

69

Warren Tutwiler

1924

WARREN TUTWILER

ads Indictment for a Felony

COMMONWEALTH

*Copy of Indictment
11/10/24*

*Specimens of
Dec. 2/25*

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 said County, and now attending said Court at its February term, 1924, upon their oaths do present that Warren Tutwiler on the 10th day of February, 1924, in the County aforesaid, ~~in and upon one Benjamin Kiser feloniously did make an assault; and that the said Warren Tutwiler~~ while driving a high-powered automobile at a fast and unlawful rate of speed ^{one Benjamin Kiser being with him in the car at the time,} on the Valley Turnpike south of Harrisonburg, ~~in Rockingham County, Virginia, at a curve near where said Turnpike crosses the Baltimore & Ohio Railway track about one mile south of Harrisonburg,~~ ~~by such reckless, fast and unlawful driving of such car,~~ did cause the ~~car~~ ^{car & automobile} to leave the road bed and turn over, ~~then and there-by such unlawful and reckless driving did~~ ^{thusly} throw the said Benjamin Kiser from said car to the ground, injuring and wounding him, the said Kiser, ~~and thereby~~ ^{from} causing ~~the said Kiser~~ to suffer a mortal wound, of which mortal wound he, the said Benjamin Kiser, from the said 10th day of February in the year aforesaid to the 12th day of February in the year aforesaid in the County aforesaid did languish, and languishing did live, ^{and} on ~~which~~ said 12th day of February, 1924, ~~the said Benjamin Kiser~~ in the County aforesaid of the said mortal wound, ^{did} die; and so the jurors aforesaid upon their oaths aforesaid do say that the said Warren Tutwiler him, the said Benjamin Kiser, in the manner and form aforesaid, feloniously did kill, ~~and murder,~~ against the peace and dignity of the Commonwealth of Virginia.

And the jurors aforesaid upon their oaths aforesaid do further present that Warren Tutwiler on the 10th day of February, 1924, in the County aforesaid, ~~in and upon one Benjamin Kiser feloniously did make an assault; and that the said Warren Tutwiler~~ did, while under the influence of ardent spirits, drive a high-powered automobile on the Valley Turnpike south of Harrisonburg ^{one Benjamin Kiser being in the car with him at the time,} ~~in Rockingham County, Virginia, at a curve near where said Turnpike crosses the Baltimore & Ohio Railway~~

STATEMENT OF WITNESS

COURT OF COMMONS, 1911

In the District Court of this County

The State of Virginia, vs. [Name],

Defendant.

I, the undersigned, being a competent juror in the County of [Name],

do hereby certify that on the [Date],

at [Location],

the following facts were presented to me by the parties:

[Scribbled text]

[Scribbled text]

[Scribbled text]

[Scribbled text]

[Scribbled text]

[Scribbled text]

[Scribbled text]

[Scribbled text]

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[Scribbled text]

[Scribbled text]

[Scribbled text]

[Scribbled text]

[Scribbled text]

- 2 -

~~track about one mile south of Harrisonburg,~~ and did while ^{so} under the
 influence of liquor ^{so} drive such car ~~carelessly and negligently,~~ ^{that he caused} causing
 the same to leave the road and turn over. ~~Then and there driving said~~
~~car under the influence of liquor and~~ ^{thereby} throwing said Benjamin Kiser
 from said car to the ground, injuring and wounding him, the said Benjamin
 Kiser, ~~thereby~~ ^{and} causing ^{him} the said Benjamin Kiser, to suffer a mortal
 wound, of which mortal wound, he, the said Benjamin Kiser, from the said
 10th day of February in the year aforesaid to the 12th day of February
 in the year aforesaid, in the County aforesaid, did languish and lan-
 guishing did live, ^{and} on ~~which~~ ^{the} said 12th day of February, 1934, ~~the said~~
~~Benjamin Kiser~~ ^{did} in the County aforesaid of the said mortal wound, died;
 and so the jurors aforesaid upon their oaths aforesaid do say that the
 said Warren Tutwiler him, the said Benjamin Kiser, in the manner and
 form aforesaid, feloniously did kill ~~and murder~~ against the peace and
 dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of W J. Trobaugh,
 Lana Malone, Mary Hoy, Oliver Kiser, and Dr. G. V. Wood, witnesses
 sworn in court and sent before the grand jury to give evidence.

