

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA

Commonwealth

V .

Hudson Coach Car No. 231,322.

BE IT REMEMBERED THAT UPON THE TRIAL of this issue the Commonwealth to maintain said issue on her behalf introduced the following testimony:

J. B. FUNK, sworn, examined by Mr. Earman, for the Commonwealth:

Q Mr. Funk, you are a general prohibition agent?

A Yes, sir.

Q State whether or not you seized a Hudson car here in the City of Harrisonburg with liquor in it, belonging to the defendant, S. M. Brown?

A Yes, sir.

Q Do you remember when you made that seizure?

A Along about the middle of October, I do not recall the exact night -- a Hudson coach, which had between a half and a pint of liquor in it.

Q Just state the circumstances under which you seized the car?

A I had information that a car of liquor was coming through, and I went out to the B. & O. railroad crossing, on the Valley Pike, south of the City, in company with Mr. Frank Dovel, the Chief of Police, and, after waiting there for sometime, we gave the car up, came back to the City and got out on South Main Street, and parked in front or near Ott's Drugstore, and stood there talking a few minutes. While we were there this car drove up, and I noticed it was a Hudson coach.

Q What kind of a car was it?

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IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA.

Commonwealth

V.

Hudson Coach Car No. 231,322.

TRANSCRIPT OF TESTIMONY IN ABOVE MATTER.

I N D E X

Witness In Chief Cross-ex. Redirect. Recross.

FOR COMMONWEALTH.

J. S. Funk,	1	6	--	--
C. W. Dove,	9	15	15	--
Maj. L. B. Steele,	17	18	--	--
Howard C. Bucher,	13	15	--	--
C. K. Baylor,	19	--	--	--

FOR DEFENDANT.

H. L. Begle,	22	29	41	--
William Martin,	42	45	--	--
S. M. Brown,	46	51	--	--
Mark Steel,	56	60	--	--
J. L. Parrent,	66	67	--	--
Mr. Rhodes,	68	70	--	--
R. Bruce Morrison,	71	--	--	--
O. T. Engleman,	72	73	--	--
F. A. Dunn,	74	--	--	--
Edward Viands,	75	76	--	--
Wm. F. Lilly,	77	--	--	--
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IN THE CIRCUIT COURT OF HENRICH COUNTY, VIRGINIA.

Shirley

Shirley Deane Co. No. 231,232.

TRANSCRIPT OF TESTIMY IN ABOVE MATTER.

I R E X

In Court Cross-ex. Exhibitor. Deane.

EXHIBITS

---	---	5	1	E. A. Deane,
---	12	10	2	E. A. Deane,
---	---	18	17	Shirley Deane Co. No. 231,232,
---	---	18	18	Shirley Deane Co. No. 231,232,
---	---	---	19	E. A. Deane,

THE WITNESSES

---	10	20	20	E. A. Deane,
---	---	43	43	William Deane,
---	---	51	48	E. A. Deane,
---	---	50	50	Shirley Deane,
---	---	57	53	E. A. Deane,
---	---	70	58	E. A. Deane,
---	---	---	71	E. A. Deane,
---	---	72	72	E. A. Deane,
---	---	---	74	E. A. Deane,
---	---	75	75	Shirley Deane,
---	---	---	77	E. A. Deane,

A A Hudson coach. I went back to look at the license number --

MR. DECHERT: Never mind. The reason for your going to the car has nothing to do with it.

A Well, sir, I approached the car and opened the door, and in the car was Mr. Steel. I told him who I was and my business; and I reached behind the front righthand seat and there found a jar containing between half a pint of liquor and a short pint, anyway.

Q What was the size of the jar?

A Half a gallon jar, as well as I recollect,-- a Ball & Mason fruit jar.

Q And in that half-gallon fruit jar you say there was about, you think, one pint?

A A short pint.

Q A short pint of "moonshine" liquor?

A Yes, sir.

Q And actually where was this liquor in the jar in this car?

A It was right behind the front righthand seat of the car. In the Hudson, if you recall, there is a division between the driver's seat and the seat beside the driver -- there is a little division there, and it was right behind this front righthand seat.

Q There are two seats in the front of the car, separate and apart, just large enough for two persons to sit?

A I think that is correct; yes, sir.

Q With an open passage way between the two seats?

A Yes, sir; an open space between the two seats.

Q And this jar or container was found sitting behind the right front seat?

A Yes, sir.

Q And on the floor, of course?

A Yes, sir.

A A narrow passage. I went down to look at the license number --

Q. Now, what was the reason for your going to the car house looking for the car?

A. Well, sir, I happened to see the car and opened the door, and in

the car was the driver. I told him who I was and my business; and I

remained behind the front right-hand seat and there found a jar containing

between half a pint of liquor and a short pipe, anyway.

Q. What was the size of the jar?

A. Well, a gallon jar, as well as I remember, -- a Tall & Heavy

Crack Jar.

Q. And in that half-gallon jar you found the bottle?

A. Yes, sir, one bottle.

Q. A short pipe.

A. A short pipe of "monomarine" liquor?

Q. Yes, sir.

Q. And naturally where was this liquor in the jar in this case?

A. It was right behind the front right-hand seat of the car. In

the bottom, if you recall, there is a divider between the driver's

seat and the seat beside the driver -- there is a little divider there,

and it was right behind this front right-hand seat.

Q. There are two seats in the front of the car, separate and apart,

just large enough for two persons to sit?

A. I think that is correct; yes, sir.

Q. With an open passage way between the two seats?

A. Yes, sir; an open space between the two seats.

Q. And this jar or container was found sitting behind the right

front seat?

A. Yes, sir.

Q. And in the front, at contact?

A. Yes, sir.

Q And who was in the car at that time?

A Mr. Mark Steel.

Q Where was he in the car?

A Sitting on the right front seat.

Q The liquor was right behind the seat where he was sitting?

A Yes, sir.

Q Now, did you see that car as it drove up there that night?

A I saw the car just about the time it stopped good, and the men got out of the car. I saw them leave the car,-- I don't know that I saw them get out.

Q Sir?

A I don't know that I saw those men get out of the car, but I saw them leave the car, as well as I recollect.

Q What became of the other fellows?

A I searched this car, as I say; I had seen them fellows go towards Water Street, and I went down and looked in the restaurant and saw several parties in there. It was the day they had a football game at Lexington. And when I looked in the restaurant through the window, I saw the colors pinned on a couple of the boys' coats, and I went back and waited until they came back to the car.

Q Where was Brown?

A He was in the restaurant -- dairy lunch, they call it.

Q How far is that restaurant from where the car was parked?

A Fifty or 75 yards, I don't know the exact distance.

Q Did you arrest him?

A I did.

Q Why?

A Because I found this liquor in the car.

Q Who was the owner of the car?

Q And you was in the car at that time?

A Yes, that's right.

Q Where was he in the car?

A Sitting on the right hand seat.

Q The light was right behind the seat where he was sitting?

A Yes, sir.

Q Now, did you see that car as it drove up there that night?

A I saw the car, but about the time it stopped, and the

man got out of the car. I saw them leave the car, -- I don't know what

I saw them get out.

Q Sir,

A I don't know that I saw those men get out of the car, but I

was sure I saw the car, as well as I recalled.

Q What became of the other fellows?

A I searched this car, as I say; I had seen them follow to

theater Water Street, and I went down and looked in the restaurant

and saw several parties in there. It was the day they had a baseball

game at Lexington, and when I looked in the restaurant through the

blinds, I saw the man's pinned on a couple of the boys' seats, and I

went back and waited until they came back to the car.

Q Where was Stewart?

A He was in the restaurant -- dairy lunch, they call it.

Q How far is that restaurant from where the car was parked?

A Fifty or 75 yards, I don't know the exact distance.

Q Did you arrest him?

A I did.

Q Why?

A Because I found this light in the car.

Q Was this the owner of the car?

A Mr. Brown.

Q How do you know he owned it.

A His own statement.

Q What did he tell you about the car?

A He told me he owned the car, the car was his, a new Hudson coach that he purchased.

Q How long was it after he got out of the car before you placed him under arrest?

A In a very short time. I would say, five minutes, possibly not that long. May have been a little longer.

Q What would you say his condition was with reference to being drunk or sober?

A He was intoxicated.

Q You say he was intoxicated, to what extent?

A Mr. Brown wasn't so drunk that he was staggering so much, and he wasn't sober enough to walk perfectly straight.

Q He was staggering slightly?

A Yes, sir.

BY MR. DECHERT: His brain was wobbling just a little bit, I suppose?

WITNESS: Yes, sir.

Q Do you know in what part of the car Mr. Brown had been riding in, did he tell you?

A Only from his statement.

Q What did he say about that?

A He said he was riding right back of the driver, on the rear seat, lefthand side.

THE COURT: Repeat that, please.

WITNESS: Rear seat, lefthand side.

Q Who was on the back seat with Mr. Brown?

A

A. Mr. Brown.

Q. How do you know he owned it?

A. His own statement.

Q. What did he tell you about the car?

A. He told me he owned the car, the car was blue, a new Lincoln

coupe that he purchased.

Q. How long was it after he got out of the car before you passed

him when arrested?

A. In a very short time. I would say, five minutes, possibly not

that long. You have been a little longer.

Q. What would you say his condition was with reference to being

found on report?

A. He was intoxicated.

Q. For how long was he intoxicated, to what extent?

A. Mr. Brown wasn't so drunk that he was staggering or such, not

so much as to be unable to walk perfectly straight.

Q. He was staggering slightly?

A. Yes, sir.

BY MR. BROWN: His train was working late a little

late, I suppose?

WITNESS: Yes, sir.

Q. Do you know in what part of the car Mr. Brown had been riding

at the time he fell?

A. Only from his statement.

Q. What did he say about that?

A. He said he was riding right back of the driver, on the rear

seat, I believe also.

THE COURT: Report that, please.

WITNESS: Next seat, I believe also.

Q. Who was on the back seat with Mr. Brown?

A Martin and Brown both said Rubble was on the back seat,--
righthand rear seat.

Q Was Rubble drinking?

A Rubble and Martin didn't either one seem to have been drinking. I never smelt liquor on either one. I am positive about Martin for he spent the night in my home and I don't think he even had a drink. Mr. Martin claimed to be the driver, and Mr. Brown said he was driving the car.

MR. DECHERT: Brown said that Martin was driving?

WITNESS: Mr. Martin said he was driving and all the three others corroborated him in that statement.

Q Did Brown or Martin say from what point he had driven the car?

A Yes, sir; said he got in the car in the City of Staunton.

Q Staunton is 26 miles south of Harrisonburg, isn't it?

A Yes, sir.

Q Who was with you, if anybody, when you seized this liquor in this car?

A Sheriff Dove.

Q What time of day or night was this?

A Shortly after midnight, I think. A few minutes after midnight.

Q It was on Saturday night, wasn't it?

A Yes, sir.

Q I understood you to say, Mr. Funk, that there were four occupants of this car; Martin, the driver of the car; Mark Steel, who was on the front seat beside of him, and Brown and Rubble on the rear seat?

A Yes, sir.

Q You have stated that Brown was under the influence of liquor, and staggered a little?

A Yes, sir.

Q What was the other man's condition, Mark Steel?

A. Brown and Brown both said Hobbie was on the back seat, right-hand rear seat.
Q. Was Hobbie drinking?

A. Hobbie had Martin's side's either one seat to have been sitting. I never recall liquor on either one. I am positive about Martin for he spent the night in my home and I don't recall he ever had a drink. Mr. Martin claimed to be the driver, and Mr. Brown said he was driving the car.

Q. Did you say Brown said that Martin was driving?
A. Yes, Mr. Martin said he was driving and all the time Brown corroborated him in that statement.

Q. Did Brown or Martin say from what point he had driven the car?
A. Yes, they said he got in the car in the City of Jackson.
Q. Jackson is the alias name of Hattiesburg, isn't it?

A. Yes, sir.
Q. How was it with you, if anybody, when you exited this liquor in this car?

A. Shortly after.
Q. What time of day or night was this?
A. Shortly after midnight, I think. A few minutes after midnight.

Q. It was on Saturday night, wasn't it?
A. Yes, sir.

Q. I understood you to say, Mr. Brown, that there were four occupants of this car; Martin, the driver of the car; Hobbie, who was on the front seat beside of him, and Brown and Hobbie on the rear seat.

A. Yes, sir.
Q. You have stated that Brown was under the influence of liquor and staggered a little?

A. Yes, sir.
Q. What was the other man's condition, Mr. Hobbie?

A He was drinking, but he was in the seat and I couldn't tell whether he would stagger or not. When I got around to the jail -- he drove around there -- I don't think he got out of the car. I think they all went around in the car, and when he got out, there, I don't think he was staggering at the time but I won't be positive about that. There was right much confusion there, and I really don't know about that, I wouldn't say; but Mr. Steel was drinking, he was intoxicated, I would say.

Q The Hudson car was parked on Main Street, on the east side of the Street, about Williamson's Drugstore, was it not?

A Yes, sir; just a little past Water Street, I would say almost in front of the barbershop. Couldn't be positive about that. I think the car was parked about in front of Briddle's barbershop.

Q From which side of the car did these people get out?

A When I first saw them, they were on the lefthand side of the car in the street.

Q Did you see them as they got out of the car?

A I don't recall. I don't think I did. I think I saw them just as they stepped out.

CROSS-EXAMINATION BY MR. DECHERT:

X I just want to ask you a couple of questions, Mr. Punk. When you found this liquor in this car, you found it, you say, behind the front seat, immediately up against the rear part of the front seat of the car, I take it?

A Yes, sir.

X And you found it obscured by a rug of the coach itself that had been turned back from under the front seat, didn't you?

A Mr. Dechert, it was dark in that car, there was no light in that coach, and I wouldn't say that it was covered. I felt and got the jar, but I do know that the rug looked like somebody had stuck

A He was drinking, but he was in the seat and I couldn't tell whether he would stagger or not. When I got around to the fall -- he drove around there -- I don't think he got out of the car. I think they all went around in the car, and when he got out, there, I don't think he was staggering at the time but I wasn't positive about that. There was a light with confining bars, and I really don't know about that, I wouldn't say; but Mr. Stank was drinking, he was intoxicated, I would say.

Q The Hudson car was parked on Main Street, on the west side of the street, about Williamson's drugstore, was it not?
 A Yes, sir; just a little past Water Street, I would say about 25 feet of the sidewalk. Conklin's he positive about that. I think the car was parked about in front of Conklin's building.
 Q How much side of the car did these people see?
 A When I looked over there, they were on the left-hand side of the car in the street.

Q Will you see then as they got out of the car?
 A I don't recall. I don't think I did. I think I saw them just as they stepped out.

EXAMINATION BY MR. BURDET:

Q I just want to ask you a couple of questions, Mr. Burdett. When you found this liquor in this car, you found it, you say, behind the front seat, immediately up against the rear part of the front seat of the car, I take it?

A Yes, sir.
 Q And you found it obscured by a rug of the coach seat, that had been turned back from under the front seat, didn't you?
 A Mr. Burdett, it was dark in that car, there was no light in that coach, and I wouldn't say that it was covered. I tell you that the car, but I do know that the rug looked like somebody had taken

it under, or something, and pushed the rug -- it was all pushed up in a pile.

X Between the person sitting on the seat and the liquor itself the rug had been turned up to form a sort of barrier?

A Yes, sir; just as a man had pushed himself back on the seat and the rug was shoved up.

X Now, you said, or I understood you to say, that there was an opening between the right and left seats of that coach; did you mean that?

A I said, as well as I recall, I thought there was. It seems to me that those are little round seats in the car; I would not be positive, but I think that is the way it was.

X Well, you found the liquor and then you went down to the restaurant and looked in and then came back to the car, as I understand?

A I did; yes, sir.

X And waited there until these other men returned?

A Yes, sir.

X You placed Brown, as well as the others, under arrest?

A Yes, sir; all four of them.

X Mr. Brown immediately disclaimed any knowledge of the liquor being in the car, didn't he, when you advised him why you had arrested him?

A Yes, sir.

X You did tell him that you were arresting him because you found the liquor in the car, and he immediately told you that he knew nothing about it?

A I don't recall the exact words that passed, but he emphatically denied all the way through all knowledge of this liquor.

is under, or something, and pushed the rug -- it was all pushed up in

Q. Yes.

X. Between the person sitting on the rug and the liquor cabinet the

rug had been pushed up to form a sort of barrier.

Q. Yes, sir; just as a man had pushed himself back on the

rug and the rug was shoved up.

X. Now, you said, or I understand you to say, that there was

an opening between the right and left seats of that coach; did

you mean that?

A. I think, as well as I recall, I thought there was. It

seems to me that there are little round seats in the car; I would

not be positive, but I think that is the way it was.

Q. Well, you found the liquor and then you went down to the

restroom and looked in and then came back to the car, as I

understand.

A. I did, yes, sir.

X. And while there until some other man returned?

A. Yes, sir.

X. You placed bread, as well as the others, under the seats?

A. Yes, sir; all four of them.

X. Mr. Brown immediately disclaimed any knowledge of the

liquor being in the car, didn't he, when you advised him why

you had arrested him?

A. Yes, sir.

X. You did tell him that you were arresting him because you

found the liquor in the car, and he immediately told you that he

was carrying about 127

A. I don't recall the exact words that passed, but he im-

mediately denied all the way through all knowledge of this

liquor.

X He went further and told you right immediately that some men had ridden to Staunton with him and they must have put it in there, didn't he?

A I don't know just how soon that came --

MR. BARMAN: (Interposing) I object; objection sustained, exception for defendant.

BY MR. BARMAN: The city of Harrisonburg is situate in Rockingham County, is it not?

A Yes, sir.

BY THE COURT:

Q Mr. Funk, you say it was about five minutes after the car was parked that you arrested the men?

A I would judge so, your Honor. The restaurant was right full of men at the time I went down there, and there were several fellows in there that had blue and white badges -- Washington & Lee colors, I believe, -- on their coats, and I knew that they did not get out of that car and I did not know who to arrest, and I went back to the car and waited until the men came back. It might not have been that long, I don't know. It was but a short time.

Q They did not stay in the restaurant very long?

A No, sir. I don't think they were in there even long enough to buy anything, in fact, they were standing up in the restaurant when I saw them.

Q Tell me how you came to find this liquor? You say it was dark in the car.

A Yes, sir. I got up on the runningboard and opened the front door, and searched Mr. Steel, as is customary, to see if he had any weapons, and I reached behind the car a few minutes expecting to find a big load of liquor, and I came upon this jar, pulled the jar out and shook it.

Q In your further and told you right immediately that some
men had ridden to Houston with him and they must have got it in

there, didn't they?

A I don't know just how soon that was --

Q Mr. [Name] (interrogator) I object; objection
sustained, exception for defendant.

BY THE COURT: The city of Harrisburg is situated in [Name]

County, is it not?

A Yes, sir.

BY THE COURT:

Q Mr. [Name], you say it was about five minutes after the

car was parked that you attacked the man?

A I would judge so, your Honor. The restaurant was right
off of me at the time I went down there, and there were several
fellows in there that had blue and white badges -- Washington
police, I believe -- on their coats, and I know that they
did not get out of that car and I did not know who to arrest, and
I waited at the car and waited until the man was back. It might
not have been that long, I don't know. It was but a short time.

Q They did not stay in the restaurant very long?

A No, sir. I don't think they were in there even five minutes
to get something, in fact, they were standing up in the restaurant
when I saw them.

Q Tell me how you came to find this liquor? How did it get

back in the car?

A Yes, sir. I got up on the [Name] and opened the front
door, and searched Mr. [Name], as is customary, to see if he had any
weapons, and I reached behind the car a few minutes expecting to
find a big load of liquor, and I came upon this jar, pulled the jar
out and there it

Q When you came upon the jar was the jar itself covered by the carpet or not?

A I wouldn't say that the jar was covered entirely by the carpet. It looked pretty well mussed up back in the car as though there had been some scuffling, or something, and this carpet had been shoved up against this jar.

BY MR. EARMAN:-

Q Mr. Funk, how was that jar in the car, was it standing on the bottom or on the side, or how was it, in what position?

A Standing up. The top was the first thing my hand fell on.

Q And a half-gallon fruit jar is about how tall?

A Nine inches, I judge, possibly ten. I don't just know the height of that.

BY THE COURT:

A What was the thing against it, was that the carpet against it that goes on the bottom of the car?

A I think it was the rubber mat, but I don't think it covered the top of the jar. It seems to me that my hand fell right on top of this jar.

Witness told to stand aside.

C. W. DOVE, sworn, examined by Mr. Earman, testified:

Q You are Mr. C. W. Dove, Sheriff of Rockingham County?

A Yes, sir.

Q Kindly state to the court, Mr. Dove, what you know about the seizure of this car with liquor in it?

A Mr. Funk and myself were standing over here on Main Street, probably a hundred yards from where this car was parked. I noticed this car when it drove up. I had information that there was a car coming from Staunton with liquor in it. Mr. Funk said to me, "I believe that is the car, what do you think about locking it over?"

Q When you saw the jar was the jar itself covered by the carpet or not?

A I couldn't say that the jar was covered entirely by the carpet. It looked pretty well matted up back in the car as though there had been some scuffing, or something, and this carpet had been shoved up against this jar.

BY MR. HARMON:-

Q Mr. Tusk, how was that jar in the car, was it standing on the bottom or on the side, or how was it, in what position?
A Standing up. The top was the first thing my hand fell on.
Q And a half-gallon fruit jar is about how tall?
A Nine inches, I judge, possibly ten. I don't just know the height of that.

BY THE COURT:

Q What was the thing against it, was that the carpet against that corner on the bottom of the car?
A I think it was the rubber mat, but I don't think it covered the top of the jar. It seems to me that my hand fell right on top of this jar.
Witness said to stand aside.

D. T. TUSK, sworn, examined by Mr. Harmon, testified:

Q You are Mr. D. W. Dove, Sheriff of Nottingham County?

A Yes, sir.

Q Kindly state to the court, Mr. Dove, what you know about the seizure of this car with liquor in it?

A Mr. Tusk and myself were standing over here on Main Street, probably a hundred yards from where this car was parked. I noticed this car start to drive up. I had information that there was a car coming from Stanton with liquor in it. Mr. Tusk said to me, "I believe that is the car, what do you think about looking it over?"

I said to him, "Go down and see if he has the right license number." He went down and examined the car and came back and said it was, that it had the license number, and, he said, "We will go and search it." I said, "Yes, better lock it over." We went down to the car and Mr. Funk got up on the runningboard ^{and} searched Mr. Steel -- Mr. Steel was in the car.

BY THE COURT:

Q On which seat of the car was he sitting?

A Right seat -- front seat.

Q Which runningboard was Funk on?

A On the righthand side.

BY MR. BARNAN:

Q On the side next to the pavement?

A Yes, sir; on the side next to the pavement; and he reached right back of Mr. Steel -- it was dark -- over behind the seat, and pulled out this half-gallon jar with liquor in it, about , I should say, between half pint and a pint.

Q What kind of liquor was it?

A "Moonshine" liquor.

Q In a half gallon fruit jar?

A Half-gallon jar.

Q Do you know in what position the jar was?

A I do not. Mr. Funk pulled the jar out.

Q Did Mr. Funk have any trouble in finding the jar in the car?

A None whatever. He pulled it out right at once.

Q Did you see these people when they got out of the car?

A I did.

Q Where did they go to?

A They went down on Water Street. I don't know where they went from there, only by their own statements, they said they went

I said to him, "I know and see it has the right license number."
 He went down and examined the car and then said it was
 that it had the license number, and he said, "We will go and search
 it." I said, "Yes, better look it over." He went down to the car
 and he said that he had the license number, and he said --
 that was in the car.

BY THE COURT:

Q On which side of the car was he sitting?
 A Right side -- front seat.
 Q Which neighborhood was that out
 A On the right hand side.

