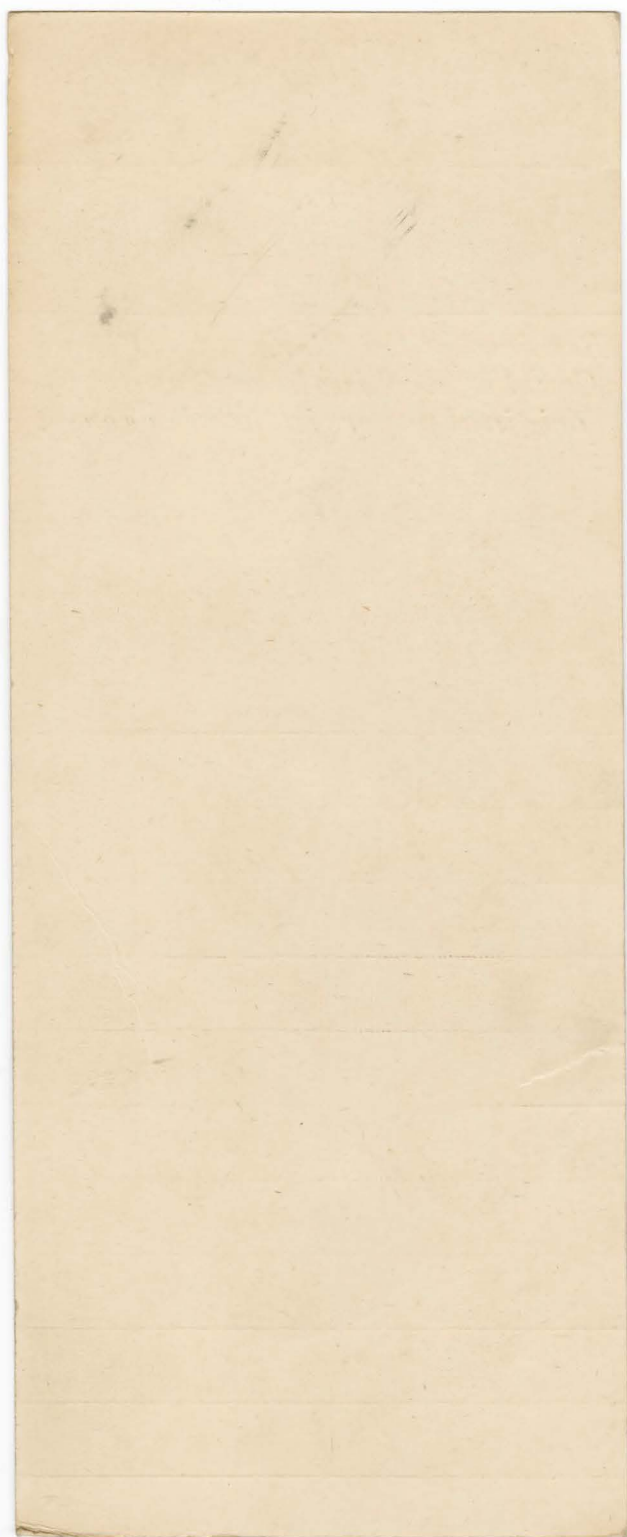
vs.

} *John*

Reuben Hensley

~~Received of the Clerk of the Circuit
Court of Rockingham County, the
original papers in the above case.~~

- | | | |
|---|---|-------------------------|
| 1 | { | <i>A. P. Ballantine</i> |
| 2 | | <i>B. F. Enos</i> |
| 3 | | <i>John W. Flier</i> |
| 4 | | <i>S. C. Long</i> |
| 5 | | <i>J. H. Shinsky</i> |
| 6 | | <i>G. M. Frank</i> |
| 7 | | <i>Wm. H. Adkins</i> |



Commonwealth of Virginia
vs: } Upon a warrant issued by Justice J. A. S. Kyger
Reuben Hensley.