11

W. R. Condit

Virginia Hoffman

Ruth

Will Long

16th

North Ave

Involuntary manslaughter

COMMONWEALTH

v.

WARREN WINTER

A PRISONER

A FREE BILL

W. S. Woodcock
SOLICITOR

19th

Prison of W. S. Woodcock

D. W. S. Arnold
Counselor at Law

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

B. J. Trolough, Lena Malone
Olin A. Green

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 24 day of June 1927 to testify and the truth to say in behalf of the Commonwealth against

Warren Tutwiler
who stands charged with and indicted for a felony misdemeanor.

And this they shall not omit under the penalty of £100. And have then and there this Writ.

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 23 day of June, 1927, and in the 148th year of the Commonwealth.

J. F. Blackburn, Clerk.

Comm.

Warrant returned

Sheriff fees \$1.50

entire

June 20, 1924

Executed June 24, 1924 by delivering
a copy of this summons to the within
named witnesses each in person.

Jno. B. Dore, Deputy
for G. M. Stone, D.R.C.

1913 14th St. N.W.
Washington, D.C.
June 22, 1924

Rockingham County
Commissioner of Revenue.
Harrisonburg, Va.

Dear Sir:

I wish to get a marriage license for a lady resident of Rockingham county Virginia and a resident of another state.

I understand the license if issued in Rockingham county can be used anywhere in the state of Virginia. We plan to be married in Virginia but do not wish to go as far as Rockingham county. I also understand that in order to be married in Virginia the license must be issued in the home county of the lady.

Will you send me a form that I may fill in that you may issue the license from? Give me all the information necessary.

1913 14th St. N.W.
Washington, D.C.
June 22, 1924

Rockingham County
Commissioner of Prisons
Harrisonburg, Va.

Dear Sir:

I wish to get a marriage
license for a lady resident of Rockingham
County Virginia and a resident of another
State.

I understand the license if issued
in Rockingham County can be used
anywhere in the State of Virginia. The law
to be married in Virginia but do not wish
to go as far as Rockingham County. I also
understand that in order to be married in
Virginia the license must be issued in
some county of the State.

Will you send me a form that I may
fill in that you may issue the license from?
Give me all the information necessary.

-2-

Be sure to mention fees etc.

Please let me have this information
as soon as possible.

I trust this matter will be kept strictly
confidential.

Am enclosing stamped, addressed envelope
for immediate reply.

Sincerely
J. D. Winstead

-2-

I trust this matter will be kept strictly confidential.
No more so possible.

The enclosing stamp, addressed envelope
for immediate reply.

J. B. Whitford

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Thomas Kille

^{Rosebush}
to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 25th day of April 1924, to testify and the truth to say in behalf of the Commonwealth against

Warren Tubner

who stands charged with and indicted for a felony misdemeanor.

And this he shall not omit under the penalty of £100. And have then and there this Writ.

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 25 day of April, 1924, and in the 148th year of the Commonwealth.

J. F. Blackburn, Clerk.

Cour
V. S.
Warren Tutwiler

121 South High

Sheriff, fee. 50

entire

Executed April 29, 1924 by delivering a copy
of this summons to Thomas. Wills in
person,

L. W. Dove, D. P. R.

Not in County

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Dr. G. V. Wood.

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the *24th* day of *April* 19*24* to testify and the truth to say in behalf of the Commonwealth against

Warren Tutwiler.

who stands charged with and indicted for a felony misdemeanor.

And this *year* shall not omit under the penalty of £100. And have then and there this Writ.

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the *23* day of *April*, 19*24* and in the 14 *8*th year of the Commonwealth.

J. F. Blackburn, Clerk.

Dr. H. V. Wood.