BY THE COURT:

Q On the side next to the pavement?
 A Yes, sir; on the side next to the pavement; and he reached
 right back of Mr. Havel -- it was dark -- over behind the seat, and
 pulled out this half-gallon jar with liquor in it, about 1 1/2 quarts
 of liquor, between half pint and a quart.
 Q What kind of liquor was it?
 A "Bourbon" liquor.
 Q Is it half gallon bottle jar?
 A Half-gallon jar.
 Q Is that how in what position the jar was?
 A I do not know. Mr. Havel pulled the jar out.
 Q Did Mr. Havel have any trouble in finding the jar in the car?
 A None whatever. He pulled it out right at once.
 Q Did you see these people when they got out of the car?
 A I did.

Q Where did they go to?

A They went down on Water Street. I don't know where they
 went from there, only by their own statements, they said they went

after water -- said they went after a drink of water at the restaurant.

Q On which side of the car did they get out?

A I won't be positive about that; I couldn't say.

Q I will ask you, just what was the condition of Brown with reference to being drunk or sober?

A Drunk -- Brown was.

Q What was Mark Steel's condition, the man whom you found in the car?

A He had been drinking. You could see that he had been drinking.

Q How about the other two men, Martin and Rubble, were they drinking or not?

A I couldn't say. I don't think Martin was drinking, I don't much think he was. I think I smelt liquor on Rubble, but not positive about that. The car smelt like a bar-room inside of it.

Q How many doors has a Hudson coach, two or four?

A I think it has four, I think it had but I won't be positive about that.

Q Two in front and two in the back?

A I think so.

Q How many seats did this car have?

A It has a front seat and a back. I think there was a division between the front seats; I don't know about the back.

Q Did you have any conversation with Mr. Brown as to whether or not he owned the car?

A He told me that it was his car.

Q What time of night was this, Mr. Dove?

A It was between twelve and one o'clock, the morning of the 19th of October.

Witness told to stand aside.

After water -- rain they were after a drink of water at the station.
Q.

Q On which side of the car did they get water?
A I wouldn't be positive about that; I wouldn't say.
Q I will ask you, just what was the condition of those water
relatives to being drunk or sober?

A. I don't know -- I don't know.
Q That was Mark Hester's condition, the man whom you found in
the car?

A He had been drinking. You could see that he had been drink-

ing. How about the other two men, Martin and Hubbs, were they
drinking or not?

A I wouldn't say. I don't think Martin was drinking, I don't
know about the other. I think I could figure on Hubbs, but not quite
sure about that. The car smells like a bar-room inside of it.

Q How many times has a Hubbs drunk, two or three?
A I think it has been, I think it has but I wouldn't be positive
about that.

Q You found two in the back?
A. I think so.

Q How many seats did you see in the back?
A It had a front seat and a back. I think there was a third-

row between the front seats; I don't know about the back.
Q Did you have any conversation with Mr. Hester as he entered
or not he owned the car?

A He told me that it was his car.
Q What time of night was this, Mr. Hester?

A It was between twelve and one o'clock, the morning of the
19th of October.

Witness told to stand aside.

JOHN S. FUNK, recalled by Mr. Earman, further testified:

Q Mr. Funk, you said that you found in this Hudson coach the quantity of liquor you stated awhile ago, about a pint; state what odor you detected, if any, in the car?

A The odor was very offensive about the car. You could smell liquor. They had thrown-up on the car, outside and around, and it was very offensive.

Q Did you see any evidence of anyone having vomited on the car?

A Yes, sir; it was on there yet the following day when they bonded the car.

Q On which side of the car did you notice that?

A As well as I remember, the lefthand side, because when I went in to take the motor number of the car, on Sunday, the car was facing north, in the Rockingham Motor Company's garage, and I noticed this on the side next to the door.

Q By the way, do you happen to know whether a Hudson coach had two doors on the sides or just one?

A I don't know. I thought the Hudson car had only two doors, one on each side; I am not positive about that. I am in and out of so many cars, you could hardly bear it in mind. I was under the impresson that there were only two doors. I believe if there had been a fourth door, I would have opened the door in the rear.

MR. EARMAN: I suppose the car is here?

MR. DEEVERS: Yes, sir.

MR. EARMAN: How many doors has it?

MR. DEEVERS: Two.

MR. DECHERT: It has no door opening on the front seat?

MR. DEEVERS: They are side by side.

Witness told to stand aside.

Q Now, did you see any evidence of anyone having entered the car?
A Yes, sir; I saw in that the following day that they
had the door on the right side of the car.

Q Did you see any evidence of anyone having entered the car?
A Yes, sir; I saw in that the following day that they
had the door on the right side of the car.

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had the door on the right side of the car.

Q Did you see any evidence of anyone having entered the car?
A Yes, sir; I saw in that the following day that they
had the door on the right side of the car.

HOWARD C. BUCHER, sworn, examined by Mr. Barman, testified:

Q Where do you live, Mr. Bucher?

A Staunton, Va.

Q What position, if any, do you hold in the City of Staunton?

A Police officer.

Q As such Police Officer -- Were you such police officer on the night of October 18th last?

A Yes, sir.

Q Do you know the defendant here, Mr. S. M. Brown?

A Know of him; yes, sir.

Q Did you see him on that night?

A Yes, sir.

Q In your City?

A Yes, sir.

Q About what time?

A I judge, between eight and nine o'clock, around 8:30.

Q Did you see him more than one time?

A I saw him two or three times that night.

Q About what time was it when you first saw him?

A About 8:30 o'clock.

Q What time of night was it when you saw him the last time?

A I judge, around ten o'clock; between 9:30 and 10 o'clock.

Q What was his condition with reference to being drunk or sober?

MR. DECHERT: Question is objected to. He is asking in regard to something that occurred out of the jurisdiction of this court.

Objection overruled; exception for defendant.

ROBERT C. HUNTER, sworn, examined by Mr. Berman, testified:

Q Where do you live, Mr. Hunter?

A Stamford, Ct.

Q What position, if any, do you hold in the City of Stamford?

A Police Officer.

Q As such Police Officer -- Were you such Police Officer on

the night of October 18th last?

A Yes, sir.

Q Do you know the defendant here, Mr. R. M. Brown?

A Know of him; yes, sir.

Q Did you see him on that night?

A Yes, sir.

Q In your time?

A Yes, sir.

Q About what time?

A I judge, between eight and nine o'clock, around 8:30.

Q Did you see him there then on that night?

A I see him two or three times that night.

Q About what time was it when you first saw him?

A About 8:30 o'clock.

Q What time of night was it when you saw him the last time?

A I judge, around ten o'clock; between 9:30 and 10 o'clock.

Q What was his condition with reference to being drunk or

sworn?

MR. BERTMAN: Question is objected to. He is making
in regard to something that occurred out of the
jurisdiction of this court.

Objection overruled; exception for defendant.

A He looked as if he had been drinking. I smelt liquor on his breath.

Q What, if anything, did he say to you about having liquor?

A Why, he offered to take me out in the country, I don't know where, but, he says, at the foot-hills, and give me a drink of whiskey.

MR. DECHERT: I object to that testimony.

THE COURT: The objection is sustained.

BY THE COURT:

Q Was he in his automobile at the time?

A No, sir; he was on the street.

THE COURT: I do not think that is material.

BY MR. BARMAN:

Q He expected to take you out in his car, didn't he?

A Yes, sir.

MR. DECHERT: Don't answer. I object to the question.

THE COURT: If he knows, he may answer.

Q What did he say about taking you out?

A He said he would take me out. I knew he had the car. I had been to the car before he put this proposition up to me.

Q Where did he say he was going, Mr. Bucher?

A He said he was going up in Pennsylvania.

Q Who was in the car at that time?

A He had a man driving the car; he said he was a mechanic. I don't know the youngman's name.

MR. DECHERT: Is that the young man? (Indicating).

WITNESS: I don't believe I could tell the youngman. I only saw him just sitting in the car.

Q Did you hear him call the youngman's name that he said was a mechanic?

A He looked at it and had been drinking. I wasn't liquor on

his breath.

Q What, if anything, did he say to you about having liquor

on him, he offered to take me out in the country, I don't

know where, but he says, at the Wolf-Hill, and give me a drink of

whisky.

MR. DUNN: I object to that testimony.

THE COURT: The objection is sustained.

BY THE COURT:

Q Was he in the automobile at the time?

A No, sir; he was on the street.

THE COURT: I do not think that is material.

BY MR. DUNN:

Q He expected to take you out in his car, didn't he?

A Yes, sir.

MR. DUNN: Don't answer. I object to the question.

THE COURT: If he knows, he may answer.

Q What did he say about taking you out?

A He said he would take me out. I know he had the car. I had

seen the car before he put this proposition up to me.

Q Where did he say he was going, Mr. Dunbar?

A He said he was going up in Pennsylvania.

Q Was he in the car at that time?

A He had a man driving the car; he said he was a mechanic. I

don't know the young man's name.

MR. DUNN: Is that the young man? (Indistinct.)

WITNESS: I don't believe I could tell the young man's name.

only saw him just sitting in the car.

Q Did you hear him call the young man's name that he was in

mechanic?

A I won't say whether he called it or not. I can't say .

Q What did he say about having liquor in his car?

A Well, he said that they had liquor, and had it out at the foot-hills, but, he said, on the trip down from Lexington they were all drinking with the exception of the mechanic, that he was supposed to stay sober and not drink anything, so it would be a safe trip in driving the car.

MR. DECHERT: I move your Honor to strike out that portion of the answer that refers to drinking on the way from Lexington to Staunton.

Motion denied and exception for defendant.

THE COURT: I understood you that all this happened in the same evening?

WITNESS: Yes, sir; all in a couple of hours.

CROSS-EXAMINATION BY MR. DECHERT:

X Mr. Bucher, I understood you to say that the liquor of which he asked you to partake, he said was out in the foot-hills?

A Yes, sir. He said he would take me out to the foot-hills to get it. He said I should have as much as I wanted, that they had plenty of it out there.

X That they had plenty of it out in the foot-hills, that is what I understand you?

A Yes, sir.

DIRECT EXAMINATION RESUMED BY MR. EARMAN:

Q Mr. Bucher, I do want to ask you this; you said that Brown had been drinking.

A Yes, sir.

Q He was very much under the influence of liquor, wasn't he, at that time?

A The second time: the first time I saw him he wasn't.

Q He was not?

A I went to get him on account of a wreck that he had down at

A I won't say whether he called it or not. I can't say.
 Q What did he say about having liquor in his car?
 A Well, he said that they had liquor, and had it out at the foot-
 hills, and he said as the trip down the foot hills, they were all
 drinking with the exception of the mechanic, that he was supposed to
 stay sober and not drink anything, as it would be a safe trip in driv-
 ing the car.

MR. BUCHER: I gave your Honor to advise that I had
 filed at the present that relates to drinking in the
 my from Lexington to Brunswick.

Refrain from asking and suggesting for testimony.

THE COURT: I understand you that all this happened in
 the same evening?

WITNESS: Yes, sir; all in a couple of hours.

CHIEF-CLERK: BY MR. BUCHER:

Q Mr. Bucher, I understand you to say that the liquor of which he
 drank you are certain, he said was out in the foot-hills?
 A Yes, sir. He said he would take me out to the foot-hills to
 get it. He said I should have as much as I wanted, that they had plenty
 of it out there.

Q That they had plenty of it out in the foot-hills, that is what
 I understand you?

A Yes, sir.

DIRECT EXAMINATION RESUMED BY MR. BUCHER:

Q Mr. Bucher, I do want to ask you this; you said that Brown had
 been drinking.

A Yes, sir.

Q He was very much under the influence of liquor, wasn't he, at
 that time?

A The second time; the first time I saw him he wasn't.

Q He was not?

A I want to get him an account of a truck that he had been at

Lexington for putting a man in a ditch. When I went to see him, he denied knowing anything about it, and said that if they had had any wreck between Lexington and Staunton he was asleep and didn't know anything about it. I brought him to the Highway Police, and he took him to Maj. Steel, and about an hour elapsed and he brought him back and left him there; and Mr. Brown left and went up on Central Avenue to see if his car was there, and his car was gone. He came back and asked me if I had seen ^{his car}, and I told him no. Then he put it up to me to go to the foot-hills and get this liquor with him. I did not go with him as I am not in the habit of going out with a bunch of drunks to the foot-hills.

Q How often did he ask you to take a drink?

A Two or three times when he was standing there.

Q What did you do, then?

A I went and reported to the Chief of Police and left it up to him, and we went around town trying to locate the car; and the Chief of Police decided to notify the Harrisonburg Police that they were coming this way, they having told me that they were going to Pennsylvania.

Q Did the Chief of Police of Staunton, in your presence, notify the officer of Harrisonburg to look out for this car?

A Yes, sir.

MR. DECHERT: That makes no difference, that does not entitle the Commonwealth to introduce hearsay evidence.

THE COURT: The objection is sustained.

Witness told to stand aside.

Washington for getting a man in a ditch. When I went to see him, he
 showed me a picture of a man, and said that it was the man who had
 been seen between Washington and Annapolis on the night of the
 thing about it. I brought him to the Highway Police, and he took him
 to the car, and about an hour later he brought him back and
 left him there; and Mr. Brown left and went up to the car to
 see if the man was there, and his car was gone. He came back and
 saw it in his car, and I told him so. Then he got it in the car
 the next day and got it out with him. I did not see him
 as I was in the habit of going out with a bunch of boys to the
 Rockville.

Q How often did he see you to take a drink?
 A Two or three times when he was standing there.
 Q What did you do, steady?
 A I went and reported to the Chief of Police and left it up to
 him, and he went around town trying to locate the car; and the Chief
 of Police decided to notify the Baltimore Police that they were
 looking for it. They having told me that they were going to
 Q Did the Chief of Police of Newington, in your presence, notify
 the Chief of Baltimore to look out for this car?
 A Yes, sir.

MR. PROSECUTOR: That makes no difference, that does not
 establish the Commonwealth's case in this matter.
 Evidence.

THE COURT: The objection is sustained.

Witness left to stand aside.

MAJ. L. B. STEELE, sworn, examined by Mr. Barman, testified:

Q Major Steele, where do you reside?

A Staunton, Virginia.

Q Will you please state your calling or business?

A I am a member of the faculty of the Staunton Military Academy.

Q Will you please state whether your car had been run into on the evening of the 18th or 19th of October, when you were coming from the football game at Lexington?

A Yes, sir.

MR. DECHERT: Do you mean between Staunton and Lexington?

MR. BARMAN: Yes, sir.

MR. DECHERT: I object.

THE COURT: I do not know what is to follow. I will let it in for the time being.

A It was.

Q By whom? Who was in the other car that ran into you?

A The car belonged to Mr. S. M. Brown.

MR. DECHERT: I want to save the point on that ruling.

THE COURT: Yes, sir.

Q Did Mr. Brown stop after running into your car?

MR. DECHERT: I object.

THE COURT: Do you know whether Mr. Brown was in the car at the time?

WITNESS: Yes, sir; he said he was in it. He told me he was.

THE COURT: You saw him afterwards?

WITNESS: Yes, sir.

Q Did you see Mr. Brown in Staunton on the night of the 18th or 19th?

A Yes, sir.

Q Did he come to see you in reference to adjustment of the damages?

Q Now, I am going to ask you to examine the photograph of the car which was shown to you yesterday.

A Yes, sir.

Q Now, I am going to ask you to examine the photograph of the car which was shown to you yesterday.

A Yes, sir.

Q Now, I am going to ask you to examine the photograph of the car which was shown to you yesterday.

A Yes, sir.

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A Yes, sir.

Q Now, I am going to ask you to examine the photograph of the car which was shown to you yesterday.

A Yes, sir.

Q Now, I am going to ask you to examine the photograph of the car which was shown to you yesterday.

A Yes, sir.

Q Now, I am going to ask you to examine the photograph of the car which was shown to you yesterday.

MR. DECHERT: I object.

A He made an apology.

Q He did what?

MR. DECHERT: We object, on the grounds that whether Brown improperly ran into somebody in another jurisdiction, and whether he settled the damages with or without liability, have nothing to do with the charge of his transporting liquor being tried here in the court of Rockingham county.

THE COURT: Anything that would go to show his condition that evening is a circumstance to prove the probability of his having liquor.

MR. DECHERT: I can see that if you show that he was intoxicated on his way down down to Harrisonburg it might have a remote bearing and would be admissible; but these matters of detail, having an accident in some other jurisdiction and settling the damages, would not be, and we object to that part of the evidence.

MR. EARMAN: It is part of the res gestae leading up to and culminating in the apprehension of this car in Harrisonburg. That is our theory as to the admissibility of the evidence, I am frank to say.

THE COURT: I do not think you can go any further than to show what Brown's condition was, and evidence of his recently having had liquor.

Q What time of evening did you see Brown in Staunton?

A I think it was about nine o'clock.

Q Did you detect the odor of whiskey, or any intoxicant, on his breath, or observe it in his manner?

A No, sir.

Q At that time you did not?

A No, sir.

Q Then, I understand, your connection with him was looking towards the adjustment of this trouble?

A Yes, sir.

CROSS-EXAMINATION BY MR. DECHERT:

X Were you a stranger to him?

A Yes, sir. I never had seen him before.

MR. DECHERT: I object.

A He says he doesn't.

Q Is that all?

MR. DECHERT: We object, on the grounds that witness Brown impermissibly took testimony in another jurisdiction, and that he testified in another jurisdiction without liability. Now, nothing is to be done in the court of Rockingham county.

THE COURT: Anything that would go to show his qualification that evening is a circumstance to prove the probability of his having done it.

MR. DECHERT: I can see that if you find that he was indicated on his way down to Harrisonburg it might have a remote bearing and would be admissible; but these matters of detail, having no bearing on any other jurisdiction and having no bearing, would not be, and we object to that part of the evidence.

MR. DECHERT: It is part of the evidence that he was and admitted in the jurisdiction of this case in Harrisonburg. That is not theory as to the admissibility of the evidence, I so think to say.

THE COURT: I do not think you can go any further. It is now that Brown's condition was, and evidence of his recently having had liquor.

Q What time of evening did you see Brown in Harrisonburg?

A I think it was about nine o'clock.

Q Did you detect the odor of whiskey, or any intoxicant, on his breath or observe it in his manner?

A No, sir.

Q At that time you did not?

A No, sir.

Q Then, I understand, your connection with him was looking towards the adjustment of this property?

A Yes, sir.

DEPOSITION OF MR. DECHERT:

Q Were you a witness to this?

A Yes, sir. I never had seen him before.

X Not being familiar with his appearance, he might have been considerably under the influence of liquor without your observing it, might he not?

A Yes, sir; that is possible.

Witness told to stand aside.

C. K. BAYLOR, sworn, examined by Mr. Bauserman, testified:

Q Where do you reside, Mr. Baylor?

A Staunton, Virginia.

Q What is your business?

A I am a Motor Cycle Officer for the State.

Q Do you know Mr. S. M. Brown?

A Yes, sir.

Q Did you see Mr. Brown on the evening of the 18th or 19th of October last?

A Yes, sir.

Q Was that the evening of the day of the football game in Lexington, Virginia?

A Yes, sir. I saw him in Staunton.

Q Please tell the court what his condition was as to sobriety?

A Well, Mr. Brown did not seem to be so awfully drunk. He was drinking, I could tell by his breath, and I could tell by his eyes that he had been drinking, but he did not seem to be so drunk.

Q Did he indicate an intoxicated condition by his walk?

A Well, he was staggering a little bit, but he was capable of taking care of himself.

Q He could not keep exactly plumb?

A No, sir.

Q What time of night did you see him in Staunton?

A I judge, around nine o'clock.

Q Not being familiar with his appearance, he might have been
considerably under the influence of liquor without your observing it,
might he not?

A Yes, sir; that is possible.
Witness rose to stand aside.

D. E. HARRIS, sworn, examined by Mr. Bennett, testified:
Q Where do you reside, Mr. Taylor?
A Richmond, Virginia.
Q What is your business?
A I am a State Police Officer for the State.
Q Do you know Mr. E. M. Brown?

A Yes, sir.
Q Did you see Mr. Brown on the evening of the 18th of 1927?
A Yes, sir.

Q Was that the evening of the day of the football game in Rich-
mond, Virginia?
A Yes, sir. I saw him in Stanton.

Q Please tell the court what his condition was as to sobriety
A Well, Mr. Brown did not seem to be as entirely drunk. He was
drinking, I would tell by his breath, and I would tell by his eyes that
he had been drinking, but he did not seem to be so drunk.

Q Did he indicate an intoxicated condition by his walk?
A Well, he was staggering a little bit, but he was capable of
taking care of himself.

Q He could not keep exactly himself?
A No, sir.

Q What time of night did you see him in Stanton?
A I judge around nine o'clock.

Q How many times did you see him that night?

A Only once. I got with him and staid with him, I guess, three-quarters of an hour. We went, then, to Mr. Steele's house and had it all arranged, and I came back with him and turned him loose.

MR. DECHERT: So that must have been about ten o'clock?

WITNESS: Somewhere about 9:30 or 10 o'clock, when I turned him loose.

Q Did you speak to him about having this collision?

MR. DECHERT: We object.

A Yes, sir.

Q What did he say?

MR. DECHERT: We object.

THE COURT: Objection is sustained, unless it has something to do with the whiskey "end of it."

Q Did he make a statement to you as to where he was going, which way he was travelling?

A Yes, sir; he said he was going to Maryland to see his brother, and asked me if I wanted to go with him -- he asked me several times -- and I told him I couldn't because I was working and could not get off.

Q Did you see his car there that night?

A Yes, sir.

Q You did not make any search of the car?

A Well, I did go up to the car to see if there was any damage done to his car to show that they did have an accident. I think it was his left hind fender -- no, it was his right hind fender that was bent.

Q Where was his car?

A Standing on the street in Staunton.

Q What part of Staunton?

A Between Central Avenue and Augusta Street, on the righthand side.

MR. DECHERT: On Main Street?

WITNESS: Yes, sir.

Q How many times did you see him that night?
A Only once. I got with him and staid with him, I guess, fifteen
minutes or so. We went, then, to Mr. Steele's house and had a
little conversation, and I came back with him and turned his house.

MR. DETMERS: So that must have been about ten o'clock?
WITNESS: Somewhere about 9:30 or 10 o'clock, when I
turned his house.

Q Did you speak to him about having this collision?

MR. DETMERS: No object.

A Yes, sir.

Q What did he say?

MR. DETMERS: No object.

THE COURT: Objection is sustained, unless it has been
shown to be with the witness "and so on."

Q Did he make a statement to you as to where he was going, which
you do not recall?

A Yes, sir; he said he was going to Maryland to see his brother,
and asked me if I wanted to go with him -- he asked me several times --
and I told him I couldn't because I was working and could not get off.

Q Did you see him on that night?

A Yes, sir.

Q You did not make any search of the car?

A Well, I did go up to the car to see if there was any damage done
to his car to show that they did have an accident. I think it was
left him to see -- no, it was his right hand hand that was bent.

Q Where was his car?

A Standing on the street in Stanton.

Q What part of Stanton?

A Between Central Avenue and August Street, on the right-hand

side.

MR. DETMERS: On Main Street?

WITNESS: No, sir.

MR. DECHERT: That is the most public part of Staunton, isn't it?

WITNESS: Yes, sir.

MR. DECHERT: And brilliantly lighted, comparatively speaking?

WITNESS: There is a light on each corner. I went to the car and looked to see if any damage was done to his car, and it was his right hind fender that was pretty well bent up, and his hub cap.

MR. DECHERT: They are regular arc lights on the streets of Staunton?

WITNESS: Yes, sir.

Q Do you know anything of Mr. Brown after he left Staunton?