This 8th day of February 1909, the accused is before me for examination, and upon the testimony introduced by the Commonwealth, the charge of Grand Larceny is not sustained, the value of the goods and chattels being found to be less than \$50.⁰⁰. And the Defendant offering no defence to the charge of Petit Larceny, the accused, Reuben Hensley is found guilty of Petit Larceny, and is adjudged to pay a fine of \$50.⁰⁰ and the costs assessed at \$8.⁵⁰, and to be confined in the jail of Rockingham County, Va. for a period of six months from this day, and thereafter until said fine and costs are paid, or he be otherwise discharged according to law. And the Defendant praying an appeal from said judgment to the Circuit Court of the County of Rockingham, which appeal is allowed and hereby certified. And thereafter the said Reuben Hensley, together with John C. Hensley, his surety, who justified, entered into a recognizance, in the penalty of \$1000.⁰⁰ each, with waiver of Homestead, and also of any claim or right to discharge any liability arising under this obligation to the Commonwealth,

with coupons attached to Bonds of this
State, ~~and~~ conditioned for the appearance
of the said Reuben Heasley, before the
said Circuit Court, on the first day of the
March Term 1909, thereof, at 10 o'clock
A. M. of the 15th day of March 1909, and
not depart therefrom without leave of Court.
And thereupon, the said Reuben Heasley
is discharged from custody -

Wm. J. Powell, J. C. C.

COMMONWEALTH OF VIRGINIA,
ROCKINGHAM COUNTY,

TO-WIT :

To Sheriff, a Constable of said County :

WHEREAS, J. F. Wright of the said county, has this day made complaint and information on oath before me, J. A. S. Kyger a Justice of the said county, that

Reuben Hensley of the said county, on the 27 day of January 1908, in the said county, did Steal one Burgsy Robe of the Value of Fifty dollars of the goods and Chattles of Dr J. F. Wright - Feloniously did Steal. Take and 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 of the said County, the body of the said Reuben Hensley

to answer the said complaint, and to be farther dealt with according to law. And you are required to summon

to appear and give evidence in behalf of the Commonwealth, on the examination touching the said offence.

Given under my hand and seal this 27 day of Jan, in the year 1908.

J. A. S. Kyger. J. P. [SEAL.]

Bailed in sum of \$1000.00 with John A. Hensley as surety
to appear in Harrisonburg Va. at 10 o'clock A.M. on
Monday the 8th day of February 1909, before W. J.
Parks or some other justice of the Peace who may
be there to lay the case,
Gives under my hand this 3rd day of

February 1909 W. J. Parks Bail Court.

We the jury find the defendant Reuben Hensley guilty of the larceny
of the freight note of Dr. J. S. Wright in the sum of twenty five hundred
of the value of less than fifty dollars, and charged by the warrant to
arrest and deliver the defendant to the sheriff of Rockingham County for the
purpose of imprisonment in the penitentiary for the term of one year.

Commonwealth

vs.

Arrest Warrant.

Reuben Hensley

Executed the within warrant by
arresting and delivering the

of Reuben Hensley
before W. J. Parks
a justice of Rockingham County and
by summoning the within named wit-
nesses in person, this 3rd

day of February 1909

W. J. Parks
Constable of Rockingham County
Deputy Sheriff

Feb. 3/09 Party
brought before me and
committed for examina-
tion on Feb. 8/09 at
10 A.M.

W. J. Parks
JP.

Costs before Justice
Justice J. A. S. Hyges .50
" W. J. Parks 1.00
Sheriff 2.50

Articles
Dr. J. H. Wright .50
Prison Lands .50
C. J. Carnickhoff .50
Mary Johnson 1.50
W. J. Johnson 1.50 4.50
Total 7.50