In the Name of the Commonwealth of Virginia:

To the Honorable High Court of the Commonwealth of Virginia:

The undersigned do hereby certify that

the within and foregoing is a true and correct copy of the

original as the same appears in the files of the Clerk of the Court of the Commonwealth of Virginia, and that the same is a true and correct copy of the original as the same appears in the files of the Clerk of the Court of the Commonwealth of Virginia.

Witness my hand and seal this 14th day of June, 1864.

Attest my hand and seal this 14th day of June, 1864.

John C. Hunter, Clerk of the Court of the Commonwealth of Virginia.

John C. Hunter, Clerk of the Court of the Commonwealth of Virginia.

Attest my hand and seal this 14th day of June, 1864.

John C. Hunter, Clerk of the Court of the Commonwealth of Virginia.

Attest my hand and seal this 14th day of June, 1864.

not in state see Lena Malone

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Mary Hays

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the *24*th day of *April* 19*24*, to testify and the truth to say in behalf of the Commonwealth against

Warren Tutwiler

who stands charged with and indicted for a felony misdemeanor.

And this *you* shall not omit under the penalty of £100. And have then and there this Writ.

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the *23* day of *April*, 19*24*, and in the *14*th year of the Commonwealth.

J. F. Blackburn, Clerk

Mary Hoy

In the State of the Commonwealth of Virginia:

In the County of Rockingham County, Virginia:

That the following was read to the Court:

[Faint handwritten text]

And upon the report of the Judge of the Circuit Court of Rockingham County, of the Court

do hereby certify that the same is a true and correct copy of the original

as kept and the facts in regard to the same are as follows:

[Faint handwritten text]

and which is hereby certified to be a true and correct copy of the original

as kept and the facts in regard to the same are as follows:

[Faint handwritten text]

Witness my hand and seal of office this 11th day of June, 1884.

Attest: J. P. [Signature]

[Faint handwritten text]

[Faint handwritten text]

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon *E. J. Trobaugh, Lena Malone, Mary Hay, Oliver Hair, Dr. H. V. Hood,*

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the *24th* day of *Apr* 19*24* to testify and the truth to say in behalf of the Commonwealth against

Walter Tutwiler,

who stands charged with and indicted for a felony misdemeanor.

And this *they* shall not omit under the penalty of £100. And have then and there this Writ.

Witness, *J. F. BLACKBURN*, Clerk of our said Court, at the Court House, the *23* day of *Apr*, 19*24*, and in the *14th* year of the Commonwealth.

J. F. Blackburn, Clerk

J. F. Blackburn
Clerk

Dr. S. Wood & Lena Malone not
found in my bailwick. 7/25/24
J. C. W. Done, S. R. C.

Commonwealth

Warren Tutwiler.

Sheriff fee 1.50
Entered

Executed April 24, 1924 by delivering
a copy of this summons to Oliver
Keller, Lena Malone and G. J. Troughton
in person.
J. W. Done, S. R. C.

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon *Frank Bronum, Polly Ann Kiser, Mrs. Stella Day and Dr. J. W. Wright*

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the *25* day of *Apr.* 19 *24* to testify and the truth to say in behalf of the Commonwealth against

Warren Tutwiler

who stands charged with and indicted for a felony misdemeanor.

And this *they* shall not omit under the penalty of £100. And have then and there this Writ.

Witness, *J. F. BLACKBURN*, Clerk of our said Court, at the Court House, the *24* day of *Apr.*, 19 *24* and in the *14* *8*th year of the Commonwealth.

J. F. Blackburn, Clerk.

Executed April 24, 1824 by delivering a
copy of this summons to Frank Brimmer
Rally Ann Heider, Mrs. Stella Doyt
Dan J. H. Wright in person.
J. W. Lovell, S. P. S.