A No, sir. He asked me to go with him and I told him I couldn't. I talked with him a few minutes and I left him and didn't see him any more until after a couple of weeks I met him in Lexington one day and spoke to him.

Q Were there any persons with him?

A I think there were about three men in the car with him. I did not pay any attention to who they were or what they looked like or anything about them.

BY THE COURT: You did not look in the car. Was the door open?

A Once I had my head in the door and looked in the door and was talking to Mr. Brown. I did not see anything in the car, and didn't smell anything in the car.

Q Did you search the car for whiskey?

A No.

Q Did you look down in the car to see if there was any whiskey?

A Not exactly. I had my head in the front door. I did not get in to look behind the seats.

Q You did not look in the back part of the car?

A No, sir; I did not look in the back of the car. I did not see anything of any whiskey in there at all, or anything that smelt like

MR. DEWITT: That is the most public part of the street.

WITNESS: Yes, sir.

MR. DEWITT: And brilliantly lighted, comparatively speaking?

WITNESS: There is a light on each corner. I went to the car and looked to see if any light was on the car, and it was the light that was on the car, and it was very well lit up, and the car was very well lit up.

MR. DEWITT: They are regular and lights on the streets of Cambridge?

WITNESS: Yes, sir.

Q Do you know anything of Mr. Brown after he left Cambridge?

A Yes, sir. He asked me to go with him and I told him I couldn't.

I talked with him a few minutes and I left him and didn't see him any more until after a couple of weeks I met him in Lexington and he was

going to see.

Q Were there any persons with him?

A I think there were about three men in the car with him. I did not pay any attention to who they were or what they looked like or what

thing about them.

MR. DEWITT: You did not look in the car. Was the door open?

A When I had my hand in the door and looked in the car and was talking to Mr. Brown, I did not see anything in the car, and didn't

see anything in the car.

Q Did you search the car for whiskey?

A No.

Q Did you look down in the car to see if there was any whiskey?

A Not exactly. I had my hand in the front door. I did not get in to look behind the seats.

Q You did not look in the back part of the car?

A No, sir; I did not look in the back of the car. I did not see anything of any whiskey in there at all, or anything that would like

liquor.

BY MR. EARMAN:

Q What time was that?

A I judge, around 10 o'clock. I got with him about 9 and it taken us quite a little bit to go to Maj. Steele's house. He wasn't there and we 'phoned to the school, and he made an appointment to meet us at the corner of New Avenue. I judge it was around 10 o'clock, maybe a little after or a little before.

Q How far is it from Staunton, the foot-hills or the Betsy Baker Mountain?

A I judge, maybe, two miles or two and a half miles.

Witness told to stand aside.

THEREUPON, this being all the evidence introduced or offered to be introduced by the Commonwealth to maintain the issue on her behalf, the Commonwealth by Counsel, rested; and, thereupon, the defendant, to maintain the issue on his behalf, by Counsel, introduced the following evidence:

H. L. BEGLE, sworn, examined by Mr. Dechert, testified:

Q Your name is

A (Anticipating) H. L. Begle.

Q Where do you at present reside?

A What do you mean, my employment?

Q Yes, where are you stationed?

A Soldier at the V. M. I., stable at Lexington.

Q Are you a member of the regular army?

A Yes, sir.

Q Of the regular army of the United States?

A Yes, sir, on detached service.

Q At the Virginia Military Institute?

A Yes, sir.

light.

BY MR. [Name]:

Q What time was that?

A I judge, around 10 o'clock. I got with him about 8 and 11
times on quite a little bit to go to Mr. [Name]'s house. We wasn't
there and we planned to the school, and he made an appointment to meet
me at the corner of New Avenue. I judge it was around 10 o'clock,
maybe a little after or a little before.

Q How far is it from [Name] to the [Name] house?

ANSWER:

A I judge, maybe two miles or two and a half miles.

Witness told to stand aside.

EXHIBITS, only being all the evidence introduced on either side
be introduced by the Commonwealth to maintain the issue on her behalf,
the Commonwealth by Counsel, rested; and, thereupon, the defendant,
to maintain the issue on his behalf, by Counsel, introduced the following

evidence:

W. J. [Name], sworn, examined by Mr. [Name], testified:

Q Your name is

A [Name] (Antioch), N. J. [Name].

Q Where do you at present reside?

A That do you mean, my employment?

Q Yes, where are you stationed?

A Station of the V. M. I., stable at Lexington.

Q Are you a member of the regular army?

A Yes, sir.

Q Of the regular army of the United States?

A Yes, sir, on detached service.

Q At the Virginia Military Institute?

A Yes, sir.

Q. Mr. Begle, did you come from Lexington to Harrisonburg on the night of the 18th of October last, following the football game in Lexington?

A. No, sir.

Q. You came part of the way?

A. Yes, sir.

Q. You came to Staunton?

A. Yes, sir.

Q. Did you come in the car with Mr. S. M. Brown?

A. Yes, sir.

Q. He also lives in Lexington?

A. Yes, sir.

Q. Mr. Begle, it is a fact that there at Lexington, following the football game, you and Mr. Brown and some other gentlemen indulged in a little liquor drinking?

A. Yes, sir, right much.

Q. Did you exhaust the supply of liquor you had there?

A. Yes, sir.

Q. Had no more?

A. Had no more; no, sir.

Q. How did you happen to come on the trip, Mr. Begle?

A. Mr. Brown and myself and Mr. Ayers, a fellow that was with us, had all made a plan of going to Maryland.

Q. You were using Brown's car in the prosecution of that project?

A. Yes, sir.

Q. Now, Mr. Begle, was any whiskey put in that car at Lexington that you know of?

A. No, sir.

Q. You say that you had exhausted your supply there at Lexington?

A. Yes, sir.

Q. How far did you come before you stopped that car?

Q Mr. Bagley, did you come from Lexington to Harrisonburg on the night of the 18th of October last, following the football game in

Lexington

A Yes, sir.

Q You were part of the party

A Yes, sir.

Q You were at Stantons

A Yes, sir.

Q Did you come in the car with Mr. B. H. Brown?

A Yes, sir.

Q He also lives in Lexington

A Yes, sir.

Q Mr. Bagley, it is a fact that there at Lexington, following the football game, you and Mr. Brown and some other gentlemen indulged in

a little liquor drinking

A Yes, sir, right much.

Q Did you exhaust the supply of liquor you had stored

A Yes, sir.

Q Had no more?

A Had no more, sir.

Q How did you happen to come on the trip, Mr. Bagley?

A Mr. Brown and myself and Mr. Myers, a letter that was with us

had all made a plan of going to Harrisonburg.

Q You were using Brown's car in the presentation of that project?

A Yes, sir.

Q Now, Mr. Bagley, was any whiskey put in that car at Lexington

that you know of?

A No, sir.

Q You say that you had exhausted your supply there at Lexington?

A Yes, sir.

Q Now far did you come before you stopped that car?

A The first stop we made was in Greenville.

Q What was the purpose of that stop?

A The transmission was throwing oil -- the screws in the transmission were loose and it was throwing oil over the inside of the car.

Q I understand that you stopped in Greenville to have that repaired?

A Yes, sir; to get the mechanic to fix it.

Q Did you go to a garage?

A We inquired for a mechanic and someone directed us to Mr. Steel and he fixed the car.

Q He is the mechanic, this youngman here (indicating)?

A Yes, sir; he is the mechanic who fixed the car at Greenville.

Q Did you see any liquor in Greenville?

A Not until Mr. Ayers and myself went and got some.

Q Where did you get it? I don't mean from whom, but did you get it near the garage or some place else?

A We went back on some street, I don't know the name of the street, where we met some tall negro and asked him if he knew where we could get some whiskey, and he said, "I can't tell you. I will see." He walked away a few steps and then walked back and said, "Wait until I get back. How much do you want?" I said, "About half a gallon or something like that." He came back and said, "I got you a half gallon of brandy." We gave him six dollars; I gave him three dollars and Mr. Ayers gave him three dollars.

Q What did you do with that liquor?

A Brought it back about near where the car was and set the whiskey behind a telephone pole. We called Mr. Brown and he and Mr. Ayers and myself had a few drinks, and then we called Mr. Steel and gave him a couple of drinks.

Q Now, Greenville is in Augusta County?

Q The first stop we made was in Greenville.

A Yes, sir; to get the mechanic to fix it.

Q Did you go to a garage?

A We looked for a mechanic and someone showed us to the shop and he fixed the car.

Q He is the mechanic, this gentleman here (indicating).

A Yes, sir; he is the mechanic who fixed the car at Greenville.

Q Did you see any liquor in Greenville?

A Not until Mr. Ayers and myself went out there.

Q Where did you get it? I don't mean from whom, but did you get it from the garage or some place else?

A We went back on some street, I don't know the name of the street, where we met some tall negro and asked him if he had some whisky, and he said, "I can't sell you, I will see." He walked away a few steps and then walked back and said, "What will I get back. How much do you want?" I said, "About half a gallon or something like that." He came back and said, "I got you a half gallon of Brandy." We gave him six dollars; I gave him three dollars and Mr. Ayers gave him three dollars.

Q What did you do with that liquor?

A I brought it back about near where the car was and set the whisky behind a telephone pole. We called Mr. Brown and he and Mr. Ayers and myself had a few drinks, and then we called Mr. Bess and gave him a couple of drinks.

Q Now, Greenville is in Augusta County?

A I don't know what county it is in. I hear that it is in that county; yes, sir.

Q Well, now, Brown took some of the liquor there in Greenville?

A Yes, sir.

Q He was then outside of his car, was he?

A Outside of his car; yes, sir.

Q Did Steel drink any of it?

A Yes, sir.

Q How much did he drink?

A Taken a couple of drinks was all. I couldn't tell whether he took it bountifully or not.

Q On two occasions he took a drink?

A He put the jar to his mouth twice, whether he drank any I can't say.

Q Did Ayers take some of it?

A Yes, sir.

Q And you took some, I suppose?

A Yes, sir.

Q Mr. Begle, did you place any of that whiskey in Mr. Brown's car?

A After we had these drinks I set the whiskey behind the telephone pole, and after the car was fixed I went back and got another drink, and the top was not on tight and it fell over and spilt some of it, and I jerked it up as quick as I could, and that left in the neighborhood of a pint in the jar.

Q The jar over-turned, you mean?

A Yes, sir; the top was not on good and the jar fell over and I snatched it up as quick as I could in order to save the whiskey. I took another swallow of it myself, and put it under my coat and walked back to the car. Mr. Brown says to me, "Begle, where is the whiskey?"

A I don't know what country it is in. I hear that it is in

country: yes, sir.

Q Well, now, Brown took some of the liquor there in

A Yes, sir.

Q He was then outside of his car, was he?

A Outside of his car; yes, sir.

Q Did Brown drink any of it?

A Yes, sir.

Q How much did he drink?

A Taken a couple of drinks was all. I couldn't tell whether

that it amounted to one.

Q On two occasions he took a drink?

A He put the jar to his mouth twice, whether he drank any I don't

know.

Q Did Brown take some of it?

A Yes, sir.

Q And you took some, I suppose?

A Yes, sir.

Q Mr. Magle, did you place any of that whiskey in Mr. Brown's

car?

A After we had these drinks I got the whiskey behind the

front gate, and after the car was fixed I went back and got another

drink, and the top was not so tight and it fell over and spilled some of

it, and I jerked it up as quick as I could, and that fell in the

neighborhood of a flat in the jar.

Q The jar overturned, you mean?

A Yes, sir; the top was not so good and the jar fell over and I

knocked it up as quick as I could in order to save the whiskey. I

took another swallow of it myself, and got it under my coat and walked

back to the car. Mr. Brown says to me, "Magle, where is the whiskey?"

I said, I turned it over and spilt it." He said, "Did you spill it all?" "Yes," I said. He said, "It is a good thing, we will not have any in the car. We can get plenty when we get to Maryland." I had the whiskey under my coat. I never showed it to anybody except Ayers, and he did not know it until I got in the car.

Q That is Ayers?

A Yes, sir.

Q Between Greenville and Staunton did you at any time drink any of that liquor?

A No, sir.

Q Did anybody in the car drink any of that liquor after you got into the car at Greenville?

A No, sir.

Q Did you tell Brown that the whiskey was there?

A No, sir.

Q Either when you got in the car or at any time during the trip to Staunton?

A No, sir.

Q Brown was in the front seat, was he, riding from Greenville to Staunton?

A Yes, sir.

Q Mr. Steel was driving the car?

A Steel drove the car; yes, sir.

Q You and Ayers were on the rear seat?

A Yes, sir.

Q Do you remember whether or not there was anything that concealed the whiskey from common notice there?

A Yes, sir.

Q What did conceal it?

A There was a mat lying there, with grease over it, and I put

I said, "I turned it over and again it is all
"Yes," I said. He said, "It is a good thing, we will not have any
the car. We can get plenty when we get to Hartford." I had the whiskey
under my coat. I never showed it to anybody except there, and he did
not know it until I got in the car.

Q That is correct?

A Yes, sir.

Q Between Greenville and Staunton did you at any time drink any

of that liquor?

A No, sir.

Q Did anybody in the car drink any of that liquor after you got

into the car at Greenville?

A No, sir.

Q Did you tell Brown that the whiskey was there?

A No, sir.

Q Right when you got in the car at any time during the trip

to Staunton?

A No, sir.

Q Brown was in the front seat, was he, riding from Greenville to

Staunton?

A Yes, sir.

Q Mr. Brown was driving the car?

A Brown drove the car; Yes, sir.

Q You and Brown were on the rear seat?

A Yes, sir.

Q Do you remember whether or not there was anything that you

noticed the whiskey from common notice there?

A Yes, sir.

Q What did you see?

A There was a net lying there, with glasses over it, and I got

the whiskey under that mat.

Q You came on then to Staunton without advising Mr. Brown that the whiskey was in the car?

A Yes, sir.

Q Did you leave the car at Staunton?

A Yes, sir.

Q Why?

A To go in the restaurant to get something to eat.

Q I suppose you did not take the whiskey with you?

A No, sir.

Q Because you were afraid of being caught?

A Yes, sir (Objected to as leading.)

Q Why didn't you take the whiskey with you when you left the car?

A I did^{not} want to for the simple reason I did not think I had any business having it in my possession when I went to get something to eat. I knew that nobody knew of it but Ayers and myself. I knew Mr. Brown didn't know anything about it.

Q Did Ayers go to the restaurant with you?

A Yes, sir; Ayers, Mr. Brown and myself went to the restaurant.

Q Did Steel?

A No, sir; he staid in the car. I asked him if he wanted something to eat and he said he didn't want a thing.

Q When you left the car he was in the driver's seat in the front of the car?

A Yes, sir.

Q Did you return to the car?

A No, sir.

Q Why not?

A We all had a bowl of soup and a piece of pie, and after he got

the whiskey under that hat.

Q You came on then to Hamilton without obtaining Mr. Brown's

the whiskey was in the car?

A Yes, sir.

Q Did you leave the car at Hamilton?

A Yes, sir.

Q Why?

A To go in the restaurant to get something to eat.

Q I suppose you did not take the whiskey with you?

A No, sir.

Q Because you were afraid of being caught?

A Yes, sir. (Objected to as leading.)

Q Why didn't you take the whiskey with you when you left the

car?

Yes

A I happened to be for the single reason I did not think I had any

business having it in my possession when I went to get something to

eat. I know that nobody knew of it but I was and myself. I know Mr.

Brown didn't know anything about it.

Q Did you go to the restaurant with you?

A Yes, sir; Brown and myself went to the restaurant.

Q Did you?

A Yes, sir; he didn't in the car. I asked him if he wanted some-

thing to eat and he said he didn't want a thing.

Q When you left the car he was in the driver's seat in the front

of the car?

A Yes, sir.

Q Did you return to the car?

A Yes, sir.

Q Why not?

A We all had a bowl of soup and a piece of pie, and after we got

through Mr. Brown went out. I was the last one to get through, and as I raised up from the stool, I noticed Mr. Brown outside talking to an officer. I says to Ayers, "Who is that Cop out there talking to Brown?"

MR. BARRMAN: I object. You need not tell what Ayers said.

Q You noticed Mr. Brown outside talking to a Cop?

A Yes, sir; a policeman. I paid the lady for the eats, and came on out, and when we got on the outside, Mr. Brown and this officer were down near the corner. The car sat in front of the Western Union Telegraph Office, and I started to walk back up towards the car. It was 15 or 20 yards above where the restaurant was. Mr. Brown got in the car with the officer and the car shot out, and I hollared for him to wait but he never heard me. I went down to the first crossing -- he turned to the right -- and Ayers and myself walked down to the corner to see which way the car had gone and when we got there we couldn't see it.

Q What time of night was that that you last saw the car?

A I guess something like 8:30 or 9 o'clock. I was not paying any attention to the time.

Q You continued to search for the car, did you?

A We walked up to the next corner, after he had turned to the right -- we walked up to another block and couldn't see it there; after that we came back and inquired where the courthouse was at. In the meantime we got to the courthouse, and I recognized the officer that went down the street with Mr. Brown and I asked him what had become of Brown, and he made the remark that he went up to see Maj. Steele. I asked him how far it was to where Brown was, and he said it was only two or three blocks. I said, "Will he be back?" and the officer said "Yes." We waited until 10:30 and couldn't see Mr. Brown or the car anywhere, and I asked the officer where I could get a car to take me back to

... Mr. Brown went out. I was the last one to get through, and
as I raised up from the chair, I noticed Mr. Brown outside talking to
an officer. I saw an officer. This is that dog out there talking to
Brown.

Mr. Brown: I object. You need not call that
witness.

Q You noticed Mr. Brown outside talking to a dog?
A Yes, sir, a policeman. I paid the lady for the wine, and then
as yet, and when we got on the outside, Mr. Brown and this officer
were down near the corner. The dog sat in front of the Western Union
Telegraph Office, and I started to walk back up towards the car. It
was 15 or 20 yards where the restaurant was. Mr. Brown got in
the car with the officer and the dog got out, and I walked for him
to walk but he never turned me. I went down to the first crossing --
he turned to the right -- and Agave and myself walked down to the
corner to see which way the car had gone and when we got there we
couldn't see it.

Q What time of night was that you saw the car?
A I guess something like 8:30 or 9 o'clock. I was not getting my
attention on the time.

Q You continued to search for the car, did you?
A We walked up to the next corner, after he had turned to the
right -- we walked up to another block and couldn't see it there; after
that we went back and inquired where the courthouse was at. In the
courthouse we got to the courthouse, and I recognized the officer that
was down the street with Mr. Brown and I asked him what had become of
Brown, and he made the remark that he went up to see Mr. Wheeler. I ask
ed him how far it was to where Brown was, and he said it was only two
or three blocks. I said, "Will he be back?" and the officer said "Yes."
We waited until 10:30 and couldn't see Mr. Brown or the car anywhere,
and I asked the officer where I could get a car to take us back to

Lexington, and about that time there was a Ford came along, and he asked the boy did he want to make a trip to Lexington, and he said "Yes, sir." I asked him what he wanted to go up there and he said ten dollars; I asked Ayers what he thought about it and he said he was pretty steep. I said, "We will give you eight dollars," and the boy said, "All right," and we left.

Q You mean that you went back to Lexington?

A Yes, sir.

Q After failing to find the car or Mr. Brown?

A Yes, sir.

Q Mr. Begle, did you know that Mr. Brown had been arrested before his trial in the mayor's court here?

A No, sir.

Q Where were you at that time?

A I was in Lexington. I did not hear it until Monday morning, when I heard that he was arrested after he got to Harrisonburg.

Q Were you acquainted with Mr. Brown before that day?

A I never saw him before that day, not that I know of. Mr. Ayers and myself had the whiskey in possession, and we asked Mr. Brown to have a drink.

Q That was during the jolification¹ over the game, was it?

A Yes, sir.

CROSS-EXAMINATION BY MR. EARMAN:

X You have been discharged, now, from the service, haven't you?

A No, sir.

X What organization are you affiliated with?

A Virginia Military Institute, on the detached service -- regular army, but on detached service.

X You had on your civilian's clothes at this time of which you testify?

Q Now about that time there was a Ford car along, and he asked the boy did he want to make a trip to Lexington, and he said "Yes, sir." I asked him what he wanted to go up there and he said he wanted to see about the property that he thought about it and he said he was pretty sure. I said, "We will give you eight dollars," and the boy said, "All right," and he left.

Q Now when that car went back to Lexington?

A Yes, sir.

Q After calling to find the car in W. Brown?

A Yes, sir.

Q Mr. Wolfe, did you know that Mr. Brown had been arrested before his trial in the night's court here?

A No, sir.

Q Where were you at that time?

A I was in Lexington. I did not hear it until Sunday morning.

Q Now I heard that he was arrested after he got to Harrisonburg.

A Yes, you were acquainted with Mr. Brown before that day?

A I never saw him before that day, not that I know of. Mr. Brown and myself had the whiskey in possession, and we called Mr. Brown to have a drink.

Q That was during the celebration over the case, was it?

A Yes, sir.

CHIEF EXAMINATION BY MR. HANNA:

Q You have been discharged, now from the service, haven't you?

A No, sir.

Q What organization are you affiliated with?

A Virginia Military Institute, on the detached service -- regular army, but on detached service.

Q You had on your civilian's clothes at this time of which you

A Yes, sir.

X Where does Ayers live?

A About two miles out, on the road to Staunton, from Lexington towards Staunton.

X What is his first name?

A Roy.

X How do you spell it?

A R-o-y A-y-e-r-s, I believe, is the way he spells the last name.

X Can you tell exactly where he lives?

A At the White farm, right in sight. It is across the road from the White farm.

X He gets his mail at Lexington?

A I suppose he gets it at Lexington. He may get it on the mail route. I would not say positively.

X What is his business?

A His father works a truck farm and he works for his father. Hauls the truck, &c., to Lexington.

X He is about Lexington, now, is he?

A I should think so; yes, sir.

X He is not here in this City, now, is he, so far as you know?

A No, sir; he is not here, so far as I know.

X What is his age?

A I couldn't tell you, sir.

X MR. DECHERT: What is yours?

WITNESS: Twenty-four. I will be 25 next month.

X Where was your home originally?

A Roanoke.

X What is your address there?

A I lived with my sister there; I have been with my father but have not lived with him since I was 10 years old. My sister's address

A Yes, sir.

X What time does Agate live?

A About two miles out, on the road to Stanton, from Lexington, towards Stanton.

X What is his first name?

A Ray.

X How do you spell it?

A K-o-o-y-a-g-o-r-a. I believe, in the way he spells the last name.

X Can you tell exactly where he lives?

A At the White Farm, right in sight. It is across the road from the White Farm.

X The gate his wife at Lexington?

A I suppose he gate is at Lexington. He may get it on the call.

X Would not say positively.

X What is his business?

A His father works a truck farm and he works for his father. Unlike the truck, he, at Lexington.

X He is about Lexington, now, is he?

A I should think not, sir.

X He is not here in this City, now, is he, so far as you know?

A No, sir; he is not here, so far as I know.

X What is his age?

A I couldn't tell you, sir.

X MR. BURDET: What is yours?

WITNESS: Twenty-four. I will be 25 next month.

X What was your name originally?

A Dennis.

X What is your address there?

A I lived with my father there; I have been with my father, but have not lived with him since I was 10 years old. My father's address

is 1213 Claymore Avenue, Northwest, Roanoke, Va.

X What is her name?

A Mrs. J. E. Padgett.

X How did you happen to meet this man Ayers on this particular occasion?

A I had been knowing him practically all the time since I have been in Lexington. He has a brother at the stable and I became acquainted with him in that way. I came there last August a year ago.

X Where did you meet him on this particular occasion?

A Down at the stable.

X He came down to the Government stable, did he?

A Of course, it belongs to the V. M. I., but the Government has horses there.

X It is under the control and supervision of the Government of the United States?

