

COMMONWEALTH OF VIRGINIA,
COUNTY OF ROCKINGHAM, to-wit:

IN THE CIRCUIT COURT OF SAID COUNTY:

The grand jurors of the Commonwealth of Virginia, in and for the body of the County of Rockingham, and now attending the Circuit Court of said County, at its October term, 1943, upon their oaths do present that Sarah Margaret Shope, on or about the 17th day of August, 1943, in said County, unlawfully and feloniously did kill and murder her new-born and unnamed female child, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found upon the testimony of F. L. Byers, L. E. Payne and W. J. Kean, witnesses sworn in Court and sent before the grand jury to give evidence.

MURDER

COMMONWEALTH

v.) Indictment

SARAH MARGARET SHOPE

1st Jail

Felony:
October Term, 1943.

*Nov-18
murder*

A True Bill:

J. M. [Signature]
Foreman

Witnesses:

- 1. Dr. F. L. Byers
- 2. L. E. Payne
- 3. W. J. Kean

Lawrence H. Hoover

Commonwealth's Attorney

IN THE CIRCUIT COURT OF SAID COUNTY:

COUNTY OF ROCKINGHAM, to-wit:
COMMONWEALTH OF VIRGINIA,

The Grand Jurors of the Commonwealth of Virginia, in and

for the County of Rockingham, and now attending the
Circuit Court of said County at its October Term, 1943, upon
their oaths present at the trial of Sarah Margaret Shope, on or about the
15th day of August, 1943, in said County, unlawfully and felon-
iously did kill and murder her new-born and unborn female child
against the peace and dignity of the Commonwealth of Virginia.
This indictment is found upon the testimony of F. L. Byers,
I. E. Payne and W. J. Kean, witnesses sworn in Court and sent

before the Grand Jury to give evidence.

| | | |
|----|-------------------|-------------|
| 1 | R. L. Garman | 4.50 |
| 2 | Luther Ritchie | 4.50 |
| 3 | H. V. Geil | 2.50 |
| 4 | W. F. Messick | 3.30 |
| 5 | Samuel J. Flook | 3.30 |
| 6 | Jos. P. Gilbert | 4.20 |
| 7 | Willie C. Longley | 3.50 |
| 8 | H. L. Lucireaux | 2.70 |
| 9 | J. L. Armentrout | 4.50 |
| 10 | E. L. Lagman | 3.70 |
| 11 | J. L. Phillips | 3.70 |
| 12 | L. W. Leroux | 3.60 |
| | | <hr/> 44.20 |

Sheriff's fee

| | |
|------------|------------|
| Sum. Wit. | 3.60 |
| Corp. Jury | 1.50 |
| | <hr/> 5.10 |

J. S. Miller
OCT - 1943

#1854

COMMONWEALTH

V.) Felony (murder)

SARAH MARGARET SHOPE

gail

n. y.

Nov. 18

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173~~



34-2877

We the Jury find the accused
Not Guilty on the ground of
Insanity at the time of alleged
Crime

Jno. C. Zurble
Foreman

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IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA

COMMONWEALTH

v.

SARAH MARGARET SHOPE

)
)
)
)

CHARGE TO JURY

If you find the accused, Sarah Margaret Shope, guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, and that it was wilful, deliberate and premeditated, you will find her guilty of murder in the first degree and fix her punishment at death, or by confinement in the penitentiary for life, or for any term not less than twenty years.

If you find her guilty of murder, as charged in the indictment, and that the same was committed with malice aforethought, but that it was not wilful, deliberate and premeditated, then you will find her guilty of murder in the second degree, and fix her punishment at confinement in the penitentiary for not less than five nor more than twenty years.

If you find her not guilty of murder in the first degree, nor of murder in the second degree, but that she killed her newborn and unnamed child without malice aforethought, actual or implied, upon sudden heat of passion, on reasonable provocation, you will find her guilty of voluntary manslaughter and fix her punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find her not guilty of murder in the first degree, nor of murder in the second degree, nor of voluntary manslaughter, but find her guilty of involuntary manslaughter, you will say so and fix her punishment at confinement in the penitentiary for not less than one nor more than five years, or, in your discretion, by a fine of not exceeding one thousand dollars, or by confinement in jail not exceeding one year, or by both such fine and imprisonment.