Sheriff fee \$ 2.00

entered

Commonwealth

Warren Tuttle

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Lena Malone
E. J. Tinsburg
Mary Hay
Oliver Hines
Dr. S. V. Wood

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof, at 10 o'clock, a. m., on the 15 day of Feb. 1924 to testify and the truth to say in behalf of the Commonwealth before the Grand Jury

as accused Tinsburg
who stands charged with and indicted for a felony misdemeanor.

And this *they* shall not omit under the penalty of £100. And have then and there this Writ.

Witness, J. F. BLACKBURN, Clerk of our said Court, at the Court House, the 15 day of Feb. 1924 and in the 142th year of the Commonwealth.

J. F. Blackburn, Clerk.

Presented Feb. 15, 1924 by delivering a
copy of the summons to Lena Malone
E. J. Troughton, Mary Toy Oliver,
Kaiser and Wm. G. Wood each in
person.
E. W. Lane, Atty.

Cross.

20
the Commonwealth of Virginia:
Shelvin T. Futwiler

Shelvin T. Futwiler \$2.50

Edward F. Fung
Feb. 18, 1924

Presented by

*

250
230
150
220
250
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350
150
290

2860*

170
200
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170
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185
150
350
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170
200
240

2605*

3

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7515

Ref Covered by one
already given so far
as correct -

The Court instructs the jury that although they may believe from the evidence, beyond every reasonable doubt, that the accused, Warren Tutwiler, was operating his car at the time he reached the Baltimore and Ohio Railroad crossing south of Harrisonburg, Virginia on the night of February 10th, 1924, in an intoxicated condition, or at a rate of speed greater than allowed by law, yet unless they further believe from the evidence, beyond every reasonable doubt that his intoxication or the excessive rate of speed caused the car which the accused was operating to turn over and Benjamin Kiser to be hurled therefrom and killed thereby, then they must find the said accused not guilty.

Tendered for defence Monday morning
after Court had ^{all} ~~other~~ ^{instructions} + settled.

Can 1st trial

Drumsticks

Drumsticks for

depression muscles

& reflex

Drumsticks

Drumsticks when

also to U.S.

firm

Refer

INSTRUCTION NO. _____.

The Court further 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.

Erin

v

20 lines

Instructions for
Depositor Reg.

copy

INSTRUCTION NO. _____

The court further instructs the jury that the tax
liability is assumed to be imposed until he proves
that any reasonable doubt as to the facts of the case, the
burden of proof is upon the defendant, and that such
doubt, if it exists, is not sufficient to
convict, nor is it sufficient if the greater weight of
evidence supports the charge in the indictment, but to
acquittal, the jury must be proved so clearly, and the
responsibility of his innocence.

(2)

The Court instructs the jury that involuntary manslaughter is the killing of a person accidentally or unintentionally while in the doing of some unlawful act not felonious, or in the improper or negligent performance of a lawful act.

To constitute the guilt of involuntary manslaughter, the death must be due to the unlawful act, and not to the ^{some independent cause or} intervening act or negligence of a third person.

The Court instructs the jury that negligence is
also held in the killing of a person intentionally or
knowingly, or recklessness, or in the killing of a
person in the course of a violent act, or in the
course of a violent act, or in the course of a violent
act, or in the course of a violent act, or in the
course of a violent act, and not to the
negligence of a third person.

Not given on
2-2 hours

Ref -

INSTRUCTION NO. 4

The Court instructs the jury that though they believe that from the evidence in this case is consistent with the defendants guilt, yet they must also be satisfied that the facts are such as to be inconsistent with any other rational conclusion than that the accused is guilty.

122

EXHIBITION NO. 4

The Court instructed the jury that though they believe that
from the evidence in this case is consistent with the defendant's
guilt, yet they must also be satisfied that the facts are such as
to be inconsistent with any other rational conclusion than that the
accused is guilty.

Ref

INSTRUCTION NO. _____

The Court instructs the jury that although they may believe from the evidence, beyond every reasonable doubt, that the accused, Warren Tutwiler, was operating his car at the time he reached the Baltimore and Ohio Railroad crossing south of Harrisonburg, Virginia, on the night of February 10th, 1924, in an intoxicated condition, or at a rate of speed greater than allowed by law, yet unless they further believe from the evidence, beyond every reasonable doubt that his intoxication or the excessive rate of speed caused the car which the accused was operating to turn over and Benjamin Eiser to be hurled therefrom and killed thereby, then they must find the said accused not guilty.