A The horses are.

X He brought the liquor right down there, did he?

A We got the liquor from a young fellow.

X Who do you mean by "we"?

A Ayers and myself.

X Where was Brown?

A I never saw Mr. Brown until the game was half over. I did not go to the game until it was half over myself.

MR. DECHERT: It was on the outskirts of the field where the game was played that you drank the whiskey?

WITNESS: Yes, sir; we did not get into the diamond at all.

X Where was the man you got the liquor from?

A He came in from Lexington and asked us if we wanted some whiskey and we told him, yes, we wanted a quart.

X Tell where you got the liquor from? What was the man's name?

A I don't know what his name was.

10155 Elsworth Avenue, Northwest, Rockville, Va.

Q What is her name?

A Mrs. J. M. [unclear].

Q How did you happen to meet this man Ayers on this particular

occasion?

A I had been knowing him practically all the time since I have

been in Washington. He has a brother at the stable and I became ac-

quainted with him in that way. I came there last August or last year.

Q Where did you meet him on this particular occasion?

A Down at the stable.

Q He came down to the Government stable, did he?

A Yes, sir, it belongs to the V. M. I., but the Government has

leased it.

Q Is it under the control and supervision of the Government of

the United States?

A Yes, sir.

Q He brought the liquor right down there, did he?

A Yes, but the liquor from a young fellow.

Q Who is the man by the name?

A Ayers and [unclear].

Q Where was [unclear]?

A I never saw Mr. Brown until the game was half over. I did not

go to the game until it was half over, sir.

Q. DIRECTOR: It was on the outskirts of the field where
the game was played that you drank the whiskey?

ANSWER: Yes, sir; we did not get into the stadium at
all.

Q Where was the man you got the liquor from?

A He came in from Lexington and asked us if we wanted some

whiskey and we told him, yes, we wanted a quart.

Q Well, where you got the liquor from? What was the man's name?

A I don't know what his name was.

X How much did you get?

A Got a quart.

X Who paid for it?

A Ayers and myself.

X How much did you pay?

A Two dollars and a half, a dollar and a quarter apiece.

X And you say you do not know the man's name?

A No, sir.

X He was just peddling liquor and came across you fellows?

A Yes, sir; peddling liquor.

X On the streets of Lexington?

A No, sir; down at the lower end, at the V. M. I., stable.

X How did it happen that he sold you fellows liquor?

A I don't know. I guess he knew we drank it, and seen us at the game, or something of that kind. I guess he just thought we wanted it and asked us.

X How did you get mixed up with Brown?

A We went on the hill to look at the game and met Mr. Brown up there.

X What time of day was that?

A Let's see! The game was called at 3 o'clock, and I guess the game was half over, somewhere in the neighborhood of 4 or 4:30 when we went up on the hill to see the game.

X You never knew Brown before that time?

A No, sir; I never saw him before that that I know of.

X You boys drank the quart of liquor?

A Yes, sir.

X How much did Brown drink?

A I couldn't say. Ayers and myself taken a drink before we got there; and we slipped behind the brush and finished killing it.

X How much did you pay?
 A One dollar.
 X How much for the
 A Light and myself.
 X How much did you pay?
 A Two dollars and a half, a dollar and a quarter apiece.
 X And you say you don't know the man's name?
 A No, sir.
 X He was just peddling liquor and came across you following
 A Yes, sir; peddling liquor.
 X On the streets of Lexington?
 A Yes, sir; down at the lower end, at the V. M. I., stable.
 X How did it happen that he sold you follow liquor?
 A I don't know. I guess he knew we drink it, and when we go
 the game, or something of that kind. I guess he just thought we wanted
 it and sold us.
 X How did you get mixed up with Brown?
 A We went on the hill to look at the game and met Mr. Brown by
 chance.
 X What time of day was that?
 A Let's see; the game was called at 3 o'clock, and I guess the
 game was half over, somewhere in the neighborhood of 4 or 4:30 when we
 went up on the hill to see the game.
 X You never knew Brown before that time?
 A No, sir; I never saw him before that I know of.
 X The boys drank the quart of liquor?
 A Yes, sir.
 X How much did Brown drink?
 A I couldn't say. I guess he drank a drink before we got
 there; and we slipped behind the brush and finished killing it.

X You three, during the progress of the football game, consumed the liquor?

A When the game was over we had no more liquor.

X What did you do, then?

A Got in Brown's car and started out from there.

X How did you happen to be able to get a leave of absence?

A We are off on a game like that until Monday morning.

THE COURT: What day was this?

MR. DECHERT: Saturday, the witness has stated.

X You had a leave of absence until Monday?

A Yes, sir.

X Where did Brown have his car?

A Had it parked down on the street.

X At what point?

A I couldn't tell you. I don't exactly recall the point. It was on the Lee Highway.

X That is the turnpike into Lexington?

A Yes, sir.

X After you had drank this quart of liquor you decided to go with him to Maryland?

A Yes, sir.

X To what point?

A While the game was on Mr. Brown asked Ayers did he want to go to Maryland, and also asked me and I told him I would go. He asked Ayers if he would drive the car and Ayers told him he would. Ayers had his truck that he delivered his produce in parked at the lower end of the stable, and he said he would get with us there at his home.

MR. DECHERT: And he went home in his truck, you mean?

WITNESS: Yes, he taken his truck home.

X When did he take it home?

A Just after the game.

Q You stated, during the progress of the football game, attended

the lighting

A When the game was over we had no more lights.

Q What did you do, then?

A Got in Brown's car and started out from there.

Q How did you happen to be able to get a leave of absence?

A We are all on a game like that until Sunday morning.

THE COURT: What day was that?

MR. DISTRICT: Saturday, the witness has stated.

Q You had a leave of absence until Monday?

A Yes, sir.

Q Where did Brown have his car?

A Had it parked down on the street.

Q At what point?

A I wouldn't tell you. I don't exactly recall the point. It was

on the low highway.

Q That is the turning into Lexington?

A Yes, sir.

Q After you had drunk this quart of liquor you decided to go with

him to Lexington?

A Yes, sir.

Q To what point?

A While the game was on Mr. Brown asked where did he want to go

to Lexington, and also asked me and I told him I would go. He asked

where it he would drive the car and where told him he would. Where

had his trunk that he delivered his produce in parked at the lower

end of the stadium, and he said he would get with us there at his home.

MR. DISTRICT: And he went home in his truck, you mean?

WITNESS: Yes, he took his truck home.

Q When did he take it home?

A Just after the game.

X Who drove the car out of that congestion, there, down to the main street?

A Mr. Brown drove the car away.

X When did you expect to return?

A I expected to return the next morning myself, that is when I expected to return.

X Sunday morning?

A Yes, sir.

X How could you get back from Maryland on Sunday morning?

A I was under the influence of whiskey when I left there or I wouldn't have said I would go to Maryland. I was a married man and seldom go out on parties like that.

X What time was it when you left Lexington?

A Somewhere in the neighborhood of 5 o'clock. I didn't keep no time myself.

X To what point in Maryland did you expect to go?

A Up where Brown's brother is. I don't remember where he said he was at.

X You drove on down to Greenville, then?

A Drove to Ayers' home and got him and then went to Greenville.

X He lived about two miles out --

A Out from Lexington; yes, sir.

X Who drove the car after Ayers got in?

A Mr. Brown.

X Did Mr. Brown drive the car down to Greenville?

A Not all the way. Mr. Ayers drove it after we got down below Midway.

X Who was driving the car when it ran into Maj. Steele's car?

A Mr. Brown was.

X Did he stop?

X The driver the car out of that suggestion, there, down to the
 main street.

A Mr. Brown drove the car away.

X Did you expect to return?

A I expected to return the next morning again, that is when I
 expected to return.

X Sunday morning.

A Yes, sir.

X How could you get back from Maryland to Jersey Sunday?

A I was under the influence of whiskey when I left there or I
 couldn't have said I would go to Maryland. I was a married man and
 didn't go out on parties like that.

X What time was it when you left Washington?

A Somewhere in the neighborhood of 3 o'clock. I didn't keep an
 exact time.

X To what point in Maryland did you expect to go?

A Up where Brown's brother is. I don't remember where he was
 at the time.

X You drove in from to Greenville, then?

A Brown is Brown's home and got him and then went to Greenville.

X He lived about two miles out --

A Out from Lexington; yes, sir.

X Who drove the car after Brown got out?

A Mr. Brown.

X Did Mr. Brown drive the car down to Greenville?

A Not all the way. Mr. Brown drove it after we got down below
 Highway.

X Who was driving the car when it ran into Mr. Brown's car?

A Mr. Brown was.

X Did he stop?

A No, sir.

X You knew he had struck that car, didn't you?

A I did not know about that. I was sitting on the other side, and I thought he just tipped the fender. That is what I thought.

X Mr. Brown was pretty well shot up, wasn't he?

A I wouldn't call him drunk -- not then.

X You drove on down to Greenville?

A Yes, sir..

X How far is that from Lexington?

A I declare, I can't say.

MR. DECHERT: If you want information I will tell you.

MR. BARMAN: I will ask the witness.

A I don't know much about the roads. I would say it is somewhere in the neighborhood of twenty-four miles. I can't say exactly.

X When you reached Greenville you got thirsty again?

A Yes, sir.

X Did you stop there for the purpose of getting liquor?

A No, sir.

X How did you know that any liquor was being sold at Greenville?

A I did not know it. I just inquired and found out.

X Didn't you inquire from Mark Steel?

A Inquired for a mechanic to fix the car.

X That was Mark Steel?

A Yes, sir. You mean, did I inquire of him where I could get whiskey?

X Yes.

A No, sir.

X Who did you ask?

A This tall nigger.

X I understood you to say that you inquired for a mechanic?

A We did inquire for a mechanic to fix the car, and then Ayers and myself took a trip upon alley, and asked this negro where we could

A: Yes, sir.

X: You know he had started that car, didn't you?

A: I did not know about that. I was sitting on the other side, and I thought he just tipped the tender. That is what I thought.

X: Mr. Brown was pretty well shot up, wasn't he?

A: I wouldn't call him drunk -- not drunk.

X: You drove on down to Greenville?

A: Yes, sir.

X: How far is that from Lexington?

A: I don't know, I can't say.

MR. COCHRAN: If you want to continue I will call you.

MR. BARNER: I will ask the witness.

A: I don't know much about the facts. I would not be sure where in the neighborhood of Twenty-Two miles. I can't say exactly.

X: When you reached Greenville you got thirty against?

A: Yes, sir.

X: Did you stop there for the purpose of getting liquor?

A: No, sir.

X: How did you know that my liquor was being sold at Greenville?

A: I did not know it. I just inquired and found out.

X: Didn't you inquire from Hank Beasley?

A: Inquired for a mechanic to fix the car.

X: That was Hank Beasley?

A: Yes, sir. You mean, did I inquire at his where I could get liquor?

X: Yes.

A: No, sir.

X: Wasn't you sent?

A: This fell right.

X: I understood you to say that you inquired for a mechanic?

A: We did inquire for a mechanic to fix the car, and then after and myself took a trip down river, and asked this negro where we could

get some liquor.

X Was it dark?

A Yes, sir.

X How did you know that you could get any liquor up that alley that night?

A I did not know. I say, we met him.

X How much did you get?

A Half gallon.

X You, of course, don't know that man's name?

A No, sir.

X Where did the negro get it?

A I couldn't tell you. I did not go with him. I staid where I had been talking to him, and, as I said, he took a few steps off and came back and asked how much we wanted, and we told him a half gallon. He said, "Wait until I come back," and we waited and he came back with a half gallon, and said to give him six dollars.

X Did Brown help to pay for it?

A No, Brown didn't pay anything. He did not know I was getting the whiskey at all.

X Who was present when you got it?

A Nobody but Ayers and myself and this negro bootlegger or whatever you want to call him.

X How did you happen to run across this bootlegger; you had never been to Greenville before?

A Yes, sir; once before, to Mr. Palmer's once before.

X Had you ever met that slender negro before?

A No, sir. I went to Mr. C. D. Palmer's to get a blood-hound and went back to Lexington. That is the only time I was there before.

X What kind of a jar was it in?

A Half gallon fruit jar.

was some liquor.

Q Was it heavy?

A Yes, sir.

Q Now did you know that you would get any liquor on that night?

That night?

A I did not know. I say, we met him.

Q How much did you get?

A Half gallon.

Q You, of course, don't know that man's name?

A No, sir.

Q Where did the liquor get to?

A I couldn't tell you. I did not go with him. I still want to

have been talking to him, and, as I said, he took a few steps off

and then came and asked how much we wanted, and we told him a half

gallon. He said, "Well until I come back," and we waited and he came

back with a half gallon and said to give him six dollars.

Q Did Brown take to pay for it?

A No, Brown didn't pay anything. He did not have I was waiting

the money at all.

Q Was the present when you got it?

A Nobody but Brown and myself and this man's possession of that

what you want to call him.

Q How did you happen to run across this bartender, you had never

known to him before?

A Yes, sir; when Brown, to Mr. Palmer's work before.

Q Had you ever met that bartender before?

A No, sir. I went to Mr. O. D. Palmer's to get a piece of wood

and went back to Lexington. That is the only time I was there before.

Q What kind of a bar was it in?

A Half gallon fruit jar.

X And you came on down to the garage then and you fellows drank some of the liquor?

A Came on the opposite side of the street from the garage and called Mr. Brown and there is where we had our drinks. Then we called Mr. Steel. Mr. Brown walked back over to the car and I set the whiskey down behind a telegraph pole; and as we got ready to leave I went back and got the whiskey. As I said here awhile ago, the top jerked off and I spilt part of it, and I jerked the jar back up as quick as possible to keep from spilling it. Before I left, Mr. Brown called me and asked if I had any more whiskey, and I told him that I had kicked it over and spilt it, and he made the remark that we wouldn't have any in the car and could get plenty of it in Maryland.

BY THE COURT:

Q What made you tell Brown a falsehood there about the whiskey?

A I knew that there wasn't but about that much left in the jar.
(Indicating).

Q Just about a pint?

A Yes, sir, something like that -- not half a pint.

Q Why didn't you tell him the truth?

A I judged that Mr. Brown was getting pretty well tanked up, then, and I didn't want him to get drunk.

Q What did you do with the jar?

A Put it under my coat and walked over and put it under the rear seat of the car.

Q What did you do with the jar then?

A I left it after we got out of the car. I reached down in front of me and laid it under the greasy mat.

Q Was the jar standing up or lying down?

A I put it underneath the mat.

BY MR. BARMAN:

Q And you were in there in the garage then and you followed them

down to the library?

A Came on the opposite side of the street from the garage and
called Mr. Brown and there in there we had our drinks. Then we called
Mr. Brown called back over to the car and I sat the witness
down behind a telephone pole; and we got ready to leave I went back
and got the whiskey. As I said here earlier ago, the dog jumped off and
I didn't get off it, and I jerked the jar back up as quick as possible
to keep from spilling it. Before I left, Mr. Brown called me and
asked if I had any more whiskey, and I told him that I had kissed it
over and still it, and he made the remark that we wouldn't have any in
the car and would get plenty of it in Hartford.

BY THE COURT:

Q What time you tell Brown a likelihood there about the whiskey?
A I don't know what time it was but about that much left in the jar.

(Indistinct)

Q Just about a pint?

A Yes, sir, something like that -- not half a pint.

Q Now didn't you tell him the truth?

A I judged that Mr. Brown was getting pretty well drunk up then,

and I didn't want him to get drunk.

Q What did you do with the jar?

A But it under my coat and walked over and put it under the seat

back of the car.

Q What did you do with the jar then?

A I left it after we got out of the car. I reached down in there

at me and laid it under the greasy mat.

Q Was the jar standing up or lying down?

A I put it underneath the mat.

BY MR. BARNES:

X How many drinks did Mr. Brown have in Greenville with you fellows?

A I don't know. Two or three. Something like that. I wouldn't exactly say, I couldn't tell the exact drinks.

X You four consumed the half gallon with the exception of about one pint and the little you poured out on the ground?

A What I spilled; yes, sir.

X You drank something over a quart?

A No, sir; we didn't drink a quart of it.

X Didn't you say you bought a half gallon of it?

A I did; yes, sir.

X There was a pint left in the jar?

A After it was spilt.

X You spilt about half a pint?

A I wouldn't say how much I spilt. The top jerked off the jar and I knew there was whiskey in there and I herked the jar up as quick an I could. A fruit jar has a pretty big top and it runs out quick, I would say it was over a pint.

X Did you have on an overcoat?

A Yes, sir.

X When you carried that liquor from where you bought it from the bootlegger how did you carry it?

A Under my coat. I placed the jar under my coat and I had my hand down in my pants pocket like that (indicating) and the jar could not be seen.

X If you cherished that liquor so much, and wanted a drink the next morning, why did you leave it in the automobile?

A I did not want to take in to the restaurant in Staunton. I knew that nobody knew anything about its being in the car but Ayers and myself, and if anything happened while I was in there, I would

Q How many drinks did Mr. Brown have in Greenville with you

Friday?

A I don't know. Two or three. Something like that. I wouldn't
know how many drinks he had.

Q You told me that the half gallon with the exception of about
one pint and the little you poured out on the ground?

A That I spilled; yes, sir.

Q You drank something over a quart?

A No, sir; we didn't drink a quart of it.

Q Didn't you see your brother a half gallon of it?

A I did, yes, sir.

Q There was a pint left in the jar?

A After it was spilled.

Q How much about half a pint?

A I wouldn't say how much I spilled. The top leaked all the time
and I know there was whiskey in there and I poured the jar up on the
ground. A great jar has a pretty big top and it runs out quick. I
would say it was over a pint.

Q Did you have an automobile?

A Yes, sir.

Q When you testified that liquor from where you bought it from the
postoffice how did you carry it?

A Under my coat. I placed the jar under my coat and I had my
hand down in my pants pocket like that (indicating) and the jar would
not be seen.

Q If you testified that liquor was such, and wanted a drink the
next morning, why did you leave it in the automobile?

A I did not want to take it to the restaurant in Winston.

Q Now that nobody knew anything about the being in the jar but you
and yourself, and if anything happened while I was in there, I would

have thrown it out on the street and broken it. That is the reason I wanted to get to the car so bad after I came from the restaurant. Mr. Steel drove off with the car -- that's the reason I wanted to get in the car to the whiskey and break it, because I seen the officer talking to Mr. Brown. I knew I had left it in there.

X You drank some liquor on the way from Greenville to Staunton, didn't you?

A No, sir, I didn't touch it at all after I left Greenville.

X Where did you place the liquor?

A In front of me under the greasy mat.

X Did anyone else in your presence touch that liquor from Greenville to Staunton?

A No, sir.

X That liquor, in that jar, was it securely fastened or did it jostle about?

A It couldn't very well roll about if the mat was on it, on top of it.

X Did you see Martin or Rubble that night?

A No, sir.

X Did you know those fellows?

A I knew Mr. Martin.

X He lives in Lexington, does he?

A Martin used to work at the tombstone place and I went up there a couple of times. I never did have any acquaintance with him. I never knew his first name. I knew his last name was Martin, and that is all I knew until I was summoned down here and found out his name.

X When you reached Staunton where did you hide the liquor along the road?

A Never hid it anywhere.

X Didn't you know the traffic cop was after you, and before you drove into Staunton didn't you hide that liquor outside of the town?

I have thrown it out on the street and broken it. That is the reason I
wanted to get to the car as fast after I came from the restaurant. I
didn't know who it was -- that's the reason I wanted to get
in the car as fast as I could, because I saw the officer
talking to Mr. Brown. I knew I had left it in there.

Q You drank some liquor on the way from Greenville to Winston-
Salem?

A No, sir, I didn't touch it at all after I left Greenville.

Q Where did you place the liquor?

A In front of me under the grocery bag.

Q Did anyone else in your presence touch that liquor from Greenville
to Winston-Salem?

A No, sir.

Q That liquor, in that bag, was it secretly tampered on his part?

A I don't know.

Q It wouldn't very well roll about if the bag was on it, on top of
it?

Q Did you see Martin or Robbie that night?

A No, sir.

Q Did you know these fellows?

A I know Mr. Martin.

Q He lives in Lexington, does he?

A Martin used to work at the tobacco store and I work up there.

Q People at home. I never did have any conversation with him. I never
knew his first name. I know his last name was Martin, and that is all
I know. I was supposed to have had him and found out his name.

Q When you reached Winston-Salem where did you place the liquor along
the road?

A Never did it anywhere.

Q Didn't you know the traffic cop was after you, and before you
drove into Winston-Salem didn't you hit that liquor outside of the town?

A No, sir.

X Are you sure of that?

A Positive.

X Then you are positive that the liquor was in the car, lying back of the front seat of the car at the time you got out of the car in Staunton?

A Yes, sir.

X You are positive and sure of that?

A Yes, sir.

X Now, as a matter of fact, wasn't that jar standing on its bottom in the car?

A No, sir; it was lying down.

X This policeman (indicating) is the gentleman you saw in Staunton, isn't he?

A Yes, sir; he is the officer that directed us to the boy to take us to Lexington.

X Didn't you tell this gentleman, Mr. Bucher, that you knew Mr. Brown had some liquor outside of the town of Staunton, that he had gotten it there, and you could have gotten a drink?

A No, sir.

MR. DECHERT: When do you mean, that same night?

MR. HARRMAN: Yes, sir.

X He assisted you in getting a car to go back to Lexington?

A He told me he would get one, and this boy came by with the Ford, and he spoke to him and asked him did he want to make a trip to Lexington.

X And you didn't tell Mr. Bucher that the reason you and Ayers wanted to get back to Lexington was because those other boys would get in trouble and you wanted to get away from them?

A No, sir.

A Yes, sir.

Q Are you sure of that?

A Positive.

Q Then you are positive that the light was in the car, flying down at the front end of the car at the time you got out of the car in Birmingham?

A Yes, sir.

Q You are positive and sure of that?

A Yes, sir.

Q Now, as a matter of fact, wasn't that car standing on the side and in the city?

A Yes, sir; it was flying down.

Q This policeman (indicating) is the gentleman you saw in Birmingham, isn't he?

A Yes, sir; he is the officer that testified as to the boy in Birmingham.

Q Didn't you tell that gentleman, Mr. Bucher, that you knew Mr. Brown had some liquor outside of the town of Birmingham, that he had gotten it there, and you could have gotten a drink?

A No, sir.

MR. BUCHER: When do you mean, that was right?

MR. WALKER: Yes, sir.

Q He suggested you in getting a car to go back to Birmingham?

A He said we would get one, and this boy came up with the four, and he spoke to him and asked him did he want to make a trip to Birmingham.

Q And you didn't tell Mr. Bucher that the reason you and Myers wanted to get back to Birmingham was because those other boys would get in trouble and you wanted to get away from them?

A No, sir.

BY MR. DECHERT:

Q Do you know whether or not an effort has been made to get Roy Ayers here as a witness?

A No, sir, I do not.

BY THE COURT:

Q Did Brown tell you not to put any whiskey in the car?

A He made the remark in Greenville that he was glad it was all gone because there was none in the car and we would get more when we got to Maryland.

Q That is what he said?

A Yes, sir.

Witness told to stand aside.

BY MR. PROCTOR:

Q Do you know whether or not an effort has been made to get

Ray A. Brown here as a witness?

A Yes, sir, I do not.

BY THE COURT:

Q Will you tell me now whether or not you know whether or not

Ray A. Brown is in the city of Knoxville at the present time?

A Yes, because there was some in the city and we would get some from

the city.

Q That is what you say?

A Yes, sir.

Witness told to stand aside.

WILLIAM MARTIN, sworn, examined by Mr. Deavers, testified:

Q Mr. Martin, you formerly lived in Lexington and now live in Baltimore, Maryland?

