

Commonwealth.

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Benjamin E. Lee

~~William H. Ruelish.~~

~~Michael H. Daughen~~

~~Amos H. Hester~~

Charles L. Turner

J. R. Early

John R. Earl

Perry L. Linneman

John C. Holzinger

Saul H. Brown Jr.

W. H. G. Paves.

A. D. Brennan an.

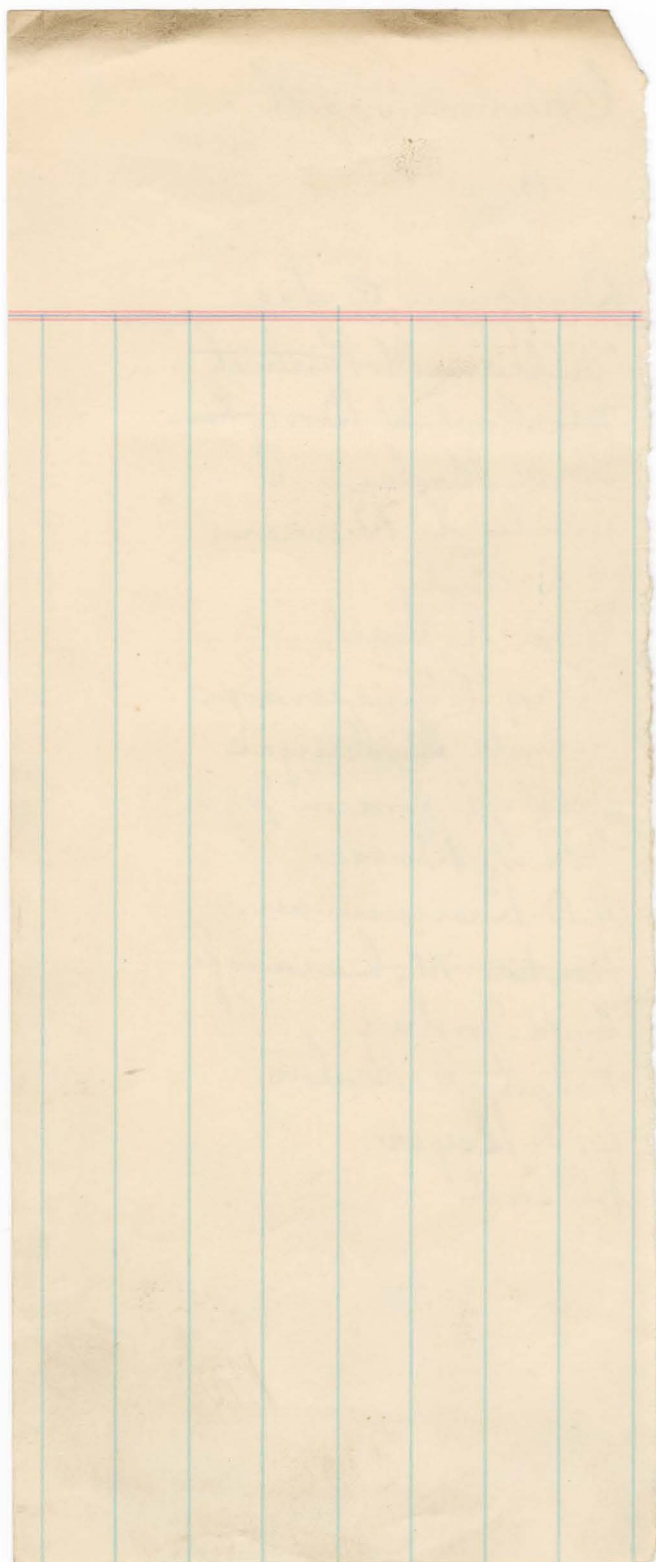
~~Newton M. Carasco~~

O. H. Jordan

Robert D. Henton

C. G. Beyer.

J. L. Leeth.



I.

The jury are instructed that the burden of proving criminal intent is upon the Commonwealth. If, from the whole evidence the jury have a reasonable doubt as to whether a criminal intent existed in the mind of the accused when he took the money from the pocket book of his brother, Edward Lee, they should acquit the accused.

The jury are instructed that the burden of proving criminal intent is upon the Commonwealth. If from the whole evidence they have a reasonable doubt as to whether a criminal intent existed in the mind of the accused when he took the money from the pocket of his brother, Edward Lee, they should acquit the accused.

II.

The court instructs the jury that the law presumes the accused to be innocent until he is proved 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 him, and that mere suspicion or probability of his 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 his conviction, his guilt must be proved so clearly, and the evidence thereof must be so strong, as to exclude every reasonable hypothesis of his innocence.