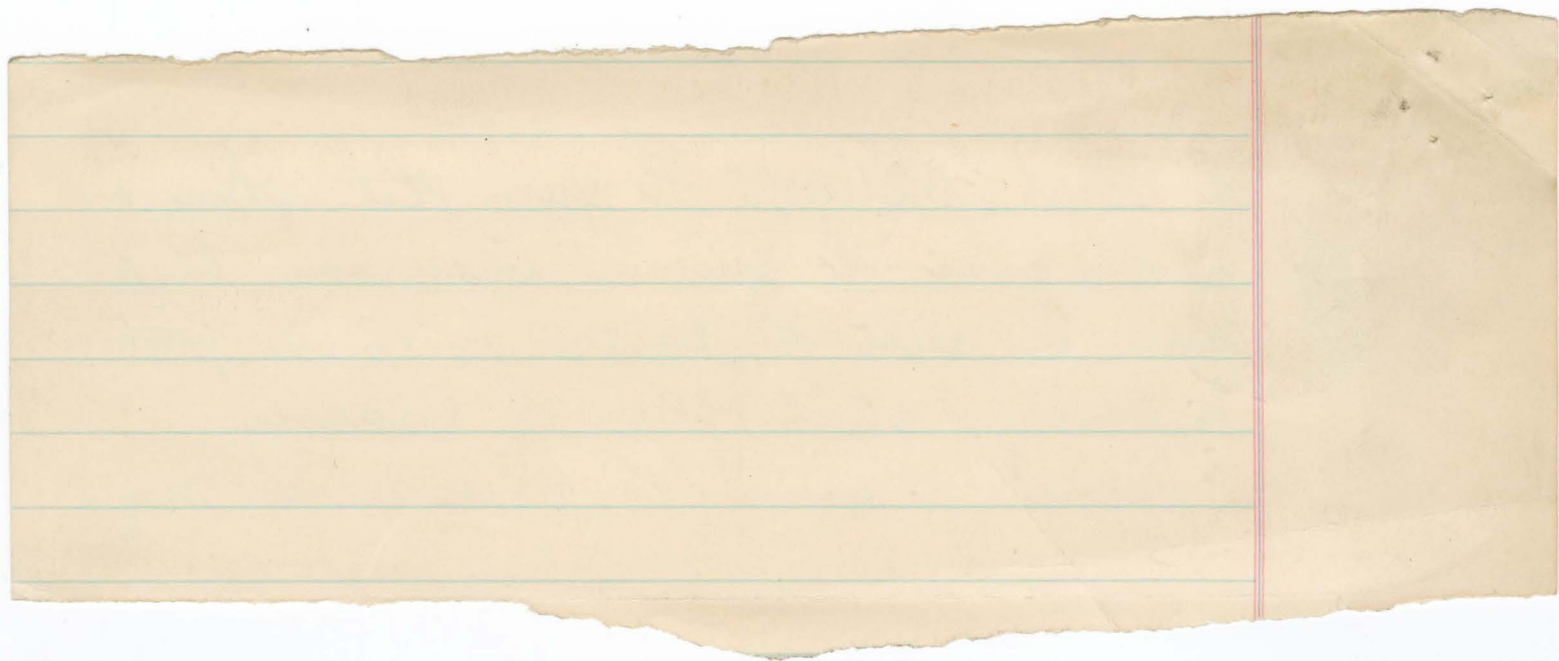
Appeal certified.
Fine \$75 9/09
W. J. Parks

The Court instructs the jury that in proof of
guilt by circumstantial evidence it is not
essential that the facts and circumstances
established should produce on the minds
of the jury absolute and demonstrative cer-
tainty, but it is sufficient if such
facts and circumstances produce ~~in the~~
~~minds of the jury~~ ^{is a moral certainty on the minds of the jury} ~~the guilt of the accused~~
~~of the commission of the~~ ^{by the accused} ~~offense~~
charged, to the exclusion of a reasonable
doubt.

...instructed to give that in fact
...circumstantial evidence it is
...that of facts and circumstances
...evidence of the fact or of the
...of the group of facts and circumstances
...but it is sufficient of itself

~~...of the fact of the commission of the offense~~
~~...to a great extent a matter of opinion~~
~~...of the fact of the commission of the offense~~
...of the fact of the commission of the offense
...to a great extent a matter of opinion
...of the fact of the commission of the offense
...to a great extent a matter of opinion
...of the fact of the commission of the offense

The Court instructs the jury that where as
in this case the prisoner undertakes to
prove an alibi the burden is on the prisoner
to sustain such plea by evidence
sufficient to satisfy the minds of the jury.



Clerk
 10
 11
 18
 70
 220
 90
 380
 75

~~180~~
~~300~~
~~150~~

210
 2300

1.08
 1.00
 Ballentine 7.01
 Ennis 7.50
 Flinn 6.90
 Long 7.20
 Shurkey 7.50
 Frank 6.60
 Starn 6.90

7m - 21-00
 part J. P. to 6.00
 paid clerk 10.46
 paid off 10.60
 Wil 27.10
 Jerry 49.65
 paid auto 5.00
 paid 13 4.21
 mil 2.00

4965

934.21

Humby due
 clerk 3.35

80
 200
 30
 10
 15
 #335

21.90
 210
 2440

850
 1450
 4961-
 72.61-

72.65
 250
 70.15-

134.21
 23.40
 110.81-
 131.00
 97.81-

1046
 810
 122
 2556

810
 574
 236

081

King

610

Rec'd. Apr. 24, 1909, of J. H. See Martz
Claro, ^{Ten}Eight & ⁶⁰/₁₀₀ Dollars, in full
of Sheriff's Costs, Case of Com. of 1st
vs. Ruben Hursley

~~#270~~
10. ⁶⁰/₁₀₀

J. E. Croushorn, J. S.

Mr.

Dr.

190.....

To D. H. LEE MARTZ, Clerk of the Circuit Court of Rockingham County.

Received payment....., *Clerk*.

\$.....