A I formerly lived in Baltimore but have been in Lexington for the past four years during the spring and summer months, but during the winter months I reside in Baltimore.

Q Mr. Martin, state whether or not you saw Mr. S. M. Brown on the night after the game between the V. M. I., and the University of Virginia -- football game?

A Yes, sir; I saw him in Staunton probably around 10:30 or quarter to 11 o'clock.

Q Did you come in his car from Staunton to Harrisonburg?

A Yes, sir, I did.

Q Who else came with you in that car?

A Mr. Rubble and Mr. Steel.

Q Who drove the car from Staunton to Harrisonburg?

A I drove the car myself.

Q Mr. Martin, state why you got into this car at Staunton and came to Harrisonburg?

A I left Lexington, possibly, around 6:30 with Mr. Liskey, the mail clerk on the B. & O. Railroad; he wanted me to go to Staunton with him on a social engagement. After completing the engagement, we were walking up the street to get in his car to go to Lexington, and Mr. Brown saw me and stopped me and asked me if I would mind driving his car and taking him to Maryland. I told him I wouldn't mind driving the car, as I saw the condition he was in and I realized that he had a wife at home and a baby and I wanted to take care of him and keep him out of trouble if possible. I told him I could ^{not} go to Maryland with him simply because I had to be at work Monday morning, but he insisted and I told him, no, I wouldn't go, but, after considering the matter, I made him believe I would go thinking that I could finally sober him up

WILLIAM (LATER), whom, examined by Dr. Bevers, testified:
 I saw Mr. Nathan, who formerly lived in Lexington and now lives in
 Baltimore, Maryland.
 I formerly lived in Baltimore but have been in Lexington for
 the past few years during the spring and summer months, but during the
 winter months I reside in Baltimore.
 Mr. Nathan, state whether or not you saw Dr. E. H. Brown on the
 night after the gun between the V. E. I., and the University of
 Virginia -- Marshall County
 Yes, sir; I saw him in Staunton probably around 10:30 on a night
 of 11 o'clock.
 Did you come in his car from Staunton to Harrisonburg?
 Yes, sir, I did.
 Was there some with you in that car?
 A Mr. Hinkle and Mr. O'Neal.
 Did you drive the car from Staunton to Harrisonburg?
 I drove the car myself.
 Mr. Hinkle, state why you got into this car at Staunton and went
 to Harrisonburg.
 I left Staunton, Georgia, around 8:30 with Mr. Hinkle, the
 mail clerk on the R. O. Railroad; he wanted me to go to Harrison
 burg on a social engagement. After completing the engagement, we
 were waiting up the street to get in his car to go to Lexington, and
 Mr. Brown saw me and stopped me and asked me if I would mind driving
 his car and taking him to Maryland. I told him I wouldn't mind driving
 the car, as I was the wheelman he was in and I realized that he had
 a wife at home and a baby and I wanted to take care of him and keep him
 out of trouble if possible. I told him I would go to Maryland with
 him simply because I had to be at work Monday morning, but he insisted
 and I told him, no, I wouldn't go, but, after considering the matter, I
 made his fellow I would go thinking that I could finally solve his
 problem.

and take him back to Lexington. When he became sober I was sure he wouldn't want to go, and he would want to go home. But I entered the car in Staunton and drove it from Staunton to Harrisonburg.

Q Did you make any inquiry of him as to whether or not he had any liquor?

A No, sir, I did not

Q State whether or not, during the time you drove the car from Staunton to Harrisonburg, you took any liquor?

A No, sir, I never taken any.

Q Did you see anybody else take any liquor?

A No, sir, I did not.

Q Was any reference made during that time by anybody in that car to any liquor being in the car?

A No, not that I know of.

Q Are you a drinking man?

A I am not.

Q Had you at any time during that day or during that night taken a drink yourself?

A No, sir.

Q I believe you were arrested along with the rest of them, over near near Water Street, in Harrisonburg, or wherever it was?

A I was.

Q You have already stated that you drove the car up there.

A Yes, sir.

Q State in what seat of the car you were sitting at the time you got out of the car?

A I was in the left front seat.

Q Do you own a Hudson car?

A I own a Hudson car but not a Hudson coach.

Q You are familiar, however, with the arrangement of the doors and seats of this Hudson coach, are you not?

and take him back to Lexington. When he became sober I was able to
Xenia's want to go, and he would want to go home. But I entered the
car in Lexington and drove it from Lexington to Harrisonburg.

Q Did you make any inquiry of him as to whether or not he had any
license?

A No, sir, I did not.

Q State whether or not, during the time you drove the car from

Lexington to Harrisonburg, you took any license

A No, sir, I never taken any.

Q Did you see anybody else take any license?

A No, sir, I did not.

Q Was any reference made during that time by anybody in that car

to any license being in the car?

A No, sir, that I know of.

Q Are you a drinking man?

A I am not.

Q Had you at any time during that day or during that night been

in any company?

A No, sir.

Q I believe you were arrested along with the rest of them, were

you not taken to jail, in Harrisonburg, or wherever it was?

A I was.

Q You have already stated that you drove the car up there.

A Yes, sir.

Q State in what seat of the car you were sitting at the time you

got out of the car?

A I was in the left front seat.

Q Do you own a Hudson car?

A I own a Hudson car but not a Hudson coach.

Q You are familiar, however, with the arrangement of the doors

and seats of this Hudson coach, are you not?

A Each seat seats one party, and they will move forward permitting a person to move through the car and take a seat in the back of it. The seat raises up and you walk through and sit down in the back of the car. When I got out of the car, I got out on the left hand, and as I got out I took the seat that I was sitting in, the lefthand front seat, and raised it up to permit Mr. Brown to also get out of the car. Our intentions were to go to the restaurant to get something to drink, as Mr. Brown had become very thirsty and was wanting water, and I thought at the time that he was very near sober enough to consult with about taking him home instead of taking him to Baltimore.

Q Mr. Martin, state where Mr. Brown was sitting with reference to the driver's seat?

A Mr. Brown was sitting directly behind me.

Q That was in the lefthand hind seat, the lefthand side of the car?

A Yes, sir.

Q Who was sitting on the other side of the seat with Mr. Brown?

A Mr. Rubble.

Q And where was Mr. Steel sitting?

A Along side of me, on the righthand side in front.

Q Were any stops made at all between Staunton and Harrisonburg?

A Not while I was in the car.

Q You were in the car the whole way?

A Yes, sir; driving from Staunton to Harrisonburg I was in the car.

Q You mean that the first stop was here in Harrisonburg?

A Yes, sir; the first stop was here.

Q You were tried along with Mr. Rubble and both were acquitted in the mayor's court of being under the influence of liquor, I believe?

A Yes, sir.

A: I had two seats one party, and they will now forward permitting
 a person to move through the car and take a seat in the back of the car.
 They raised up and you walk through and sit down in the back of the car.
 When I got out of the car, I got out on the left hand, and as I got out
 I took the seat that I was sitting in, the left hand front seat, and
 raised it up to permit Mr. Brown to get out of the car. Our in-
 formation was to go to the restaurant to get something to drink as Mr.
 Brown had become very thirsty and was wanting water, and I thought at
 the time that he was very near what enough to handle with about taking
 his home instead of taking his to Baltimore.

Q: Mr. Martin, state where Mr. Brown was sitting with reference to
 the driver's seat?

A: Mr. Brown was sitting directly behind me.
 Q: That was in the left hand side seat, the left hand side of the
 car?

A: Yes, sir.
 Q: You were sitting on the other side of the seat with Mr. Brown?
 A: Mr. Hubble.

Q: And where was Mr. Brown sitting?
 A: Along side of me, on the right hand side in front.
 Q: Were any steps made at all between Stanton and Harrisburg?
 A: Not while I was in the car.

Q: You were in the car the whole way?
 A: Yes, sir; driving from Stanton to Harrisburg, I was in the
 car.

Q: You were that the first stop was here in Harrisburg?
 A: Yes, sir; the first stop was here.

Q: You were tried along with Mr. Hubble and both were acquitted
 in the mayor's court of being under the influence of liquor, is that
 A: Yes, sir.

CROSS-EXAMINATION BY MR. BARMAN:

X The liquor did not belong to you?

A No, sir.

X You had no connection with it?

A No, sir.

X No one had an opportunity to put the liquor in the car after you got in it?

A No, sir.

X Who was in the car when you got in it?

A Mr. Steel.

X And he was seated where?

A On the righthand seat, on the front seat.

X Did he remain in that position, so far as you observed, from that time on?

A Yes, sir.

X Did Mr. Brown get sick in Staunton or on his way to Harrisonburg?

A No, sir, he didn't get sick. While we were approaching Harrisonburg, within five miles, he became right thirsty; and I said to him, "Wait until we get to Harrisonburg and you can get some water."

X Which one of the fellows was it that vomited over the left hand side of the car?

A That I don't know. Nobody vomited on the way from Staunton to Harrisonburg, that is, to my knowledge. I was driving and paying attention to the car. Somebody may have done it.

X If it was anybody, it was Brown, don't you think?

A Yes, sir. Brown was sitting on the lefthand side. If the vomiting was on that lefthand side it evidently must have been he.

X Do you know how it happened that that liquor got in that car?

A No, sir, I do not, because if I had known it was in there, I would have taken it out or not entered the car.

EXHIBIT - EXAMINATION BY MR. HARRIS:

Q The liquor did not belong to you?
 A No, sir.
 Q You had no conversation with her?
 A No, sir.
 Q She was not in the car at the time you got out?
 A Yes, sir.
 Q Who was in the car when you got in?
 A No one.
 Q And he was seated where?
 A On the right-hand seat, on the front seat.
 Q Did he remain in that position, as far as you observed, from that time on?
 A Yes, sir.
 Q Did Mr. Brown get sick in Houston or on his way to Houston?
 A No, sir. Brown got sick in Houston. While we were approaching Harris-
 burg, about five miles, he became right thirsty; and I said to him,
 "Would you like to get to Harrisburg and you can get some water."
 Q Which one of the fellows was it that vomited over the left-hand
 side of the car?
 A That I don't know. Nobody vomited on the way from Houston
 to Harrisburg. That is, to my knowledge. I was driving and paying
 attention to the car. Somebody may have done it.
 Q It is not anybody, it was Brown, don't you think?
 A Yes, sir. Brown was sitting on the left-hand side. If the vom-
 iting was on that left-hand side it evidently must have been him.
 Q Do you know how it happened that that liquor got in that car?
 A No, sir. I do not, because if I had known it was in there, I
 would have taken it out or not entered the car.

X You and Rubble were together in Staunton, were you?

A No, sir, I wasn't with Rubble; I was with Mr. Liskey.

X You and Rubble got in the car at the same time?

A Yes, I got in at the same time as Rubble.

X Were there any lights burning on the inside of that car?

A No, sir.

X There is a light above, a dome-light?

A No, sir.

X There is a dash-light?

A Yes, sir; there is a dash light but no dome-light.

Witness told to stand aside.

S. M. BROWN, sworn, examined by Mr. Dechert, testified in his own behalf;

Q You are Mr. S. M. Brown?

A Yes, sir.

Q You live in Lexington, Virginia?

A Yes, sir.

Q What is your business in Lexington?

A I run a cleaning and pressing place there.

Q Mr. Brown, you did come from Lexington to Harrisonburg on the 18th of last October after the football game in Lexington, did you?

A Yes, sir.

Q Had you before leaving Lexington been drinking any?

A Had a few drinks.

Q With whom did you take those drinks?

A With Ayers and Begle, we were together.

Q You had not know Begle before that, but had known Ayers, had you?

A Yes, sir.

Q Where was it you took the liquor in Lexington?

Q You and Hubble were together in Stanton, were you?

A No, sir, I wasn't with Hubble; I was with Mr. Lister.

Q You and Hubble got in the car at the same time?

A Yes, I got in at the same time as Hubble.

Q Were there any lights burning on the inside of that car?

A No, sir.

Q There is a light above, a dome-light?

A No, sir.

Q There is a dash-light?

A Yes, sir; there is a dash light but no dome-light.

Q Witness said to stand aside.

Q Mr. Brown, sworn, examined by Mr. Bennett, recalled to his own
deposition:

Q You are Mr. B. B. Brown?

A Yes, sir.

Q You live in Lexington, Virginia?

A Yes, sir.

Q What is your business in Lexington?

A I am a cleaning and greasing place there.

Q Mr. Brown, you did come from Lexington to Charlottesville on the
evening of last October after the football game in Lexington, did you?

A Yes, sir.

Q Had you before leaving Lexington been drinking any?

A Had a few drinks.

Q What would did you take those drinks?

A With Ayers and Begle, we were together.

Q You had not know Begle before that, had you Ayers, had
you?

A Yes, sir.

Q Where was it you took the liquor in Lexington?

A Up on the hill from the game.

Q Were you or not overlooking the game?

A Yes, sir.

Q Of course you went behind a tree to take a drink?

A Yes, sir; a few tree back on the side of the hill there.

Q Did you have any liquor left of the supply that you had in Lexington when you left there?

A No, sir.

Q Did you get any liquor before leaving Lexington after you had consumed that?

A No, sir.

Q Did you have any liquor in the car when you left Lexington?

A No, sir.

Q Mr. Brown, where did you stop on your way to Harrisonburg?

A Let's see! I think the first place we stopped was at a filling-station to get gasoline at East Lexington.

Q You got no liquor there?

A No, sir. We came on to the top of the hill and got the Ayers boy.

Q Did you get any liquor there?

A No, sir.

Q Then you came to Greenville?

A Came there to Greenville before we stopped.

Q Why did you stop at Greenville?

A To get the car fixed; the oil from the transmission got out on the mat.

Q What did you do at the garage?

A We asked for a mechanic. That was the first time I ever saw Steel before -- I didn't know him.

Q After you stopped there at the garage did Steel do the work on your car?

A Up on the hill from the garage.

Q Were you in any position to see the car?

A Yes, sir.

Q Of course you were looking at the car to take a picture?

A Yes, sir; a few feet back on the side of the hill there.

Q Did you have any light of the supply that you had in

Lexington when you left there?

A No, sir.

Q Did you get any light before leaving Lexington when you had

observed that?

A No, sir.

Q Did you have any light in the car when you left Lexington?

A No, sir.

Q Mr. Brown, where did you stop on your way to Lexington?

A Let's see; I think the first place we stopped was at a little

station on the line at West Lexington.

Q Did you see any light there?

A No, sir. We came on to the top of the hill and got the lights

on.

Q Did you get any light there?

A No, sir.

Q Did you come to Greenfield?

A Yes, there is Greenfield before we stopped.

Q Why did you stop at Greenfield?

A To get the car fixed; the oil from the transmission got out

on the way.

Q What did you do at the garage?

A We asked for a mechanic. That was the first time I ever saw

Reed before -- I didn't know him.

Q After you stopped there at the garage did Reed do the work on

your car?

A Yes, sir. I staid there with him while he worked on the car.

Q What became of Ayers and Begle?

A They went away. They were gone, I don't exactly know, about 15 or 20 minutes; it might have been longer or not so long; while Steel was working on the car, and they came back with half a gallon of whiskey.

Q Did you drink some of it?

A I drank right smart of it.

Q Did the others drink some of it?

A Yes, sir. After we took a couple of drinks, he called that fellow Steel and asked him if he wanted a drink.

Q Did all of you, Ayers, Begle, Steel and yourself drink from that whiskey?

A Yes, sir.

Q Then, Mr. Brown, after you had your repairs completed you came on to Staunton?

A Yes, sir.

Q Did you know that there was any whiskey in that car before you left Greenville?

A No, sir.

Q Or at any time before you got to Staunton?

A No, sir. It was some little time before we got the work on the car finished at Greenville. The mat on the floor of the car had grease all over it, where Steel was working, and he threw this mat over in the back end of the car, back of the front seat, and it made a little pile there when he pushed back the seat.

Q That mat would be 12 or 13 inches wide?

A Yes, sir; it is a big heavy mat. I can take you out and let you look at it now if you want.

Q Did you know that any of that liquor was left which those men had gotten at Greenville?

A Yes, sir. I held them with him while he worked on the car.

Q What names of Agents and Agents?

A They were none. They were gone, I don't exactly know about

10 or 15 minutes; it might have been longer or not so long; while
I was out working on the car, and they came back with half a gallon of
whiskey.

Q Did you drink some of it?

A I drank right about it.

Q Did the others drink some of it?

A Yes, sir. After we took a couple of drinks, he called that

calling Steel and asked him if he wanted a drink.

Q Did all of you, Agents, Agents, Steel and yourself drink from

that whiskey?

A Yes, sir.

Q Then, Mr. Brown, after you had your regular developed your case

on 15 December?

A Yes, sir.

Q Did you know that there was any whiskey in that car before you

left Greenville?

A No, sir.

Q At any time before you got to Greenville?

A No, sir. It was some little time before we got the car in

the car finished at Greenville. The car on the lot at the car had

gone all over it, where Steel was working, and he found this and

over to the back end of the car, back of the front seat, and it was

a little pile there when he pushed back the seat.

Q That was about 12 or 13 inches wide?

A Yes, sir; it is a big heavy mat. I had taken you and

let you look at it now if you want.

Q Did you know that any of that liquor was left when these men

had gotten at Greenville?

A No, I thought it was all gone. I asked him to give me another drink and Begle told me it was all gone. I told him it was a good thing it was gone, and we could get some when we got to Maryland; and the further I went the drunker I got in going to Staunton anyway.

Q Do you remember getting out of the car in Staunton?

A No. Someone says I was talking to him, a policeman, but I don't remember of talking to him at all. The only one I do remember of talking to was the motor cycle cop who told me something about a car that I had hit, and he said it was "Captain" Steele. I said, "Is there any chance of seeing him?" and he said, "Yes, I will take you to him." He went and called him up, and told him I would be there in a few minutes. We went down to the car and then went to Major Steele's, and I told him whatever damage I done to his car I would pay as I had insurance; and he said, all that he wanted was to have his car fixed.

Q How did this young man Martin happen to get in the car?

A Well, when I went back up there, I don't know exactly where the car was sitting, but when I went back up there there was nobody in the car but Steel, and I asked Steel where were those fellows at, and he said they were down town somewhere. I went down and looked them up and couldn't find them, and I started across the street to get a package of cigarettes and then is when I met Martin. I asked him would he drive my car to Maryland; I told him I had a fellow, ~~Steel~~ driving the car for me and I didn't know him, that it was the first time I ever saw him.

Q Was that the truth?

A Yes, sir, that is the truth. That was the first time I ever saw this fellow Steel. I had gotten somewhat straightened out at that time.

Q You had known Martin before?

A Oh, yes, sir.

Q Had you known him well?

A: No, I thought it was all gone. I asked him to give me another
think and Healy told me it was all gone. I told him it was a good thing
it was gone, and we could get some when we got to Maryland; and the
other I went the summer I got in going to Boston anyway.

Q: Do you remember getting out of the car in Baltimore?
A: No. Someone says I was talking to him, a policeman, but I
don't remember of talking to him at all. The only one I do remember of
talking to was the motor cycle cop who told me something about a car
that I had hit, and he said it was "Captain" Steele. I said, "Is there
any chance of seeing him?" and he said, "Yes, I will take you to him."
He went and called him up, and told him I would be there in a few min-
utes. We went down to the car and then went to Major Steele's, and I
told him whatever damage I done to his car I would pay as I had done
before; and he said, all that depended was to have his car fixed.

Q: How did this young man Martin happen to get in the car?
A: Well, when I went back up there, I don't know exactly where the
car was sitting, but when I went back up there there was nobody in the
car but West, and I asked West where were those fellows at, and he
said they were down town somewhere. I went down and looked them up and
couldn't find them, and I started across the street to get a package of
cigarettes and then is when I met Martin. I asked him would he drive
me out to Maryland; I told him I had a fellow, Steele, driving the car
for me and I didn't know him, that it was the first time I ever saw
him.

Q: Was that the truck?
A: Yes, sir, that is the truck. That was the first time I ever saw
this fellow Steele. I had gotten somewhat strengthened out at that
time.

Q: You had known Martin before?
A: Oh yes, sir.
Q: Had you known him well?

A Yes, sir; and Rubble, too.

Q Did you put any liquor or know of anybody putting any liquor in Staunton, in your car?

A No, sir.

Q Well, after Martin got in did he drive the car to Harrisonburg?

A Yes, sir.

Q So far as you know, at any time, between Staunton and Harrisonburg, was any liquor put in that car?

A No, sir; we didn't stop.

Q Did anybody drink any liquor to your knowledge between Staunton and Harrisonburg?

A No, sir.

Q Then, as I understand you from the entire time that you left Lexington until you got to Harrisonburg and were arrested no liquor was put in that car, to your knowledge?

A No, sir.

Q To your knowledge, was there ever any liquor in it at any time?

A Not that I know anything of; no, sir.

Q Not that you know anything about?

A No, sir.

Q You are a married man and have a child, as has been testified here?

A Yes, sir.

Q You get the wanderlust when you get liquor?

A Must be so -- looks like it anyhow.

Q You are not an habitual drinker but go on sprees occasionally do you?

A Yes, sir; sometimes but not this way. This is the first time I have been this way.

A Yes, sir; and Berlin, too.

Q Did you get any liquor or know of anybody getting any liquor

in Stamford, in your car?

A No, sir.

Q Well, after Berlin got in did he drive the car to Hartshornburg?

A Yes, sir.

Q So far as you know, at any time, between Stamford and Hartshorn-

burg, was any liquor put in that car?

A No, sir; we didn't stop.

Q Did anybody drink any liquor to your knowledge between Stamford

and Hartshornburg?

A No, sir.

Q Now, as I understand you're the entire time that you left

Stamford until you got to Hartshornburg and were arrested no liquor

was put in that car, to your knowledge?

A No, sir.

Q To your knowledge, was there ever any liquor in it at any time?

A Not that I know anything of; no, sir.

Q Not that you know anything about?

A No, sir.

Q You are a married man and have a child, are you?

Yes.

A Yes, sir.

Q You got the warehouse when you got liquor?

A That he was -- I don't like to answer.

Q You are not an habitual drinker but do you drink occasionally?

Oh yes.

A Yes, sir; sometimes during this way. This is the first time

I have been this way.

CROSS-EXAMINATION BY MR. BARMAN:

X You drove the car from Lexington to Greenville?

A No, sir.

X How far did you drive it?

A From Lexington to on ^{the other} ~~this~~ side of Midway, somewhere along there.

On the other side of Midway I turned it over to Ayers.

X How far is that north of Lexington?

A Possibly 17 or 18 miles. I don't know.

X You were driving the car under the influence of liquor when you struck Major Steele's car, weren't you?

A I wasn't driving it then. Mr. Begle says I was driving, but I wasn't driving it then; Mr. Ayres was driving, I turned it over to him, Ayres, the other side of the filling station; he misrepresented when he said I was driving.

X He was wrong about that?

A Yes, sir.

X How far did you drive the car out of Lexington or from Lexington?

A From Lexington to the other side of the filling station about Midway.

X How far is it from Midway to Lexington?

A Seventeen or eighteen miles; that is what I told you when you asked me the question.

X And you had drank how much liquor before you left Lexington?

A I think, couple of drinks. Mr. Begle and Mr. Ayers didn't have much over a half pint in the bottle. I didn't see these fellows until the game was over half over.

X When did you first get full?

A Greenville.

X At Greenville?

A Yes, sir, while the man was working on the car, after these

EXHIBIT - EXAMINATION BY MR. JAMES

Q You drove the car from Lexington to Greenville?
 A Yes, sir.

Q How far did you drive it?
 A From Lexington to the other side of Highway, somewhere along there.

Q On the other side of Highway I turned it over to Agnes.
 A How far is that north of Lexington?
 A Possibly 14 or 15 miles. I don't know.