Ref

EXHIBIT NO. _____

100

The court instructs the jury that although they may believe from the evidence, beyond every reasonable doubt, that the accused, *James Taylor*, was operating his car at the time he reached the witness and this witness according to the testimony, testified on the night of February 19th, 1934, in an intoxicated condition, or at a rate of speed greater than allowed by law, yet unless they further believe from the evidence, beyond every reasonable doubt that his intoxication or the excessive rate of speed caused the car which the witness was operating to turn over and injure him to be such a proximate and direct cause, then they must find the defendant not guilty.

Ref.

The Court instructs the jury that although they may believe from the evidence, beyond every reasonable doubt, that the accused, Warren Tutwiler, was operating his car at the time he reached the Baltimore and Ohio Railroad crossing south of Harrisburg, Virginia on the night of February 10th, 1924, in an intoxicated condition, or at a rate of speed greater than allowed by law, yet unless they further believe from the evidence, beyond every reasonable doubt that his intoxication or the excessive rate of speed caused the car which the accused was operating to turn over and Benjamin Eiser to be hurled therefrom and killed thereby, then they must find the said accused not guilty.

Repe

INSTRUCTION NO. ____.

The Court instructs the jury that if they do not believe beyond a reasonable doubt that the wrecking of the car and the death of Ben Kiser were the direct sequence of the speed at which the car was being driven or the direct sequence of the accused being intoxicated, they should acquit the accused.

Page

EXHIBIT NO. _____

The report furnished the jury that it was the
belief of the witness that the driver of the car
and the fact of her being there the first moment of the speed
at which the car was being driven at the time of the
accident being indicated, they would equal the above.

(4)

If the jury believe from the evidence that at the time of the wreck in question in this case, the accused, Warren Tutwiler, was operating the car in violation or disregard of the law in any particular as mentioned in the last preceding instruction, and that as a result of such ~~unlawful act~~ *unlawful act* ~~on his part~~ *on his part*, the wreck occurred and Benjamin Kiser lost his life, then they should find the accused guilty.

(5)

The Court instructs the jury that any person who has drunk enough ardent spirits to so affect his manner, disposition, speech, muscular movement or behavior as to be apparent to observation, is to be deemed intoxicated.

We the jury find Warren Tutwiler
guilty and have fixed his punishment
at two hundred and twenty-five (\$225⁰⁰)
dollars

J. R. Brennan
Foreman

Corn vs - Warm Turtles

~~C. F. Supting~~

J. R. Lindsey

C. E. King

W. N. Frank

~~L. L. Sander~~

M. C. Shoveller

R. H. Miller

J. E. Miller

~~W. A. Soman~~

~~A. W. Jones~~

~~R. W. Wright~~

~~W. T. Hunter~~

~~W. P. Auditory~~

~~J. R. Brumby~~

~~T. A. M. P. E.~~

~~Robert E. Pickering~~

~~W. W. Spenser~~

~~J. H. Hartman~~

~~W. E. Crow~~

~~John R. Farley~~

20

100

1. man
t. me
hancere

Taftiles Cove

20	J. R. Linskey ✓	1.70
	B. E. King ✓	2.00
WEALTH	W. H. Frank ✓	2.10
	M. O. Schwalter ✓	1.70
	R. L. Miller ✓	3.50
	F. E. Miller ✓	1.85
	W. P. Anthony ✓	1.50
	J. R. Brannaman	3.50
	T. A. Moore -	2.10
	Robt E. Pickering	1.70
	Abraham Spence ✓	2.00
	W. E. Brown -	2.40

A A

W. E. Brown

THE COMMONWEALTH OF VIRGINIA.
TO THE SHERIFF OF ROCKINGHAM

We command you, that you take *as*
found within your bailiwick, and him safely ke
Circuit Court of Rockingham County, at the
..... to answer us of a certain
indicted.