...the same reasonable hypothesis of his innocence.
...the evidence presented was so strong, as to ex-
...the fact that the defendant was found in the
...of the evidence which was presented to the jury
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III

The court instructs the jury as a matter of law, in considering the case, the jury are not to go beyond the evidence to hunt up doubts, nor must they entertain such doubts as are merely chimerical or conjectural. A reasonable doubt must be based upon the evidence or grow out of the evidence. 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.

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 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 con-
 viction and not of immaterial and non-essential circumstances.

Given as modified by changes &
additions in pencil - Exception
to refusal to give as stated & ad-
dition of J. N. H. III.

The jury are instructed that if they believe from the evidence that the money referred to in the indictment, shown by the evidence to have been in the custody of Edward Lee, was, in fact, the money of his wife, Una May Lee, and had been entrusted by her to him as her agent, and that the same was taken from the custody of the said Edward Lee by the prisoner, ^{under and} pursuant to ^{authority} an authorization previously given to the prisoner by said Una May Lee, they must find the prisoner not guilty, ^{but if the jury believe from the} evidence ^{beyond a reasonable doubt} that said money was taken by the prisoner with intent to keep the same and appropriate it to himself, they shall find him guilty.

*Given as evidence of charges &
addition in favor of S. Williams
to report again on the 10th*

III.

The jury are instructed that if they believe from the evidence
that the money referred to in the indictment, shown by the evidence
to have been in the custody of Edward Lee, was, in fact, the money
of his wife, Mrs. May Lee, and had been entrusted by her to him as
agent, and that the same was taken from the custody of the said
Mrs. Lee by the prisoner, pursuant to an agreement between previous-

Conn.

Benny S. Lee

*...not guilty, but if the jury believe from the
evidence that the money was taken by the
prisoner with intent to keep the same away
from the wife, the same shall be
guilty.*

Commonwealth of Virginia - Rockingham Co. Court -
To the Sheriff of said County -

Whereas Edward Lee of said County, has this day made complaint and information on oath before W^m J. Poind, a Justice of the said County that on the 12th day of May 1808, in the said County, a package of money in Bills of various denominations, containing, as per an affidavit sworn to 40.00, was feloniously taken, stolen and carried away from him by certain parties sleeping with him in a room in the house of Minor Gladwell, one of said parties being the brother of said affiant, and the others being two men unknown to him, but supposed to be men from Staunton, Va. on a fishing excursion - and further affiant doth suspect that said money are concealed on the person or persons of said parties, or in the dwelling house of said Minor Gladwell.

There are therefore to authorize and require you, in the name of the Commonwealth of Virginia, with necessary aid to enter in the day time, the said dwelling house, ^{and outhouses and premises,} of the said Minor Gladwell, and there diligently search for said money, and if the ^{or any part thereof} same be found upon such search of said house, that you bring said money, and the bodies of any party found

in possession thereof, before me a Commissioner
Justice of said County, to be disposed of, and
dealt with according to law.

Given under my hand and seal, this 13th
day of May - 1908

W. J. Pounds, J.P.

Executed, May 13th., 1908, by searching the person of
Benjamin E. Lee, brother of the within-named affiant,
Edward Lee, and, having found thereon the within-mentioned
package of money, the same was taken in possession, and
the said Benjamin E. Lee, was committed to jail to be further
dealt with according to law.

W. L. Dillard

, Deputy for
E. J. Carickhoff, S.R.C.

County of Virginia
No. 3 Search Warrant,
Certain unknown
parties.

Commonwealth of Virginia,
COUNTY OF ROCKINGHAM, To-wit:
IN THE CIRCUIT COURT OF 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 at its.....*May*.....term, in the year 190*8*,
upon their oaths present that.....

Benjamin E. Lee

on the.....*12*.....day of.....*May*....., in the year 190*8*, in the said County,
~~did~~ fifteen bank notes for the payment of twenty dollars each and of
the value of twenty dollars each, and nineteen bank notes for the pay-
ment of ten dollars each and of the value of ten dollars each, the
aggregate value of all of said bank notes being four hundred and
ninety dollars, secured and payable by and upon said bank notes,
being then and there due and unsatisfied to the said Edward Lee,
feloniously did steal, take and carry away,

against the peace and dignity of the Commonwealth of Virginia.

Upon the evidence of..........

.....witness... sworn in open Court and sent to the
Grand Jury to give evidence.

.....Clerk.

The jury find the defendant Benjamin E. Lee, not
guilty. J. H. Hensley Foreman

Commonwealth

vs. { INDICTMENT.

Benjamin E. Lee

A TRUE BILL.

D. J. Myers
Foreman.

July 27/08
1908
Jury sworn, non Sine

Witnesses
J. Harry Bryan
Minor Gladwell
Wm E Roller
N. S. Dillard
N. J. Pointr