Q You were driving the car under the influence of liquor when you returned to Mr. Bagley's car, weren't you?
 A I wasn't driving it then. Mr. Bagley says I was driving, but I wasn't driving it then; Mr. Jones was driving. I turned it over to him, Agnes, the other side of the filling station; he misinterpreted what he said I was driving.

Q He was wrong about that?
 A Yes, sir.

Q How far did you drive the car out of Lexington or from Lexington to the other side of the filling station about Highway?
 A How far is it from Highway to Lexington?
 A Seventeen or eighteen miles; that is what I told you when you asked me the question.

Q And you had drunk how much liquor before you left Lexington?
 A I think, couple of drinks. Mr. Bagley and Mr. Jones didn't have much over a half pint in the bottle. I didn't see these fellows until the gun was over half over.

Q When did you first get full?
 A Greenville.

Q At Greenville?
 A Yes, sir, while the man was working on the car, after three

men brought it up there.

X Of course, you had no knowledge that these two boys had gone out and gotten this half gallon of liquor?

A No, sir; I didn't know where they were going. Mr. Steel was working on my car when they left there..

X Did Steel go out at the same time that they did?

A No, sir; he staid and worked on the car.

X They were gone about how long before they came back?

A I don't exactly know, may have been 15 or 20 minutes, might have been longer, I wouldn't say.

X They told you, of course, they were going for the liquor?

A No, sir, they didn't. They went to the place while the fellow was working on the car, and he was taking the mat up and tightening the transmission.

X You were agreeably surprised when they came back with the liquor?

A I drank right smart of it.

X How much?

A Several drinks. I don't know, exactly, how much -- right smart of it.

X You took several drinks there?

A Yes, sir.

X When you got in the car at Greenville, what part of the car did you ride in?

A I rode in the right front seat.

X The right front seat?

A Yes, sir; the righthand front seat; Steel drove the car from Greenville to Staunton.

X And the other two boys sat in the rear seat?

A Yes, sir.

X Now, what time was it when you reached Staunton?

can identify it as theirs.

Q Of course, you had no knowledge that these two boys had gone

out and gotten this mail address of Liberty?

A Yes, sir; I didn't know where they were going. Mr. Wood was

working on my car when they left there.

Q Did they go out at the same time that they left

the car, sir; he didn't see them get into the car.

Q They were gone about how long before they came back?

A I don't exactly know, but I have been 10 or 15 minutes, might

have been longer, I wouldn't say.

Q They told you, of course, they were going to the Liberty

place, sir, they didn't. They went to the place called the

and working on the car, and he was taking the car up and tightening the

transmission.

Q You were apparently surprised when they came back with the

Liberty

A I don't think I was surprised of it.

Q How would

A Because I don't know, exactly, but I don't know -- right about

10:30.

Q You don't think they were

A Yes, sir.

Q When you got in the car at Greenville, what part of the car did

you ride in?

A I rode in the right front seat.

Q The right front seat?

A Yes, sir; the right-hand front seat; I don't know the car from

Greenville to Houston.

Q And the other two boys sat in the rear seat?

A Yes, sir.

Q Now, what time was it when you reached Houston?

A I don't remember what time it was.

X About what time? Was it dark?

A Oh, it was dark all right. It was dark when he worked on the car down at Greenville.

X Did you have a conversation with Mr. Bucher?

A That is what they say. I don't remember seeing that gentleman at all.

X You don't remember seeing him?

A No, sir, I do not.

X Why don't you remember seeing him?

A I don't know. I don't even remember of seeing him at all.

X Do you mean that you were so full that you do not know what you were doing?

A Must be so; that is all I know.

X That was your condition in Staunton?

A Yes, sir. I was pretty well drunk at Staunton.

X You mean that you were so full that you do not recollect of having seen this policeman at all?

A Yes, sir. They say I was in the restaurant, but I don't remember that I was in the restaurant at all.

X You say you were so drunk that you don't know whether you were in the restaurant or not?

A I do not. Bucher says I was in there eating. I wasn't in there as far as I know anything about it. He says I ate something, and from what he says I must have gotten something to straighten me out and was better.

X Do you remember asking Mr. Bucher to go out to the foot-hills and you would give him a drink?

A No, sir.

X You don't remember that?

A I don't remember what time it was.
 X About what time? Was it dark?
 A Oh, it was dark all right. It was dark when he worked on the
 car down at Greenville.
 X Did you have a conversation with Mr. Roberts?
 A That is what they say. I don't remember seeing that gentleman
 at all.
 X You don't remember seeing him?
 A No, sir, I do not.
 X Did you see your brother seeing him?
 A I don't know. I don't even remember at seeing him at all.
 X Do you mean that you were so full that you do not know what
 you were doing?
 A That is not that is all I know.
 X That was your condition in the restaurant?
 A Yes, sir. I was pretty well drunk at Stanton.
 X You mean that you were so full that you do not remember of
 having seen this gentleman at all?
 A Yes, sir. They say I was in the restaurant, but I don't know
 whether I was in the restaurant at all.
 X You say you were so drunk that you don't know whether you were
 in the restaurant or not?
 A I do not. Another says I was there eating. I wasn't in there
 at all as I have nothing about it. He says I ate something, and from
 what he says I don't have gotten something to strengthen me out and was
 better.
 X Do you remember seeing Mr. Roberts to go out to the Post-Office
 and you would give him a drink?
 A No, sir.
 X You don't remember that?

X Did you have any liquor hidden out around Staunton anywhere?

A No, sir.

X How did that liquor get in your car, Brown?

A I don't know. From what Begle says, he put it in the car himself.

X When did he first tell you that he put that liquor in there?

A He never told me at all.

X How did you happen to have him summoned, then?

A I mean, at the time it occurred he never told me. He told me that, certainly.

X When did he first tell you?

A I don't know what day it was now. I don't remember. I knew he put the whiskey in the car as soon as I got in Harrisonburg. He was the only man that had whiskey when we left Greenville.

X Well, the other man that was arrested, when was it he first told you that he put the liquor in the car?

A As soon as I seen him. I don't remember what time. I went to him and asked him what he wanted to put the whiskey in my car for.

X What did he say?

A He first said "I was counting on getting it out; I didn't want you to know anything about it."

CROSS-EXAMINATION BY MR. BAUSERMAN:

X When did you first tell Begle that?

A The first time ^{we} had ^{our} trial. I had not seen him before that.

X Begle wasn't in Harrisonburg with you?

A No, sir; but he was the last man that had the whiskey in Greenville.

X What was your condition when Begle left you in Staunton? Was not your condition such that you were in a restaurant and didn't know it?

Q Did you have any liquor hidden out around Stanton's apartment?
 A No, sir.
 Q How did that liquor get in your car, Brown?
 A I don't know. From what Beyle says, he put it in the car himself.

Q When did he first tell you that he put that liquor in there?
 A He never told me at all.
 Q How did you happen to have him summoned, then?
 A I mean, at the time it occurred he never told me. He told me that, certainly.

Q When did he first tell you?
 A I don't know what day it was now. I don't remember. I know he put the whiskey in the car as soon as I got in Harrisburg. He was the only man that had whiskey when we left Greenville.
 Q Well, the other man that was arrested, when was it he first told you that he put the liquor in the car?

A As soon as I saw him. I don't remember what time. I want to say he asked him what he wanted to put the whiskey in my car for.
 Q When did he say?
 A He first said "I was thinking on getting it out; I didn't want to see how much you had."

EXHIBIT-EXAMINATION BY MR. BAUBERMAN:

Q When did you first tell Beyle that?
 A The first time we had the trial. I had not seen him before that.
 Q Beyle wasn't in Harrisburg with you?
 A No, sir; but he was the last man that had the whiskey in Greenville.

Q What was your condition when Beyle left you in Greenville?
 A My condition such that you were in a restaurant and didn't know

it?

A He says I was.

X I say, it is a fact that you said to the court that your condition was such in Staunton that you did not know what was going on around you?

A I said, he said I was in the restaurant, but I didn't even know I was in there. I must have gotten something in there for I got better.

X You went in the restaurant and were eating and did not know that you were in there?

A I didn't know I was in there. Begle says I was.

X The fact is that you had drunk so much of this "moonshine" liquor that your intelligence was absolutely paralyzed, isn't that a fact?

A Must have been. I drank a right smart of it in Greenville. I don't know at all.

X You tell the court that at the time Begle left you in Staunton you were insensibly drunk, and that your condition was such that you did not have sufficient intelligence to know what was going on?

A Not at the time he left me I wasn't.

X That is a fact, isn't it?

A No, sir. That is not what I say.

X When did Begle leave you?

A After I left him I went down to that gentleman there, (indicating), who was talking to me about seeing Major Steele. He asked me himself, "You hit the car?" and I said, "Whose car did I hit?" and he said it was Captain Steele's.

X You don't remember talking to this other gentleman, the police officer?

A No, sir.

X And you don't actually know what transpired in Staunton?

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A. Yes, I see.

Q. I see, it is a fact that you said in the court that your brother
did not know in Stenton that you did not know what was going on

around there?

A. I would, he said I was in the restaurant, but I didn't even
know I was in there. I must have gotten something in there for I

can't believe.

Q. You were in the restaurant and were eating and did not know
that you were in there?

A. I didn't know I was in there. He said I was.

Q. The fact is that you had drunk an amount of this "mushroom"
liquor that your intelligence was absolutely paralyzed, isn't that a

fact?

A. That's true. I drank a right smart of it in Stentonville.
I don't know at all.

Q. You tell the court that at the time he left you in Stenton
you were intoxicated drunk, and that your condition was such that you
did not have sufficient intelligence to know what was going on?

A. Not at the time he left me I wasn't.

Q. That is a fact, isn't it?

A. No, sir. That is not what I say.

Q. When did he leave you?

A. After I left him I went down to that gentleman there, (lighter-

ing), who was talking to me about seeing Walter Steele. He asked me

himself, "You hit the party" and I said, "Where can this party" and he

said it was Captain Steele's.

Q. You don't remember talking to this other gentleman, the police

officer?

A. No, sir.

Q. And you don't actually know what transpired in Stenton?

A I could tell later on.

X After you got out of Staunton?

A No, sir; I knew what occurred before I got out of Staunton. I got straightened out. I must have gotten something to eat for I got straightened out. I know I got straightened out later on. If eating makes a fellow feel better, I must have eaten for I felt better.

BY THE COURT:

Q Where did you leave Begle?

A In Staunton.

Q Where?

A When I was talking with that gentleman (Cycle-cop) yonder about the car that had been hit. We went to see Maj. Steele, and it took some time to find him. He was not at his home and we 'phoned for him, and, finally, when I saw him, I talked with him 15 minutes and maybe longer. In the mean time, I talked with this gentleman (Cycle-cop) three-quarters of an hour. When I came back to the car I asked Mr. Steel where the other men were, and he said they hadn't been there.

Q Where did you leave Begle?

A I don't know. He said I was in the restaurant with him.

Q You don't know when he left?

A No, sir.

Witness told to stand aside.

MARK STEEL, sworn, examine by Mr. Dechert, testified:

Q Your name is Mark Steel?

A Yes, sir.

Q You live at Greenville, in Augusta County, Va.?

A Yes, sir.

Q Did you on the night of the 18th of October come from Green-

A: I could tell later on.

Q: After you got out of Stoughton?

A: No, sir; I know what occurred before I got out of Stoughton.

Q: And distinguished out. I must have gotten something to eat for I got

something out. I know I got distinguished and later on, it being

when a fellow told better, I must have eaten for I felt better.

BY THE COURT:

Q: Where did you leave Bagley?

A: In Stoughton.

Q: Where?

A: When I was talking with that gentleman (Dyke) you

said the car had been hit. We went to see Mr. Dyke, and it

took some time to find him. He was out at his home and we'phoned for

him, and finally, when I saw him, I talked with him in private and

after lunch. In the next time, I talked with this gentleman (Dyke)

and three-quarters of an hour. When I came back to the car I found

the car where the other man was, and he said that Bagley had been there.

Q: Where did you leave Bagley?

A: I don't know. He said I was in the restaurant with him.

Q: The day's time when he left?

A: No, sir.

Witness told to stand aside.

THE COURT, seeing, examined by Mr. Deane, testified:

Q: Your name is Nath Dyke?

A: Yes, sir.

Q: You live at Greenville, in Augusta County, Va.?

A: Yes, sir.

Q: Did you on the night of the 12th of October come from Green-

ville to Harrisonburg with Mr. S. H. Brown?

A Yes, sir.

Q How did you happen to make that trip?

A Well, these fellows pulled up there in front of the garage and I was fixing to quit work when they did that.

Q That was Brown and Begle --

A Brown and Begle and some other fellow, I don't know who he was.

Q They pulled up at your garage?

A Yes, sir.

Q And said what?

A Someone called me and said the fellows had car trouble, to come over there. I went over there and Mr. Brown introduced himself to me first and asked me if I would see what kind of trouble they had and fix it for him. I told him, yes.

Q What was the trouble?

A The transmission was loose, the taps to the bolts, and it was leaking grease.

Q You are an automobile mechanic?

A I suppose so.

Q Don't you know what you are?

A I have been working at it for nine years.

Q You made the repairs, you say?

A Yes, sir, I fixed it, tightened the bolts.

Q Now, during the time you were making the repairs did any one of them go away from the garage?

A Yes, sir; Mr. Begle and this other fellow went away.

Q Do you mean the fellow whose name you do not know?

A Yes, sir. I heard them call his name here.

Q It has been called here, "Ayers"; is that the man?

A Yes, sir. That is what he called him.

visit to Washington with Mr. S. M. Brown

A Yes, sir.

Q How did you happen to make that trip?

A Well, when fellow called up there in front of the garage and I

was taking to get some work they did that.

Q That was Brown and Regis --

A Brown and Regis and some other fellow. I don't know who he was.

Q They called up at your garage?

A Yes, sir.

Q And said what?

A Someone called me and said the fellow had got trouble in the

over there. I went over there and Mr. Brown introduced himself to me

first and asked me if I would see what kind of trouble they had and the

is the man. I told him, yes.

Q What was the trouble?

A The transmission was loose, the tags to the bolts, and it was

looking worse.

Q You are an automobile mechanic?

A I suppose so.

Q Don't you know that you are?

A I have been working at it for nine years.

Q You make the repairs, you say?

A Yes, sir. I fixed it, tightened the bolts.

Q Now, during the time you were making the repairs did any one

of them go away from the garage?

A Yes, sir. Mr. Regis and this other fellow went away.

Q Do you mean the fellow whose name you do not know?

A Yes, sir. I heard that call his name here.

Q It has been called here, "Agave"; is that the name?

A Yes, sir. That is what he called him.

Q Did Brown go with them?

A No, sir.

Q Before the two men left the garage did you hear them say anything about going to get any whiskey?

A No, sir.

Q Or did you hear them inquire about any whiskey?

A No, sir.

Q Did Brown stay with you during the entire time that you were making the repairs?

A Yes, sir.

Q And did they return with some whiskey?

A Yes, sir; I suppose they did. They came back and called Mr. Brown and talked very low, and one of them called me and asked me to come over, and I went, and they asked me if I wanted a drink. When I got over there they had some whiskey then. I told them, yes, I would take a drink; and I turned the jar up and took a swallow, but didn't take very much, I don't think. And they passed it around again and I took another swallow.

Q Now, Mr. Steel, I asked you awhile ago how you happened to make the trip to Staunton and down here; why was it?

A After I got the car fixed and got ready to go, Mr. Brown asked me if I would go along and drive the car and take care of it.

Q Was he under the influence of liquor then?

A He acted like it. He talked pretty loud and a whole lot. I hadn't seen the man before. He didn't say that he was drunk at all. He looked like he was drinking.

Q He was afraid, apparently, to drive the car himself?

A Yes, sir; he said if he took the trouble enough he could try to drive the car, but he didn't like to.

Q Now, you say you went "over there" and took a couple of drinks

Q Did Brown go with them?

A No, sir.

Q Before the two men left the garage did you hear them say

anything about going to get any whiskey?

A No, sir.

Q Or did you hear them inquire about any whiskey?

A No, sir.

Q Did Brown ever tell you during the entire time that you were

driving the telephone

A Yes, sir.

Q And did you return with some whiskey?

A Yes, sir; I suppose they did. They came back and called Mr.

Green and called my law, and one of them called me and asked me to

come over, and I went, and they asked me if I wanted a drink. When I

got over there they had some whiskey there. I told them, yes, I would

take a drink; and I turned the jar up and took a swallow, but didn't

take very much. I don't think. And they passed it around again and I

took another swallow.

Q Now, Mr. Green, I asked you while ago how you happened to make

the trip to Houston and down here; why was that?

A After I got the car fixed and got ready to go, Mr. Brown asked

me if I would go along and drive the car and take care of it.

Q Was he under the influence of liquor then?

A He acted like it. He talked pretty loud and a whole lot. I

didn't hear the man before. He didn't say that he was drunk at all. He

justed like he was drinking.

Q He was afraid, apparently, to drive the car himself?

A Yes, sir; he said if he took the trouble except he could get

to drive the car, but he didn't like to.

Q Now, you say you went "over there" and took a couple of drinks

with them; where did you mean by "over there"?

A Right across in front of the garage on the other side of the street. They did not come to the car at all with the liquor.

Q They did not come to the car at all with the liquor?

A No, sir; they staid on the other side of the street.

Q Do you mean they were not at the car when you took your drinks?

A No, sir.

Q Did you know from the time you left Greenville until you got to Harrisonburg there was any liquor in the car?

A No, sir; if there was I did not know anything about it.

Q You did drive the car as far as Staunton, did you?

A Yes, sir.

Q No drinking was done between Greenville and Harrisonburg in that car?

A No, sir.

Q Did you hear anybody mention the fact that there was any liquor in the car during that time?

A No, sir, I did not. Only when we started up there from Greenville, I heard this fellow, Mr. Brown, ask one of these other fellows I forget which one it was, if he had a drink, and he told him, no, that it was all gone; and he said he reckoned it would be a good idea, that he didn't want any liquor in the car, it cost too much money anyway.

Q He said he didn't want any liquor in that car anyway?

A Yes, sir.

Q From Greenville to Staunton, you and Brown rode on the front seats, didn't you, you doing the driving?

A Yes, sir; I was doing the driving.

Q And on the rear seat were these two men, Begle and Ayers.

A Yes, sir.

with them; what did you mean by "over there"?

A. Right across in front of the garage on the other side of the street. They did not come in the car at all with the liquor.
Q. How did you come in the car at all with the liquor?
A. No, sir; they were on the other side of the street.
Q. Do you know that was not at the car when you took your

driver

A. No, sir.

Q. Did you know from the time you left Greenville until you got to Harrisonburg there was any liquor in the car?

A. No, sir; if there was I did not know anything about it.

Q. You did drive the car as far as Harrisonburg, did you?

A. Yes, sir.

Q. The drinking was done between Greenville and Harrisonburg, is that right?

A. No, sir.

Q. Did you hear anybody mention the fact that there was any liquor in the car during that time?

A. No, sir, I did not. Only when we started up from Greenville, I heard this fellow, Mr. Brown, ask one of these other fellows I forget whose name it was, if he had a drink, and he told him, no, that if you all drank and he said he reckoned it would be a good idea, that he didn't want any liquor in the car, it was the same way.

Q. He said he didn't want any liquor in that car anyway?

A. Yes, sir.

Q. From Greenville to Staunton, you and Brown rode in the trunk

state, didn't you, you doing the driving?

A. Yes, sir; I was doing the driving.

Q. And on the rear seat were these two men, Beggs and Ayers.

A. Yes, sir.

Q Was it Begle who told Brown that all the whiskey had been used?

A Yes, sir. All was gone, he said.

Q Did you at any time, Mr. Steel, before the discovery of the whiskey in the car here in Harrisonburg by Mr. Funk know ^{have} or any reason to know that there was liquor in that car?

A No, sir.

CROSS-EXAMINATION BY MR. BARMAN:

X Where do you live?

A Greenville.

X How long have you lived there?

A Was born and raised there.

X And have lived there ever since?

A Yes, sir.

X How old are you?

A Twenty-seven.

X What sized town in Greenville?

A I don't know. It is a real small town.

X About how many people live there?

A Maybe six hundred, not over that.

X Is it an incorporated town?

A No, sir.

X Have you a mayor and council?

A No, sir.

X Any colored people living there?

A Yes, sir; plenty of them.

X How many?

A I don't know. A good many, though. I can't hardly say how many. About half the people there, though, I think, are colored.

X Do you know from whom they got this liquor in Greenville?

A No, sir, I do not. I was working on the car when they went and

Q Was it people who told Brown that all the whiskey had been used?
A Yes, sir. All was gone, he said.

Q Did you at any time, Mr. Brown, before the discovery of the
whiskey in the car have in conversation with Mr. Brown any conversation
to give that there was liquor in that car?

A No, sir.

EXHIBIT-EXAMINATION BY MR. BROWN:

Q Where do you live?

A Greenville.

Q How long have you lived there?

A For four and a half years.

Q And how long have you lived there?

A For six years.

Q How old are you?

A Twenty-seven.

Q What place is Greenville?

A It's a town. It is a small town.

Q About how many people live there?

A Maybe six hundred, not over that.

Q Is it an incorporated town?

A No, sir.

Q Have you a paper and council?

A No, sir.

Q Are colored people living there?

A Yes, sir; plenty of them.

Q How many?

A I don't know. A good many, though. I can't hardly say how

many. About half the people there, though, I think, are colored.

Q Do you know from whom this liquor in Greenville

A No, sir, I do not. I was working on the car when they were

came back. I don't know where they got it.

X They didn't say anything to you about wondering where they could get any liquor?

A No, sir. I did not know that they had gone for liquor until they called me over and gave me a drink. That is the first I knew about liquor.

X They just wandered around over the town until they found it?

A I suppose so..

X And came back and gave you some of it?

A Yes, sir.

X Did you ask them where they had gotten it?

A No, sir, I did not.

X You do not know where they got it from?

A No, sir.

X What did you go with them to Staunton for?

A Mr. Brown asked me if I would go and drive his car, and he said he would pay me for it. I told him I did not have any chauffeur's license and couldn't charge him for going on the trip.

X You did not know anything about a three-speed car, did you?

A I have driven plenty of them.

X Didn't you testify at the other trial that you did not know anything about a three-speed car?

A No, sir; if I did I was mistaken.

X How long did you expect to be with Brown?

A I was going wherever he was going and back. He said he was going to Maryland.

X You did not drive it from Staunton to Harrisonburg; why didn't you drive from Staunton to Harrisonburg?

A I was going to, but Mr. Martin made the suggestion to let him drive the car, and I said, "Yes, sir." I was sleepy anyway.

Q Now, I don't know where they got it.

A They didn't say anything to you about entering where they would get the liquor.

Q Now, sir, I did not know that they had gone for liquor until they called to you and gave me a drink. That is the first I knew about liquor.

Q They just wandered around over the town until they found it?

A I suppose so.

Q And you had and gave you some of it?

A Yes, sir.

Q Did you see them where they had gotten it?

A No, sir, I did not.

Q You do not know where they got it from?

A No, sir.

Q What did you go with them to Houston for?

A Mr. Brown asked me if I would go and drive his car, and he said he would pay me for it. I told him I did not have any chauffeur's license and couldn't make him for going on the trip.

Q You did not know anything about a three-speed car, did you?

A I have driven plenty of them.

Q Didn't you testify at the other trial that you did not know anything about a three-speed car?

A No, sir; if I did I was mistaken.

Q How long did you expect to be with Brown?

A I was going wherever he was going and back. He said he was going to Houston.

Q You did not drive it from Houston to Harrisburg; did you?

A I was going to, but Mr. Martin made the suggestion to let him drive the car, and I said, "Yes, sir." I was sleepy anyway.

X You were pretty well shot up, weren't you?

A No, sir; I never felt what I drank. I was sleepy when I got up, but I didn't feel anything of the drink.