And have then and there this Writ. W
at the Court House the day of
the Commonwealth.

INSTRUCTION NO. 1.

The Court instructs the jury that it is the duty of every operator of an automobile on any public highway of this State to drive his machine with ordinary care at all times having regard to the width, traffic and use of the highway and the protection of life and property.

INSTRUCTION NO. 2.

The Court instructs the jury that if they believe from the evidence that while Warren Tutwiler on February 10th, 1924, was driving his car on the Valley Turnpike at a point about one mile south of Harrisonburg, Virginia, where said highway crosses the Baltimore & Ohio Railroad track, that there is a sharp curve in said road at that point, ^{and} that said Tutwiler was driving said car in excess of fifteen miles an hour at that point, ^{and} that while traversing said curve at said unlawful speed said car was wrecked and in said wreck Benjamin Eiser received a mortal wound, from which wound he died on February 12th, 1924, you will find the accused guilty.

1911

The Court instructed the jury that it is the duty of every operator of an automobile to exercise the highest degree of care and attention at all times in the operation of his vehicle with ordinary care and skill, and to exercise the same in the same manner as a prudent person would exercise it under the same circumstances and conditions.

1912

The Court instructed the jury that it is the duty of every operator of an automobile to exercise the highest degree of care and attention at all times in the operation of his vehicle with ordinary care and skill, and to exercise the same in the same manner as a prudent person would exercise it under the same circumstances and conditions.

1913

INSTRUCTION NO. 3.

at 10:15 AM
ok
The Court instructs the jury that if they believe from the evidence that while Warren Tutwiler, on February 10th, 1924, was driving his car on the State highway, commonly called the Valley Turnpike, about one mile south of Harrisonburg, Virginia, and within one hundred yards north of where the Baltimore & Ohio Railroad track crosses said highway, said Tutwiler's view of the said highway was obstructed, and that said Tutwiler was driving said car at a rate of speed in excess of fifteen miles per hour, and that while driving said car unlawfully Benjamin Eiser, an occupant of the same, received a mortal wound when said car was wrecked and died on February 10th, 1924, you will find said Tutwiler guilty.

INSTRUCTION NO. 4.

The Court instructs the jury that if you believe from the evidence that Warren Tutwiler was operating his car on February 10th, 1924, on the Valley Turnpike about one mile south of Harrisonburg, Virginia, at a point where the Baltimore & Ohio Railroad track crosses said highway, while under the influence of ardent spirits, and that as a result of such unlawful operation of said car the same was wrecked, and in said wreck Benjamin Kiser, an occupant of said car, received a mortal wound, from which said mortal wound said Kiser died on February 12th, 1924, you will find the accused guilty.

INSTRUCTION NO. 5.

The court instructs the jury that any person who has drunk enough ardent spirits to so affect his manner, disposition, speech, muscular movement, general appearance or behavior as to be apparent to observation, shall be deemed to be intoxicated.

Section 49, Mapp Prohibition Law.

Handwritten text at the top of the page, likely bleed-through from the reverse side. It is mostly illegible but appears to contain a date and possibly a name.

Handwritten signature or name in the center of the page.

COMMONWEALTH

v.

WARREN TUTWILER

Charge to the Jury.

If you find the accused, Warren Tutwiler, not guilty you will say so and no more.

If you find him guilty of involuntary manslaughter, as charged in the indictment, then you will say so and ascertain his punishment by confinement in the penitentiary for a period of not less than one year nor more than five years, or, in your discretion, by a fine not exceeding One Thousand Dollars or by confinement in jail not exceeding one year or both such fine and imprisonment.

We the jury find the accused, Warren Testwiler
guilty as charged in the indictment and fix his
punishment at a fine of two hundred and twenty
five (\$225.) dollars

John E. Freeman
Foreman

COMMONWEALTH

v.

WARREN TESTWILER

Charge to the Jury.