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

If you find the prisoner guilty
of the larceny of the robe of
Dr. J. F. Wright and that the value
of said robe was less than \$50.
You will say so and ascertain
his punishment & confinement - in
jail not less than fifteen days
nor more than six months or fine
of not less than \$50 nor more
than \$100. or both.

Donnell has

inscribed

Apr 16/49

The Court instructs the Jury that if they believe from the evidence that the robe was stolen from the buggy of Dr. J. F. Wright on the night of the 22nd of January, 1908, and recently thereafter was found in the exclusive possession of the prisoner, then such possession affords sufficient ground for the presumption that the ^{prisoner} stole the same, and in order to repel this presumption it is incumbent on him to account for such possession consistently with his innocence. ~~And if the Jury believe he has given a reasonable account of how he came into possession thereof and that it was impossible for him to have stolen the same then it devolves on the Commonwealth to prove beyond every reasonable doubt that such an account is untrue, and unless the Commonwealth proves this then the Jury must find the prisoner "Not guilty."~~

If the prisoner, in the opinion of the jury, has given a reasonable account or explanation of how he came by the stolen property, it is incumbent on the Commonwealth to show it is false - If the account given by the prisoner is, in the opinion of the jury, unreasonable or improbable on the face of it, the burden of proving its truth lies on the prisoner.

Com.

Reuben H. H. H.

Instruction to the Jury

Phil. H. H.

The Court instructs the Jury that if they believe from the evidence that the rope was stolen from the buggy of Dr. J. F. Wright on the night of the 2nd of January, 1908, and recently thereafter was found in the exclusive possession of the prisoner, then such possession affords sufficient ground for the presumption that the stole the same and in order to repel this presumption it is incumbent on him to account for such possession consistently with his innocence. And if the Jury believe he has given a reasonable account of how he came into possession thereof and that it was impossible for him to have stolen the same then it devolves on the Commonwealth to prove beyond every reasonable doubt that such an account is untrue, and unless the Commonwealth proves this then the Jury must find the prisoner "Not Guilty."

of the prisoner, in the opinion of the Jury, if the prisoner has given a reasonable account of the facts, it is incumbent on the Commonwealth to prove that it is false - if the account given by the prisoner is, in the opinion of the Jury, unreasonable or improbable on the face of it, the burden of proving the truth lies on the prisoner.

The Court instructs the jury that the law presumes every person charged with crime to be innocent until his guilt is established by the Commonwealth beyond all reasonable doubt, and this presumption of innocence goes with the accused throughout the entire case and applies at every stage thereof, and if after having heard all the evidence in this case, the jury have a reasonable doubt of the guilt of the accused upon the whole case, it is their duty to give the prisoner the benefit of such doubt and to acquit him.

The Court instructs the Jury that where the State relies for a conviction, as in this case, upon evidence wholly circumstantial, then it is essential that the circumstances should, to a moral certainty, exclude every reasonably hypothesis but the one that Reuben Hensley stole the robe from the buggy of Dr. J. F. Wright on the night of the 22nd of January, 1908, and that unless the ~~circumstances~~ the evidence does to a moral certainty exclude every reasonable hypothesis consistent with the evidence except the one that Reuben Hensley stole the buggy robe from the buggy of Dr. J. F. Wright on the night of 22nd of January, 1908, then they shall find the prisoner "Not guilty."

The Court instructs the jury that the law presumes the accused to be innocent until he is proven guilty beyond all reasonable doubt, and if there is upon the mind of the jury any reasonable doubt of the guilt of the accused, the law makes it their duty to acquit him. His guilt is not to be inferred because the facts proven may be consistent with his guilt, but they must be inconsistent with his innocence. Mere suspicion or probability of his guilt, however strong, is not sufficient to convict nor is it sufficient, if merely the greater weight or preponderance of evidence supports the charge in the ^{warrant} indictment, but to warrant his conviction, his guilt must be proven so clearly that there is no reasonable theory consistent with the evidence upon which he can be innocent.

The Court instructs the Jury that if they believe from the evidence that the robe was stolen from the buggy of Dr. J. F. Wright on the night of the 22nd of January, 1908, and recently thereafter was found in the exclusive possession of the prisoner, then such possession affords sufficient ground for the presumption that the prisoner stole the same, and in order to repel this presumption it is incumbent on him to account for such possession consistently with his innocence. If the prisoner, in the opinion of the Jury, has given a reasonable account or explanation of how he came by the stolen property, it is incumbent on the Commonwealth to show it is false. If the account given by the prisoner is, in the opinion of the Jury, unreasonable or improbable on the face of it, the burden of proving its truth is on the prisoner.