X So Brown took you along to drive the car to Hagerstown?

A Wherever he was going; he said to Maryland. I didn't know what part.

X Do you know when he expected to return?

A He said he was coming back the next day.

X So he got Martin to drive?

A Yes, sir; Martin suggested to let him drive. I don't know whether Brown asked him to drive or not.

X What did you take Rubble along for?

A I don't know.

X How far is it from Greenville to Harrisonburg?

A Thirty-seven miles.

X You drove the car around over Staunton, did you?

A We drove around there a little bit, not much. Drove up on Central Avenue and stopped, and to Main Street and stopped, and then back to Central Avenue and left it on Central Avenue.

X Why didn't you get out of the car when it stopped in Harrisonburg?

A Because I was greasy and dirty from work. I hadn't cleaned up any, and I thought I would stay in the car and wouldn't get out.

X You were going to Maryland that way?

A Yes, sir.

X And the next day was Sunday?

A Yes, sir.

X Did you expect to stay in the car all that time?

A I suppose so, we were counting on going straight through, after leaving here.

MR. DECHERT: Mr. Harman wanted to know whether you

I You were pretty well shot up, weren't you?
 A No, sir; I never felt what I drank. I was sleepy when I got
 up, but I didn't feel anything at the drink.
 I He drove back you along to drive the car to headquarters
 A However he was going; he went to hospital. I didn't know what
 time.

I Do you know when he expected to return?
 A He said he was coming back the next day.
 I Do he get home to drive?
 A Yes, sir; he was expected to get his driver. I don't know
 whether he was asked him to drive or not.

I What did you take home along with
 A I don't know.

I How far is it from Greenville to Greenville?
 A Thirty-seven miles.

I You drove the car around over Hamilton, is that
 A He drove around there a little bit, not much. There was no
 Central station and stopped, and at that point and stopped, and then
 went to Central Avenue and left it on Central Avenue.

I Why didn't you get out of the car when it stopped in Hamilton?
 A I don't know.

I Because I was greasy and dirty from work. I didn't clean up
 my, and I thought I could stay in the car and wait for the car.

I You were going to Hamilton that day?
 A Yes, sir.

I And the next day was Sunday?
 A Yes, sir.

I Did you expect to stay in the car all that time?
 A I suppose so, we were counting on going straight through,

after leaving here.
 W. D. DUBOIS: Mr. Brown wanted to know whether you

expected to stay in the car during all that time?

WITNESS: No. I expected to get out and clean up.

X Did you have your baggage with you?

A No, sir; I could wash. I expected to wash.

X Now, you remained in the car guarding that liquor when the other fellows got out, didn't you?

A No, sir. I wouldn't have been in the car if I had known any liquor was in there. I hadn't any idea there was any there or I would have gotten out of it.

X How did that liquor get in that car?

A I don't know.

X Did you see Begle put it in there?

A No, sir. The last I saw of the liquor was up there when I took the last drink.

MR. DECHERT: How far was that liquor from the car then?

WITNESS: Sixty feet, I guess, from the car, right across the street.

X Was that the last you saw of it?

A Yes, sir. I came on back and finished the work on the car, and I did not see or hear anything more of liquor until Mr. Funk got it out of the car that night.

X You did not get out of the car in Staunton?

A I got out on the street and walked around. I wasn't with those fellows at all. I just got out awhile and walked around, and did not go far from the car, waiting on them.

X You were not sitting in the car all the time?

A No I was not. One time I was away from the car five minutes -- the only time I was out of sight of the car.

X These boys bought a half gallon fruit jar of liquor?

A That is what they said.

X That is the kind of jar you drank out of?

A Yes, sir.

expected to stay in the car during all that time.

WITNESS: No. I expected to get out and clean up.

Q Did you have your baggage with you?

A No, sir. I didn't have any. I expected to wash.

Q Now, you remained in the car awaiting that liquor when the

other witness got out, didn't you?

A No, sir. I wouldn't have been in the car if I had known any

liquor was in there. I didn't say there was any there or I

would have gotten out of it.

Q Now did that liquor get in that car?

A I don't know.

Q Did you see people get in there?

A No, sir. The last I saw of the liquor was up there when I

left the car.

Q Now, WITNESS: How far was that liquor from the car when

WITNESS: Sixty feet, I guess, from the car, right
outside the door.

Q Was that the last you saw of it?

A Yes, sir. I came on back and finished the work on the car,

and I did not see or hear anything more of liquor until Mr. Cook got

it out of the car that night.

Q You did not get out of the car in that time?

A I got out to the street and walked around. I wasn't with

those fellows at all. I just got out and walked around, and

did not go far from the car, walking on them.

Q You were not sitting in the car all the time?

A No I was not. One time I was away from the car five minutes --

the only time I was out of sight of the car.

Q These boys bought a half gallon bottle of liquor?

A That is what they said.

Q That is the kind of jar you drank out of?

A Yes, sir.

X That is the kind of jar the officers found in the car?

A Yes, sir; a half gallon.

X It was "moonshine" liquor they bought?

A Yes, sir; tasted like it.

X "Moonshine" liquor was found in the car, wasn't it -- a half gallon jar?

A I don't know.

X And Brown drank out of the same jar?

A Yes, sir; we all drank out of the same one at Greenville.

X Was that the same old jar that was found in Harrisonburg when you got here?

A I don't know whether it was the same one or not.

X Mr. ^{Brown} ~~Steel~~ got sick and vomited in that car that night, didn't he?

A I don't know. It must have been done before I got with the boys, if there was anyone sick. I never noticed it at all.

BY THE COURT:

Q You said that after you took your drinks you did not hear anything more said about the liquor until you got to Harrisonburg and Mr. Funk got on the car; what did you say awhile ago about Brown saying not to put any liquor in the car?

A In Greenville, when we got ready to start, Mr. Brown just asked them for a drink and they said the liquor was all gone, and he said he reckoned it was a good thing, he didn't want any liquor in the car anyway -- would be better off. Then he said the car cost him nearly two thousand dollars, and he wouldn't have any liquor in it at all.

Q Were all four of you there at that time?

A Yes, sir.

Witness told to stand aside.

X That is the kind of jar the officers found in the car?
 A Yes, sir; a ball jar.
 I It was "something" lighter than Douglas?
 A Yes, sir; around like it.
 I "Something" lighter was found in the car, wasn't it -- a ball jar?

A I don't know.
 I and when I drank out of the same jar?
 A Yes, sir; as all drank out of the same one at Greenville.
 X You mean the same jar that was found in Harrisburg was the jar that?

A I don't know whether it was the same one or not.
 X It is possible you also verified in that car that night, didn't it?

A I don't know. It must have been done before I got with the boys, it could be anyone else. I never noticed it at all.

BY THE COURT:

Q You said that after you took your drinks you did not hear anything else said about the liquor until you got to Harrisburg and the boys did not say anything; what did you say while you were saying that to get the liquor in the car?

A In Greenville, when we got ready to start, Dr. Brown just asked me for a drink and they said the liquor was all gone, and he said he thought it was a good thing, he didn't want any liquor in the car any more -- would be better off. Then he said the car cost him nearly two thousand dollars, and he wouldn't have any liquor in it at all.

Q Now will you tell us what time that was?

A Yes, sir.

Witness told to stand aside.

J. L. PARRENT, sworn, examined by Mr. Dechert, testified:

Q You live in Lexington?

A I do.

Q How long have you lived there?

A Something over fourteen years.

Q You were formerly a sheriff of Rockbridge County?

A Up until last Christmas a year ago, now.

Q How long were you sheriff?

A Four years. I was chief of police something over nine years before that.

Q Are you now chief of police again?

A Yes, sir.

Q Do you know this young man S. M. Brown?

A I do.

Q How long have you known him?

A I have known him since I went to Lexington, which I think was the 10th of October, 1910.

Q That has been about fourteen years?

A Yes, sir.

Q Have you been thrown in frequent contact with him?

A I have, sir.

Q Do you know him well?

A I know him about as well as an officer on the street would know any business man there.

Q You move among the same people he does and in the same way?

A I pass his place probably every day.

Q Lexington is a town of about how many people?

A Something over three thousand, 3,300, I think.

Q It is a very closely knit community, isn't it?

A Yes, sir; that is, the central part of it is.

Q I mean, the people themselves are brought together very

Q I. J. TARRANT, sworn, examined by Mr. Tarrant, testified:

Q You live in Lexington?

A I do.

Q How long have you lived there?

A Something over fourteen years.

Q The area formerly a part of Haverhill County?

A Of what part of Haverhill County a part ago, now.

Q How long were you sheriff?

A Four years. I was chief of police something over nine years

before that.

Q Are you now chief of police again?

A Yes, sir.

Q Do you know this young man G. M. Brown?

A I do.

Q How long have you known him?

A I have known him since I was in Lexington, which I think was

the town of Haverhill, 1872.

Q That has been about fourteen years?

A Yes, sir.

Q Have you had contact in frequent contact with him?

A I have, sir.

Q Do you know his name?

A I know his name as well as an officer on the street and know

any business man there.

Q You were among the same people he does and in the same way?

A I was his place probably every day.

Q Lexington is a town of about how many people?

A Something over three thousand, I think.

Q It is a very closely knit community, isn't it?

A Yes, sir; that is, the central part of it is.

Q I mean, the people themselves are brought together very

frequently like they do in small towns?

A Yes, sir.

Q Do you know the general reputation which this man S. M. Brown bears for truth and veracity in Lexington?

A I never heard it questioned, sir.

Q Do you know the general reputation which he bears with reference to transporting liquor?

A I never heard of it before, sir. I know he will drink liquor.

Q He is not even addicted to it habitually, but gets on sprees?

A No, he don't drink often, but when he drinks he gets drunk, and for that reason he only takes it occasionally, I think.

Q Do you know this man Martin who has testified here?

A Yes, sir.

Q How long have you known him?

A Well, I don't know. Young Martin has been in Lexington off and on for two or three years.

Q Do you think you know his general reputation for truth?

A I never heard it questioned, sir.

Q What about his reputation for violating the prohibition law in any respect?

A If Martin ever took a drink of liquor I don't know it.

Q You think his reputation is good as to the transportation of liquor?

A Yes, sir.

CROSS-EXAMINATION BY MR. BARMAN:

X You are mayor of Lexington, you say?

A No, sir; chief of police.

X You say this man Brown is in the habit of occasionally getting drunk?

A Occasionally, yes, sir.

occasionally take too in small amounts

A Yes, sir.

Q Do you know the general reputation which this man has?

A He is known for his general reputation in Lexington

A I never heard it questioned, sir.

Q Do you know the general reputation which he bears with reference

to transporting liquor?

A I never heard of it before, sir. I know he will drink liquor.

Q He is not even admitted to it habitually, but gets an amount

of it, he don't drink often, but when he drinks he gets drunk,

and that makes the only habit he occasionally, I think.

Q Do you know this man Martin who was mentioned here?

A Yes, sir.

Q How long have you known him?

A Well, I don't know. I don't know how long he has been in Lexington or

how long he has been in the State.

Q Do you think you know his general reputation for carrying

A I never heard it questioned, sir.

Q What about his reputation for violating the prohibition law

in any respect?

A I don't know. I don't know how long he has been in

Q Do you think his reputation is good as to the transportation of

liquor?

A Yes, sir.

EXAMINATION BY MR. HANNAH;

Q You are mayor of Lexington, you say?

A Yes, sir; chief of police.

Q You say this man Brown is in the habit of occasionally getting

drunk?

A Occasionally, yes, sir.

X And when he starts to drinking he gets pretty full?

A Yes, sir.

X It is also the fact that he has been convicted in the mayor's court repeatedly for drunkenness, isn't it? (Objection, overruled, exception for defendant.)

A I went on as chief of police the 1st of September, 1924, and he has never been before the mayor in that time. Four years and eight months previous to that time I was sheriff, and while I can't say as to the mayor's court, he never was in the Circuit Court. And, to go further back than that, when I was on the police force before, I do not recall at this time that he was.

X How often does he get on these srees?

A That would be right hard to say.

X About how often?

A Several years ago when Brown was quite a young boy, when I was on the force before Brown would get drunk once a month. I have heard, I think, of his being on srees several times in the last year.

Witness told to stand aside.

MR. RHODES, sworn, examined by Mr. Deckert, testified:

Q Mr. Rhodes, you are the mayor of Lexington, are you?

A Yes, sir.

Q How long have you filled that position?

A Four years next month.

Q You were a member of the Council prior to that?

A Yes, sir.

Q For how many years, sir?

A About three years and 6 or 8 months.

Q How long have you lived in Lexington?

A Thirty-two years.

Q What is your occupation, aside from being a statesman?

I had when he started to drinking he gets pretty wild?

A Yes, sir.

Q Is it also the fact that he has been convicted in the mayor's

court repeatedly for drunkenness, isn't it? (Objection, overruled.)

(Exception for defendant.)

A I went on an office of police the 1st of September, 1904, and

he has never been before the mayor in that time. Your grace and might

mention previous to that time I was sheriff, and while I can't say as to

the mayor's court, he never was in the District Court. And, your grace,

from that time, when I was on the police force before, I do not recall

at this time that he was.

Q How often does he get on these sprees?

A That would be right hard to say.

A About one often.

A Several years ago when Brown was quite a young boy, when I

was on the force before Brown would get drunk once a month. I have

heard, I think, of his being on sprees several times in the last year.

Witness told to stand aside.

MR. HENNING, sworn, examined by Mr. Decker, testified:

Q Mr. Henning, you are the mayor of Lexington, are you not?

A Yes, sir.

Q How long have you filled that position?

A Four years next month.

Q You were a member of the Council prior to that?

A Yes, sir.

Q For how long years, sir?

A About three years and 5 months.

Q How long have you lived in Lexington?

A Thirty-two years.

Q What is your occupation, aside from being a politician?

A Nothing at present. Before that I was in the butcher business, run a butcher shop there.

Q Do you know this young man S. M. Brown?

A Yes, sir.

Q How long have you known him?

A Ever since I have been in Lexington and he was a little fellow.

Q He says his age is about ____; you have known him during most of his adult manhood at any rate?

A Yes, sir.

Q Do you move among the same people that Mr. Brown does and have contact with them?

A Pretty much; yes, sir.

Q I don't mean only the same people, but you do have contact with the same people?

A Yes, sir. you are in a position

Q Do you think, Mr. Rhodes, to state what is the general reputation which Mr. Brown bears in Lexington as a man of truth and veracity?

A Yes, sir.

Q Is that general reputation good or bad?

A Good.

Q Basing your opinion on his general reputation, would you hesitate to believe him on oath?

A No, sir, I think not.

Q Do you know this young man, William Martin?

A Yes, sir.

Q You lived in the same house with him for sometime didn't you?

A Yes, sir.

Q For how long?

A Since he has been in Lexington, and that has been something over three years, or about that time.

Q Do you know the general reputation which he bears for truth

A Noting at present. Before that I was in the butcher business, and a tobacco shop there.

Q Do you know this young man W. W. Stewart?

A Yes, sir.

Q How long have you known him?

A Ever since I have been in Lexington and he was a little fellow.

Q He says his age is about _____; you have known him during most

of his adult manhood as you say?

A Yes, sir.

Q Do you ever among the some people that Mr. Brown does and lives

contact with them?

A I don't know; yes, sir.

Q I don't mean with the same people, but you do have contact with

the same people?

A Yes, sir, you are in a position

Q Do you think, Mr. Rhodes, to state what is the general reputa-

tion which Mr. Brown bears in Lexington as a man of truth and honesty?

A Yes, sir.

Q Is that general reputation good or bad?

A Good.

Q Being your opinion on his general reputation, would you have

any to believe him or not?

A No, sir, I think not.

Q Do you know this young man, William Martin?

A Yes, sir.

Q You lived in the same house with him for sometime didn't you?

A Yes, sir.

Q For how long?

A Since he has been in Lexington, and that has been something

over three years, or about that time.

Q Do you know the general reputation which he bears for truth

and veracity?

A It is good. I never heard it questioned.

Q you would believe him on oath?

A Yes, sir; I certainly would.

Q He is not a drinking man?

A Not that I ever heard of.

Q And this young man, Brown, is his reputation good or bad for violation of the prohibition law outside of the matter of getting drunk?

A I never heard of any charge against him.

Q What is his reputation in reference to transporting liquor?

A I never heard of his transporting any except what he had inside of him. I never heard of him being accused of transporting it on any other way.

CROSS-EXAMINATION BY MR. BARMAN;

X Do you know Howard L. Begle?

A Know him when I see him, that is all.

X He has a position there at the V. M. I.?

A Yes, sir; as stable boy.

X He has only been there a year?

A I don't know how long.

X Where does he live?

A Over on Sheridan Hill, where Mr. Sheridan lives.

X Do you mean that this man Brown's general reputation for transporting ardent spirits in that community is good?

A Yes, sir; I never heard anything.

X He has been "pulled" for getting drunk?

A No, I don't say that he has been "pulled" for getting drunk.

X What do you say about that?

A I said that he would get drunk once in a while. He has been before me twice in four years, the last time was last Thanksgiving or

and certainly

A. It is good. I never heard it questioned.

Q. You would believe him on that?

A. Yes, sir; I certainly would.

Q. He is not a drinking man?

A. Not that I ever heard of.

Q. And this young man, Brown, is his reputation good or bad for

violation of the prohibition law outside of the matter of getting drunk?

A. I never heard of any charge against him.

Q. What is his reputation in reference to transporting liquor?

A. I never heard of his transporting any except that he had drunk

at him. I never heard of his being accused of transporting it on any

other way.

CROSS-EXAMINATION BY MR. BARNES:

Q. Do you know Howard J. Bagley?

A. Know him when I see him, that is all.

Q. He has a position there at the V. M. I.?

A. Yes, sir; an estate boy.

Q. He has only been there a year?

A. I don't know how long.

Q. Where does he live?

A. Over on Sheridan Hill, where Mr. Sheridan lives.

Q. Do you mean that this man Brown's general reputation for trans-

porting liquor is good in that community is good?

A. Yes, sir; I never heard anything.

Q. He has been "gulled" for getting drunk?

A. No, I don't say that he has been "gulled" for getting drunk.

Q. What do you say about that?

A. I said that he would get drunk once in a while. He had been

before me twice in four years, the last time was last Thanksgiving or

Christmas, a year ago.

BY MR. DEEVERS:

Q Did you ever hear him suspected of trafficking in liquor in any way?

A No, sir.

Witness told to stand aside.

R. BRUCE MORRISON, sworn, examined by Mr. Dechert:

Q Mr. Morrison, you live in Lexington?

A Yes, sir.

Q You are the present sheriff of Rockbridge County?

A Yes, sir.

Q You have been sheriff nearly four years?

A No, sir; just one year.

Q Do you know this man S. M. Brown?

A Yes, sir.

Q Do you know him well?

A Yes, sir.

Q Have you had frequent talks with him and the people amongst whom he moves?

A Yes, sir.

Q Do you know his general reputation for truth in that community?

A Never heard it questioned.

Q Do you know Mr. Brown's general reputation for violating the prohibition laws independent of the matter of getting drunk?

A No, sir; I never heard it questioned.

Q Is your statement like the other gentlemen's who have testified that he gets on sprees occasionally?

A I only know that from hearsay. I never saw Mr. Brown drunk. I

Christians, a year ago.

BY MR. BARNETT:

Q Did you ever hear him suspected of trafficking in liquor in any way?

A Yes, sir.

Q Yes, sir.

Witness said to stand aside.

BY MR. BARNETT: Examine by Mr. Barnett:

Q Mr. Bennett, you live in Lexington?

A Yes, sir.

Q You are the general agent of the Lexington County?

A Yes, sir.

Q You have been shortly nearly four years?

A Yes, sir; just two years.

Q Do you know this man H. W. Brown?

A Yes, sir.

Q Do you know him well?

A Yes, sir.

Q How far has your contact with him and the people around him been?

A Not far.

A Yes, sir.

Q Do you know his general reputation for work in that community?

A Never heard it questioned.

Q Do you know Mr. Brown's general reputation for violating the prohibition law independent of the matter of getting drunk?

A No, sir; I never heard it questioned.

Q Is your statement like the other gentlemen's who have testified that he gets on again occasionally?

A I only know that two years. I never saw Mr. Brown drunk.

heard that he did get drunk.

Q Occasionally?

A Yes, sir.

Q Do you know this man William Martin?

A No, sir, only recently. I have known him for several months, something like that.

Q From his reputation and your own knowledge of him would you hesitate to believe Brown on oath?

A No, sir.

Q Even in a matter in which he was personally interested?

A No, sir; I would not hesitate to believe him.

Witness told to stand aside.

O. T. ENGLEMAN, sworn, examined by Mr. Dechert, testified:

Q Mr. Engleman, you live in Lexington?

A Yes, sir.

Q What is your business?

A Manager of a garage,-- Rockbridge Motor Company.

Q Where is your place of business located with respect to Mr. Brown's?

A Right across the street.

Q How long have you known him, if you know him?

A Yes, sir; I have known him ten years.

Q Do you know him well and intimately or not?

A Very well, yes, sir.

Q Are you brought into frequent contact with him and with the people amongst whom he moves there in Lexington?

A I have dealings with him every day.

Q Do you have contact with the people, also, who have contact with him there in Lexington, to a considerable extent?

A Yes, sir.

name that he did not know.

Q. Governmentally?

A. Yes, sir.

Q. Do you know this man William Martin?

A. Yes, sir, only recently. I have known him for several months, something like that.

Q. How his reputation and your own knowledge of him would you

hesitate to believe upon on earth?

A. No, sir.

Q. Even in a matter in which he was personally interested?

A. No, sir; I would not hesitate to believe him.

Witness said to stand aside.

Q. I. W. MARTIN, born, examined by Mr. Doherty, testified:

A. Mr. Doherty, you live in Lexington?

A. Yes, sir.

Q. What is your business?

A. Manager of a garage,-- Rockbridge Motor Company.

Q. Where is your place of business located with respect to Mr.

Rockbridge?

A. Right across the street.

Q. How long have you known him, if you know him?

A. Yes, sir; I have known him ten years.

Q. Do you know him well and intimately or not?

A. Yes, sir, yes, sir.

Q. How you brought into frequent contact with him and with the

people amongst whom he moves there in Lexington?

A. I have dealings with him every day.

Q. Do you have contact with the people, also, who have contact

with him there in Lexington to a considerable extent?

A. Yes, sir.

Q What is his general reputation, if you know it, in that community for truth and veracity?

A Good as far as I know.

Q Knowing him and his reputation as you do, would you hesitate to believe him on oath in a matter in which he was interested?

A Yes, sir; I would believe him.

Q Then your answer to my question is, No, you would not hesitate to believe him?

A No, I would not hesitate a minute.

Q Do you know what his general reputation is as to violation of the prohibition law by transporting liquor?

A I never heard of him transporting any. I know he will take a drink. I have seen him under the influence of it several times.

Q Has that been frequent or otherwise?

A No, sometimes it is two months before he ever takes a drink.

Q Do you know this man Martin?

A Yes, sir.

Q Do you know his general reputation for truth?

A It is good.

Q Would you hesitate to believe him on oath?

A No, sir.

CROSS-EXAMINATION BY MR. EARMAN:

X What kind of cars do you sell?

A Sell the Dodge, I used to sell the Hudson.

X Did you sell a car to Brown?

A I did not sell him the one he has, but sold him five other cars, since I have been in the business.

Witness told to stand aside.

Q What is his general reputation, if you know it, in that community for truth and veracity?

A Good as far as I know.

Q Knowing him and his reputation as you do, would you hesitate to believe him on oath in a matter in which he was interested?

A Yes, sir; I would believe him.

Q Then your answer to my question is, No, you would not hesitate to believe him?

A No, I would not hesitate a minute.