D. W. KARNER,
Commonwealth's Attorney.

(3)

The Court instructs the jury that it is unlawful in this State to run an automobile on a public highway at any time or place at a greater speed than thirty miles an hour, or, when making a sharp curve, at a greater speed than fifteen miles an hour; and that it is unlawful to operate a car on a public highway when intoxicated, or to operate a car at any place on a highway without using ordinary and reasonable care for the protection of life and property, having regard to the situation and circumstances at the time.

The Court insists the jury that it is unlawful in
 this State to run an automobile on a public highway at any
 time or place at a greater speed than thirty miles an hour,
 or, when entering a sharp curve, at a greater speed than fifty
 feet miles an hour; and that it is unlawful to operate a
 car on a public highway when intoxicated, or to operate a
 car at any place on a highway without using ordinary and
 reasonable care for the protection of life and property.
 Having regard to the situation and circumstances of the case.

Em

Subscribers

Franklin

with Brown, after

being given

New One Seven

INSTRUCTION NO. 1 A

The Court instructs the jury that in this case, as in all criminal cases, the accused's plea of not guilty raises a presumption of innocence in his favor and puts on the Commonwealth the burden of proving his guilt beyond reasonable doubt. If, therefore, upon a consideration of the whole case, the testimony of the witnesses and the circumstances shown in evidence, there exists in the minds of the jury a reasonable doubt as to the guilt of the accused, they should find him not guilty. And the Court further tells the jury that a reasonable doubt is that state of the case which, after comparison and consideration of all the evidence, leaves the minds of the jurors in such condition that they cannot say that they feel an abiding conviction to a moral certainty of the truth of the charge.

EXHIBIT NO. 1

The Court instructed the jury that if they find the
in all criminal cases, the accused's plea of not guilty
raises a presumption of innocence in his favor and puts
on the Government the burden of proving his guilt beyond
reasonable doubt. It further, upon a consideration of
the whole case, the testimony of the witnesses and the
circumstances shown in evidence, there exists in the mind
of the jury a reasonable doubt as to the guilt of the accused,
they should find him not guilty. And the Court further said
the jury that a reasonable doubt is that state of the case
which would cause a conscientious man to hesitate before
he would convict the accused in such a case. That they
cannot say that they feel an abiding conviction to a moral
certainty of the truth of the charge.

INSTRUCTION NO. 2

The Court instructs the jury that involuntary manslaughter, which is the offence charged in this case, is where one doing an unlawful act, or doing a lawful act without proper caution or requisite skill, in the doing of such act accidentally causes another's death.

5

INVESTIGATION NO.

The Court instructed the jury that involuntary manslaughter, which is the offense charged in this case, is where one doing an unlawful act, or doing a lawful act without proper caution or requisite skill, in the doing of which he accidentally causes another's death.

INSTRUCTION No. 3.

The Court instructs the jury that the statute law of Virginia requires that every automobile operated on a public highway shall be driven with reasonable care at all times, having regard to the safety of the occupants of the car and others, and having regard to the width and condition of the road, and to the situation and circumstances generally; and, further, that it is expressly forbidden by statute to drive at a greater speed than 15 miles an hour when making a sharp curve, or to operate a car on the highway while under the influence of an intoxicant.

If, therefore, the jury believe from the evidence that the curve in question is a sharp curve within the meaning of the statute referred to, and that Tutwiler was running his car at a greater rate of speed than 15 miles an hour in making the curve; or if they believe from the evidence that he was under the influence of an intoxicant at the time; or, whether they consider the curve a sharp one or not, if they believe from the evidence that he was operating his car at an unreasonable and dangerous speed, considering the conditions there and then existing;— if they believe Tutwiler was violating the law in any or all of these particulars, and that as a result of such unlawful act or acts on his part, the wreck occurred and Benjamin Kiser lost his life, then they should find the accused guilty. Otherwise they should find him not guilty.