(4)

face of it, the burden of proving its truth is on the prisoner. The opinion of the jury, reasonable or unreasonable on the fact is false. If the account given by the prisoner is, in fact, untrue, it is incumbent on the Commonwealth to show reasonable account or explanation of how he came by the fact. If the prisoner, in the opinion of the jury, has given a account for such possession, consistently with his innocence, order to rebut this presumption it is incumbent on him to show the presumption that the prisoner stole the same, and in the prisoner, then such possession affords sufficient ground recently presented was found in the exclusive possession of J. B. Wright on the night of the 22nd of January, 1808, and the evidence that the robe was stolen from the house of Dr.

The Court instructs the jury that if they believe from

The Court instructs the jury that, in arriving at a verdict in this case, ~~that~~ they are the sole judges of the facts and ^{weight} ~~the~~ credibility of the witnesses and of the ~~weight~~ to be given to the evidence or any part of it. When witnesses testify opposite to each other, the jury is not bound to regard the weight of the evidence as evenly balanced, but they have a right in determining the weight to be given to the testimony of various witnesses, to take into consideration their interest in the result of the case, if they have any, their relationship to the parties involved, their feeling or bias, if any is shown, their appearance and demeanor on the witness-stand, their apparent candor and fairness, their apparent intelligence, the reasonableness or unreasonableness of their statements, their means of information and all the surrounding circumstances appearing on the trial, and to give or deny credit to the testimony of any witness as, under the circumstances, they may deem proper or to such extent as they think proper.

(5)

9

seen proper or to such extent as they think proper.
to the testimony of any witness as, under the circumstances, they may
circumstances appearing on the trial, and to give or deny credit
their statements, their degree of information and all the surrounding
apparent intelligence, the reasonableness or unreasonableness of
on the witness-stand, their apparent conduct and language, their
feeling or bias, if any is shown, their appearance and demeanor
then made and their relations to the parties involved, they
take into consideration their interest in the result of the case, in
the weight to be given to the testimony of various witnesses, to
evidence as evenly balanced, but they have a right in determining
to each other, the jury is not bound to regard the weight of the
the evidence or any part of it. When witnesses testify opposite
the credibility of the witnesses and of the weight to be given to
that in this case, ~~that~~ they are the sole judges of the facts and
the court instructs the jury that in evaluating it as a ver-

No. 7.

The Court instructs the jury as a matter of law that they are not to go beyond the evidence to hunt up doubts, nor are they to entertain such doubts as are merely chimerical or conjectural. A reasonable doubt must be based upon the evidence, or on the absence of evidence essential to proof of the guilt of the accused. It must not be an arbitrary doubt without evidence to sustain it. It must be serious and substantial in order to warrant an acquittal. It must be a doubt 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.

(6)

The Court instructs the jury as a matter of law that they are not to go beyond the evidence to hunt up doubts, nor are they to entertain such doubts as are merely chimerical or conjectural. A reasonable doubt must be based upon the evidence or on the absence of evidence essential to proof of the guilt of the accused. It must not be an arbitrary doubt without evidence to sustain it. It must be serious and substantial in order to warrant an acquittal. It must be a doubt of a material fact or facts necessary for the jury to believe to find a verdict of conviction and not of innocence and non-essential circumstances.

The Court instructs the Jury that in proof of guilt by circumstantial evidence it is not essential that the facts and circumstances established should produce on the minds of the jury absolute and demonstrative certainty, but it is sufficient if such facts and circumstances produce a moral certainty on the minds of the jury of the commission by the accused ^{of} the offense charged, to the exclusion of a reasonable doubt.

The Court instructs the Jury that when as in this case the prisoner undertakes to prove an alibi the burden is on the prisoner to sustain such plea by evidence sufficient to satisfy the minds of the Jury.

(2)
satisfy the minds of the jury.

the prisoner to sustain such plea by evidence sufficient to
the prisoner undertakes to prove an alibi the burden is on

The Court instructs the jury that when as in this case

Underbury
doubt
accusee the offense charged, to the exclusion of a reasonable
certainty on the minds of the jury of the commission by the
sufficient if such facts and circumstances produce a moral
the jury absolute and demonstrative certainty, but if it is
and circumstances established should produce on the minds of
circumstantial evidence it is not essential that the facts

The Court instructs the jury that in proof of guilt by

we the jury find Khenchen
Hensley Guilty of Larceny.
+ fix his punishment at
fifteen days in the County Jail
+ a fine of twenty five Dollars
to the attorney for man