Q Do you know what his general reputation is as to veracity in the position law-by-transacting business?

A I never heard of his transacting any. I have no other opinion. I have seen him under the influence of it several times.

Q Has that been frequent or otherwise?

A No, sometimes it is few months before he ever takes a drink.

Q Do you know this man Martin?

A Yes, sir.

Q Do you know his general reputation for truth?

A It is good.

Q Would you hesitate to believe him on oath?

A No, sir.

EXAMINATION BY MR. WARDEN:

Q What kind of case do you sell?

A Well the Dodge, I used to sell the Hudson.

Q Did you sell a car to Brown?

A I did not sell him the one he has, but sold him five other

ones, since I have been in the business.

Witness laid to stand aside.

F. A. DUNN, sworn, examined by Mr. Dechert, testified:

Q Mr. Dunn, you reside in Lexington?

A Yes, sir.

Q How long have you lived there?

A Twenty years.

Q Are you a member of the council of the town of Lexington?

A Yes, sir.

Q Do you know this man S. M. Brown?

A I have known him for eighteen years.

Q How close is your place of business located to his place of business?

A Two doors north?

Q On the same side of the street?

A Same side; yes, sir.

Q Are you brought into frequent contact with him?

A See him and talk with him every day.

Q Are you brought into frequent contact with the people of Lexington who are likewise in contact with him?

A Yes, sir.

Q Do you know his general reputation for truth and veracity in Lexington?

A It is good.

Q Knowing him as you do, and his general reputation as you do, would you believe him on oath in a matter in which he was interested?

A Absolutely.

Q Do you know this man Martin?

A Known him about three years.

Q Do you know the general reputation which he bears in Lexington for truth?

A It is good.

Q Do you know the general reputation which Mr. S. M. Brown

Q A. HUBB, sworn, examined by Mr. Gifford, testified:

Q Mr. Dunn, you reside in Lexington?

A Yes, sir.

Q How long have you lived there?

A Twenty years.

Q Are you a member of the council of the town of Lexington?

A Yes, sir.

Q Do you know John W. Brown?

A I have known him for eighteen years.

Q How close is your place of business located to his place of

business?

A Ten hours' walk.

Q On the same side of the street?

A Same side, yes, sir.

Q Are you brought into frequent contact with him?

A Not in and talk with him every day.

Q Are you brought into frequent contact with the people of his

place and the likelihood in contact with him?

A Yes, sir.

Q Do you know his general reputation for truth and veracity in

Lexington?

A It is good.

Q Knowing him as you do, and his general reputation as you do,

would you believe him on each in a matter in which he was interested?

A Absolutely.

Q Do you know this man Hartley?

A I know him about three years.

Q Do you know his general reputation which he bears in Lexing-

ton for truth?

A It is good.

Q Do you know the general reputation which Mr. W. B. Brown

bears in Lexington for violating the prohibition law by transporting liquor?

A I never heard he violated it, except taking a drink.

Q It is a fact, I suppose, as these other witnesses have testified, that he does occasionally get drunk?

A Well, I have never seen him drunk very much. It is all hearsay with me. I have seen him drunk several times in the last four or five years.

CROSS-EXAMINATION BY MR. BARMAN:

X Do you know "Jim" Rubble who lives at Lexington?

A He lives at Greenville.

X Do you know anything about this fellow Begle?

A I know he is a soldier down at the V. M. I. I have seen him around there for two or three months.

X People don't, in fact, know very much about him?

A No, sir, they do not.

Witness told to stand aside.

EDWARD VIARDS, sworn, examined by Mr. Dechert, testified:

Q You live in Greenville?

A Yes, sir.

Q How long have you lived there?

A Forty-five years.

Q Do you know this man Steel who has testified here today?

A Yes, sir.

Q How long have you known him?

A I have known him all his life; been right around Greenville.

Q You are brought in frequent contact with him?

A Yes, sir.

Q And also with the people he likewise comes in contact with?

...in Lexington for violating the prohibition law by transporting

liquor?

A I never heard he violated it, except taking a drink.

Q It is a fact, I suppose, as these other witnesses have testi-

fied, that he does occasionally get drunk?

A Well, I have never seen him drunk very much. It is all hearsay

with me. I have seen him drunk several times in the last four or five

years.

EXAMINATION BY MR. KAGAN:

Q Do you know "Jim" Hobbie who lives at Lexington?

A He lives at Greenville.

Q Do you know anything about this fellow Hobbie?

A I know he is a soldier down at the V. M. I. I have seen him

around there for two or three months.

Q People talk, in fact, that you know about him?

A Yes, they do not.

Witness John M. Hunt called.

EXAMINATION BY MR. DOUGHERTY, Testimony:

Q Do you live at Greenville?

A Yes, sir.

Q How long have you lived there?

A Forty-five years.

Q Do you know this man Hobbie who has testified here today?

A Yes, sir.

Q How long have you known him?

A I have known him all his life; been right around Greenville.

Q You are brought in frequent contact with him?

A Yes, sir.

Q And also with the people he lives with in contact with?

A Yes, sir.

Q Do you know the general reputation which he bears in that community for truth and veracity?

A Yes, sir; it is considered good.

Q It is good?

A Yes, sir.

Q Do you know his general reputation in that community as to transporting liquor?

A Not that I know.

Q You mean that you ^{never} heard that he did do so, or of having violated the prohibition law in any respect, except possibly by taking a drink?

A That is all I know of. I have heard that he would take a drink, and that is all I know.

Q Is he regarded in that community as a law-abiding citizen or not?

A Yes, sir, he is.

CROSS-EXAMINATION BY MR. BARMAN:

X He was convicted once of having violated the prohibition law, was he not?

A Mr. Steel?-- not that I know of.

MR. DECHERT: What is your business?

WITNESS: Farmer and lumberman.

X What is Steel's vocation, what does he do?

A Works right much in the garage business.

X For whom?

A For himself, and, I think, possibly, he works there for some others.

X He does not run a garage?

A He did for awhile, yes, sir.

X Did he on October 18, 1924?

A Yes, sir.

Q Do you know the general reputation which he bears in that community for truth and veracity?

A Yes, sir; it is unimpaired good.

Q Is he good?

A Yes, sir.

Q Do you know his general reputation in that community as to transacting business?

A Yes, sir; I know.

Q You mean that you heard that he did so, or at having visited the prohibition law in any respect, except possibly by taking a drink?

A That is all I know of. I have heard that he would take a drink, and that is all I know.

Q Is he regarded in that community as a law-abiding citizen or not?

A Yes, sir, he is.

CROSS-EXAMINATION BY MR. HARRIS:

Q He has committed none of having violated the prohibition law, has he not?

A Yes, sir; that is what I know of.

MR. HARRIS: That is your business?

ANSWER: Yes, sir; farmer and lumberman.

Q What is your father's profession, what does he do?

A Works right much in the garage business.

Q For whom?

A For himself, and, I think, possibly, he works there for some time.

Q He does not run a garage?

A He did for awhile, yes, sir.

Q Did he on October 18, 1924?

A I think he did; yes, sir; over at the B. & O., depot.

MR. DECHERT: He has been engaged as a mechanic?

WITNESS: Yes, sir; and he helps his father there on the farm.

X How far is his garage from the pike?

A If he was over at the depot -- he may have helped others over in the town -- a quarter of a mile.

And further this deponent saith not.

WILLIAM F. LILLY, sworn, examined by Mr. Dechert?

Q Where do you live, Mr. Lilly?

A I live three miles south of Greenville.

Q Greenville is just a small village?

A Yes, sir.

Q It is in Augusta County?

A Yes, sir.

Q Do you know this man Mark Steel who has testified here today?

A Yes, sir.

Q How long have you known him, sir?

A Oh, I suppose, about fifteen years or sixteen years.

Q How old are you?

A Forty-one.

Q Are you thrown in frequent contact with him?

A Yes, sir.

Q Are you brought into frequent contact with the people amongst whom he moves there?

A Yes, sir.

Q Do you know his general reputation for truth and veracity in that community?

A I never heard it questioned.

A I think he did; yes, sir; over at the D. & O., depot.
 Q. HE SAID: He has been engaged as a mechanic.
 A. WILSON: Yes, sir; and he helps his father there on the
 farm.

Q. I got out in his garage from the place?
 A. It is not over at the depot -- he may have helped others over
 in the town -- a quarter of a mile.
 Q. And further this respondent with you.

WILLIAM F. BILLY, sworn, examined by Mr. DeLoach

Q. Where do you live, Mr. Billy?

A. I live three miles south of Greenville.

Q. Greenville is just a small village?

A. Yes, sir.

Q. It is in Augusta County?

A. Yes, sir.

Q. Do you know this man JOHN BILLY who has testified here?

before?

A. Yes, sir.

Q. How long have you known him, sir?

A. Oh, I suppose, about fifteen years or sixteen years.

Q. How old are you?

A. Forty-one.

Q. Are you known in frequent contact with him?

A. Yes, sir.

Q. Are you brought into frequent contact with the people who work
 when he comes there?

A. Yes, sir.

Q. Do you have the general reputation for truth and veracity in
 that community?

A. I never heard it questioned.

Q Do you know his general reputation as a violator of the prohibition law, that is, whether he bears a good reputation or a bad reputation for violating it?

A I never heard of his violating it. I never heard his reputation questioned.

Q I speak specifically in reference to transporting liquor, is his reputation in that respect good or bad?

A I never heard of his being charged with it.

Witness told to stand aside.

J. L. PARRHNT, recalled for further examination by Mr. Dechert, testified:

Q Regarding these detached army men who are at the V. M. I., the people of the general community of Lexington are not brought in contact with them?

A No, sir; they are a class of people we see very little of. You see, the stable, I would say, is half a mile or more below the center of the town, and way down to the north end of the V. M. I.

Q Have you had sufficient opportunity to know what Begle's reputation is?

A I know very little about him.

Q And that is due to the detachment of these people from the people of Lexington?

A Yes, sir. Solders are there at the V. M. I., and, we do not come in contact with them; they may be there two or three years, and I would not know their names. Now and then there will be a sociable kind of a fellow that we get acquainted with.

MR. BARMAN: Were you at the trial over in the mayor's office, when this matter was tried before him?

A No, sir; I did not attend that trial.

Witness told to stand aside.

Q Do you have his general reputation as a violator of the
 prohibition law, that is, whether he has a good reputation of
 his reputation for violating it?
 A I never heard of his violating it. I never heard his reputation
 questioned.

Q I speak specifically in reference to transporting liquor, is
 his reputation in that respect good or bad?
 A I never heard of his being charged with it.
 Witness told to stand aside.

J. B. HANCOCK, recalled for further examination by Mr. DeLoach,
 testified:

Q Regarding these detached army men who are at the V. B. I.,
 the people of the general community of Lexington are not brought in
 contact with them?

A Yes, sir; that is a class of people we see very little of.
 For me, the people, I would say, is half a mile or more below the
 center of the town, and way down to the north end of the V. B. I.
 I think you had sufficient opportunity to know what people's
 reputation is?

A I know very little about him.
 Q And that is due to the detachment of these people from the
 people of Lexington?

A Yes, sir. Soldiers are there at the V. B. I., and, we do not
 come in contact with them; they may be there for three years, and
 I would not know their names. Now and then there will be a soldier
 kind of a fellow that we get acquainted with.

MR. HANCOCK: Were you at the trial over in the mayor's office,
 when this matter was tried before him?

A Yes, sir; I did not attend that trial.

Witness told to stand aside.

MR. HARMAN: I would like to introduce the evidence of Prof. Johnston, to show what the alcoholic contents of the jar was.

MR. DECHERT: There will be no dispute about that.

MR. HARMAN: I just want the record to show the fact. I think it contained 49% alcohol.

MR. DECHERT: I do not care how much it was. ~~It was~~
~~49%.~~

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This being all the evidence introduced or offered to be introduced on behalf of the defendant, thereupon the defendant, by Counsel rested; and, thereupon, the Commonwealth, to further maintain the issue on her part, introduced the following:

HOWARD C. BUCHER, recalled on examination by Mr. Harman, further testified:

Q Mr. Bucher, I do not recall exactly what you said about having seen S. M. Brown in Staunton on the night of October 18, 1924, and Begle, or whether you said anything or not. I will ask you first, did you see Brown there that night?

A Yes, sir.

Q What conversation did you have with him? Please tell the court whether or not in your conversation with Mr. Brown he invited you to go with him, and take a drink, to the foot-hills, and told you that he had plenty of liquor there, or words to that effect?

A Yes, sir. I was looking for this Hudson car that was in a wreck between Greenville and Staunton, the chief of police asked me to look out for this car. I located it, and I called Mr. Brown aside -- a fellow pointed him out to me -- he was just getting in the car, and Mr. Steel was sitting at the wheel.

Q (Interposing) The point I want to bring out is this; whether or not he made any statement to you, or invited you to take a drink

Q. Now, I would like to introduce the evidence of Paul Jones
 now to show what the alcohol content of the jar was.
 A. There will be no dispute about that.
 Q. I just want the record to show the fact. I think it
 contained 100 percent.
 A. I do not know how much it was.

This being all the evidence introduced as stated to be in-
 tended to prove at the defendant, therefore the defendant, by Jones
 testimony, the defendant, the Commonwealth, to further maintain the issue
 on the part, introduced the following:

ERNEST C. BROWN, recalled an examination by Mr. Brown, former
 Sheriff:
 Q. Mr. Brown, I do not recall exactly what you said about having
 seen E. J. Brown in Lawrence on the night of October 18, 1934, and
 again, or whether you said anything or not. I will ask you then, did
 you see Brown there that night?
 A. Yes, sir.

Q. What conversation did you have with him? Please tell the court
 whether or not in your conversation with Mr. Brown he invited you to
 go with him and take a drink, or the fact that he told you that he
 had plenty of liquor there, or words to that effect?

A. Yes, sir. I was looking for this person and I was in a
 place between Grandville and Stanton, the chief of police asked me to
 look out for this car. I located it, and I called Mr. Brown with --
 a phone pointed him out to me -- he was just getting in the car, and
 Mr. Brown was sitting at the wheel.

Q. [Interposing] The point I want to bring out in this, whether
 or not he said any statement to you, or invited you to take a drink

and made the statement to the effect that he had his whiskey over there at the foot-hills of Staunton?

A Yes, sir. He said it wouldn't take us long to run out there where it was.

Q What was it you said about seeing him get in the car?

A I started to go down the street with him to talk to Mr. Baylor, and when we got about fifty yards from the car he said "Wait a moment," and he went back to the car and spoke to Mr. Steel. He came on back with me, and we went on down towards Main Street, and before we got to Main Street the Hudson coach passed us. Then I took him down and turned him over to Mr. Baylor, and Mr. Baylor took him to Maj. Steele. When he came back he couldn't find his car, and said he would like to find it. Then they all met there and went and got something to eat. After that he came back and put that proposition up to me. He told me he had been up to Maj. Steele's and straightened up a matter, straightened up every thing, that I had been right good to him and if I wanted a drink he would take me out to the foot-hills and give it to me, in fact, I could have what I wanted, that he had plenty of whiskey.

MR. DECHERT: But you did not want any?

WITNESS: Not then, no, sir.

Q You don't know what it was he said to Steel? As far as you know, he said something to Steel and Steel moved away with the car?

A The car left.

Q The question was asked Begle as to whether or not he made the statement to you, when he inquired as to where he could get a taxi to take him to Lexington or back home, that he wanted to get out of town and was going home, that those fellows were going to get in trouble?

A Absolutely, that is what he told me. I hollered for the taxi; and he said, "I am going to leave here for they are going to get in trouble. That is after they were in the pool-room.

and made the statement in the effect that he had his whiskey over there
at the foot-hills of Mount...

A Yes, sir. He said it wouldn't take us long to look for him and there
where it was.

Q What was it you said about seeing him in the night?

A I started to go down the street with him to talk to Mr. Taylor,
and when we got about fifty yards from the car he said "Wait a moment,"
and he went back to the car and spoke to Mr. Usher. He came on back
with us, and he went on down towards Main Street, and before we got
to Main Street the woman again passed us. Then I took him down and
turned him over to Mr. Taylor, and Mr. Taylor took him to the jail. Then
then he came back he couldn't find his car, and said he would look for
it in the morning. Then they all got drunk and went and got something to eat.
After that he came back and put that proposition up to me. He said he
was not up to it. Usher's and arranged up a matter, arranged
and he went away, that I had been right good to him and he would
be glad to come with me out to the foot-hills and take it to me. He
said, I would have what I wanted. That he had plenty of whiskey.

MR. TAYLOR: But you did not want any?

WITNESS: Not then, no, sir.

Q You don't know what it was he said to Usher, do you?

A The car left.

Q The question was asked Usher as to whether or not he made the
statement to you, when he inquired as to where he would get a drink
to take him to Washington or back home, that he wanted to get out of
town and was going home. That Usher followed with going to get in

A Absolutely, that is what he told me. I followed for the car;

and he said, "I am going to leave here for my car going to get in
trouble. That is what they were in the first place."

MR. DECHERT: They did not say anything about the trouble being on account of carrying liquor in that car?

A. He did not say, but they were all drunk^{ing} with the exception of the man behind the wheel, and he did not look like he had been drinking.

MR. DECHERT: What are the foot-hills around Staunton, Betty Gray and Annie Gray?

WITNESS: Bettie and Mary Gray.

MR. DECHERT: They are within the three mile limit, are they?

WITNESS: I judge they are two miles out.

MR. DECHERT: And you did not go out there with him to locate that liquor, and put him under arrest for having it?

WITNESS: No, sir.

MR. DECHERT: You don't object to "Moonshine" and bootlegging?

WITNESS: I went immediately to the chief of police and put it up to him to follow him out there.

BY THE COURT:

Q What was Brown's apparent condition when you talked to him?

A Seemed to me he had been drinking, Judge. I wouldn't call him a drunken man.

Q Did he seem to know what he was talking about when he was talking to you?

A He says he don't remember me but he remembered Mr. Baylor, and there was only a minute or two between.

Q I understood you talked to him on two occasions?

A Yes, sir. I talked to him before he went to Maj. Steele's and after he came back. The last time was when he came up to me and invited me to take this trip to the foot-hills.

BY MR. DECHERT:

Q "Daisy Belle" and "Mary Gray", those two girls, aren't they kind of south from Staunton?

A They are southeast.

MR. BROWN: They did not say anything about the
nature of account of receiving light in 1902.

A: He did not say, but they were all there with the exception of
the man behind the wheel, and he did not look like he had been driving.

MR. BROWN: What are the four bills around
there that you saw?

WITNESS: There are four bills.

MR. BROWN: They are within the three-mile limit, are
they?

WITNESS: I think they are two miles out.

MR. BROWN: And you did not see them until
you were about a mile out, and you did not see them
until you were about a mile out?

WITNESS: Yes, sir.

MR. BROWN: You don't object to "Barnes" and "Barnes"
being there?

WITNESS: I want to object to the date of the bill, and
you'll let me follow him out there.

BY THE COURT:

A: What was Brown's apparent condition when you talked to him?
A: He seemed to be in his mind, but I couldn't tell his
mind.

A: Did he seem to know what he was talking about when he was talking
to you?

A: He says he can't remember me but he remembered Mr. Brown, and
there was this a minute or two before.

A: I understood you talked to him on the occasion?
A: Yes, sir. I talked to him before he went to Mr. Brown's car
after he came back. The last time was when he came up to me and he
talked to me about this trip to the four-bills.

BY THE COURT:

A: "Daisy Belle" and "Mary Gray", those two girls, aren't they
kind of with the Standard?

A: They are not.

Q You do not pass them or their bases on the way from Lexington to Staunton, do you?

A Yes, sir.

Q You pass between them on the way from Staunton to Waynesboro, don't you?

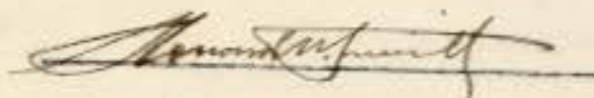
A They are between the two roads.

Q How far from them do you pass on the road to Lexington?

A I judge less than half a mile. There is a road that goes off the highway, off both roads, to them.

Witness told to stand aside.

And this being all the evidence introduced on the part of the Commonwealth, and by the defendant, the Court, upon consideration thereof, ^{on the 9th day of January, 1925} gave judgment denying the claim of the said S. M. Brown to said car and forfeiting the same to the Commonwealth. To the action of the Court in holding that the said car was forfeited, and in refusing to sustain the claim of said S. M. Brown to said car, the defendant, by Counsel, excepted, and prays that this, his ^{Certificate} Bill of Exceptions, may be signed, sealed, enrolled and made a part of the record in this case, which is accordingly done this 19th day of February, 1925, within sixty days from the date of such finding and judgment.

 Judge (SEAL.)

Q You do not know them or their names on the way from

to St. Louis, do you?

A Yes, sir.

Q You pass between them on the way from St. Louis to

Don't you?

A They are between the two roads.

Q How far from them do you pass on the road to

St. Louis? There is a road that goes all

the way, all the way, is there.

Witness said to each side.

And this being all the evidence introduced on the part of

the Government, and by the defendant, the Court, upon considering

the evidence, having the aid of the aid of the aid of the aid of

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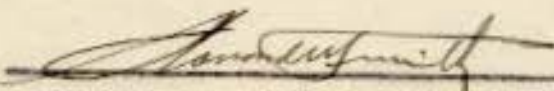
BE IT REMEMBERED THAT upon the trial of this cause, during the examination of Howard C. Bucher, a witness introduced on behalf of the Commonwealth, the Commonwealth by its Attorney propounded to him the following question, to-wit:

"Q. What did he (Brown) say about having liquor in his (Brown's) car?"

to which the witness answered:

"A. Well, he said that they had liquor, and had it out at the foot-hills, but, he said, on the trip down from Lexington they were all drinking with the exception of the mechanic, that he was supposed to stay sober and not drink anything, so it would be a safe trip in driving the car."

Whereupon the intervienor, by Counsel, moved the Court to strike out that portion of the answer referring to the drinking on the way from Lexington to Staunton, on the ground that the same related to an alleged offense which was not within the jurisdiction of the Court sitting in Rockingham County, Lexington being located in Rockbridge County and Staunton in the county of Augusta, whereas the information upon which the proceeding is based being predicated upon an alleged offense committed within the county of Rockingham; but the Court overruled the said motion and declined to strike out the said part of the said answer; to which action of the Court the intervienor, by Counsel, excepted, and prays that this his ^{Certificate} Bill of Exceptions No. 2 may be signed, sealed, enrolled and made a part of the record of this cause, which is thereupon accordingly done this 19th day of February, 1925, and within sixty days from the entry of the judgment.

 JUDGE (SEAL.)

It is requested that you be kind to have the
examination of the above witness, a witness introduced on behalf of the
Government, the Government by its Attorney General to the
following questions, to-wit:

1. What did he (Brown) say about having been in the
"Brown's case"?

to which the witness answered:

Q. Will you tell me what you saw and heard, and how long you
were there, and what you saw and heard, on the day of the
assault upon the witness, and what you saw and heard of
the witnesses, that he was supposed to have seen and
heard nothing, as it would be a case of a witness
in the case.

Answer: The witness, by Brown, said the day of the
assault upon the witness, the witness referred to in the
interrogation is Brown, on the ground that the witness is a
legal witness which was not within the jurisdiction of the court
acting in Washington County, Washington being located in
County and District in the county of agents, whereas the jurisdiction
was then and exercising is found being exercised upon an alleged
witness residing within the county of Washington; but the court
exercised the said power and decided to strike out the said part
of the said report; so with relation to the Court the jurisdiction, by
Brown, exercised, and says that this is the case of Washington Co. 2
and is signed, sealed, verified and made a part of the record of this
case, which is therefore essentially true this is the case of Brown,
and this is why they take the entry of the judgment.

(Sgd.) 