~~4~~ (4)

The Court instructs the jury that the statute requiring all automobiles to come to a full stop before a railroad grade crossing, has no application to the Valley railroad as that statute does not apply to railroads on which only local trains are run, and ~~the evidence in this case is~~ ^{it is a fact that} that only local trains run on that railroad.

The Court further the law and the State regarding
all matters in case to a full and entire satisfaction
of the Court, for an application to the Court raised by the
State and not only to the State in which only the State
and the ~~State~~ in this case in this

INSTRUCTION No. 5

If the car was being operated unlawfully, the fact that Kiser was in command of the car and assenting to participating in the unlawful act, would be an immaterial circumstance so far as this case is concerned.

3

INSTRUCTION NO. 1

If the car was being operated exclusively, the first time was

operated in the unit-

of the car was being operated exclusively, the first time was

operated.

INSTRUCTION NO. 1

The Court instructs the jury that by involuntary manslaughter is meant an unintentional killing resulting from an unlawful act on the part of the accused, not amounting to a felony, or from a lawful act negligently performed.

See Vo. 4 Judicial Dictionary Digest 2733

See Minor's Crim. Law, page 49

INSTRUCTION NO. 2

The Court instructs the jury that if they believe from the evidence that the railroad on which the car of the accused was wrecked was owned by the Valley Railroad Company, of Virginia, and that purely local trains were being operated on said road by the Baltimore and Ohio Railroad, as a branch line of Baltimore and Ohio Railroad, Feb. 10, 1924, then there was no violation of the law by the failure of the accused to stop the car before crossing over said crossing.

INSTRUCTION NO. 3

The Court further 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.

INSTRUCTION NO. 4

The Court instructs the jury that though they believe that from the evidence in this case is consistent with the defendants guilt, ^{before they can convict the accused} yet they must also be satisfied that the facts are such as to be inconsistent with any other rational conclusion than that the accused is guilty.

INSTRUCTION NO. 5

The Court instructs the jury that if they do not believe beyond a reasonable doubt that the wrecking of the car and the death of Ben Kiser were the direct sequence of the speed at which the car was being driven or the direct sequence of the accused being intoxicated, they should acquit the accused.

INSTRUCTION NO. 6

The Court instructs the jury that the accused had the lawful right to operate his car on the highway with ordinary care, provided, the speed of such car did not exceed thirty miles per hour and that such speed did not exceed fifteen miles per hour when traversing a sharp curve.

Code Section 2138

EXHIBIT NO. 1

The Court further finds that the evidence is such that the Court is satisfied that the defendant is guilty of the crime charged in the indictment and that the defendant is deserving of the punishment provided by law.

EXHIBIT NO. 2

The Court further finds that the evidence is such that the Court is satisfied that the defendant is guilty of the crime charged in the indictment and that the defendant is deserving of the punishment provided by law.

EXHIBIT NO. 3

The Court further finds that the evidence is such that the Court is satisfied that the defendant is guilty of the crime charged in the indictment and that the defendant is deserving of the punishment provided by law.

7

The Court instructs the jury that although they may believe from the evidence, beyond every reasonable doubt, that the accused, Warren Tutwiler, was operating his car at the time he reached the Baltimore and Ohio Railroad crossing south of Harrisonburg, Virginia on the night of February 10th, 1924, at a rate of speed greater than allowed by law, yet unless they further believe from the evidence, beyond every reasonable doubt that the excessive rate of speed caused the car which the accused was operating to turn over and Benjamin Kiser to be hurled therefrom and killed thereby, then they must find the said accused not guilty.

Q em

Wharven Suburbs

Quadrants - London
by distance - Stone
Furner - Quadrants
as far as Stone is
Crossed by Wharven
Furner by Stone
& Furner

Exposition to action
of Court in returning
Sept's instructions - No
explanation taken to the
Quadrants given - No
Compositions for relative
dates with Sept's 30 miles at all
times, but only when the same was

AT that rate was as
much or more than 1/8
of mile - but some miles
per Sept's distance) has
to credit on Wharven
or such modification.
The 30 miles part was
in fact taken from
one of the instructions
made by the distance -