If you find her not guilty, you will say so and no more.

COMMONWEALTH

v.

SARAH MARGARET SHOPE

CHARGE TO JURY

If you find the accused, Sarah Margaret Shope, guilty of murder, as charged in the indictment, and that the murder was committed with malice aforethought, and that it was willful, deliberate and premeditated, you will find her guilty of murder in the first degree and fix her punishment at death, or by confinement in the penitentiary for life, or for any term not less than twenty years.

If you find her guilty of murder, as charged in the indictment, and that the same was committed with malice aforethought, but that it was not willful, deliberate and premeditated, then you will find her guilty of murder in the second degree, and fix her punishment at confinement in the penitentiary for not less than five nor more than twenty years.

If you find her not guilty of murder in the first degree, nor of murder in the second degree, but that she killed her newborn and unnamed child without malice aforethought, actual or implied, upon sudden heat of passion, on reasonable provocation, you will find her guilty of voluntary manslaughter and fix her punishment at confinement in the penitentiary for not less than one nor more than five years.

If you find her not guilty of murder in the first degree, nor of murder in the second degree, nor of voluntary manslaughter, but find her guilty of involuntary manslaughter, you will say so and fix her punishment at confinement in the penitentiary for not less than one nor more than five years, or, in your discretion, by a fine of not exceeding one thousand dollars, or by confinement in jail not exceeding one year, or by both such fine and imprisonment.

If you find her not guilty, you will say so and no more.

INSTRUCTION 1

*Low
v
Shope
1943*

The Court instructs the jury that every homicide in Virginia is presumed in law to be murder in the second degree. In order to elevate the offense to murder in the first degree, the burden of proof is on the Commonwealth, and to reduce the offense to manslaughter, the burden of proof is on the prisoner.

*Con
v
Shope
1913*

INSTRUCTION 3

The Court instructs the jury that no provocation can render a homicide justifiable, or even excusable. The lowest grade to which it can reduce homicide is manslaughter; and, if the prisoner killed the deceased suddenly, without any, or without considerable provocation, the law implies malice, and the killing is murder.

*Case
No. 1234
1912*

3 INSTRUCTION

The Court instructs the jury that no provocation can
render a homicide justifiable, or even excusable. The lowest
grade to which it can reduce homicide is manslaughter; and,
if the prisoner killed the deceased suddenly, without any, or
without considerable provocation, the law implies malice, and
the killing is murder.

Comm
v
Shope
1903

INSTRUCTION NO. 8

The Court instructs the jury that if they believe from the evidence that the accused at the time of the alleged crime was laboring under partial insanity brought about by anxiety, pain, suffering, shock or hysteria caused by the birth of her child under the circumstances of this case, and that she therefore didnot understand the nature and character of her acts and their consequences, nor possess will power sufficient to restrain her impulses because of such partial insanity, they must find the accused not guilty on the ground of insanity, and state that fact in ~~the~~ verdict.

Not Guilty on the ground of
Insanity at the time of alledged Crime.

*Com
of
the
Court*

The Court instructs the jury that if they believe from the evidence that the accused at the time of the alleged crime was laboring under partial insanity brought about by some brain suffering, shock or hysteria caused by the birth of her child under the circumstances of this case, and that she therefore did not understand the nature and character of her acts and their consequences, nor possess will power sufficient to restrain her impulses because of such partial insanity, they must find the accused not guilty on the ground of insanity.

The Court instructs on the ground of insanity that the fact is material.

Comm

Shofar
1103

INSTRUCTION NO. A

The Court instrcuts the jury that the failure of the accused to testify creates no presumption against her and is not a circumstance which the jury should consider against her.

Handwritten notes:
C. v. ...
...

INSTRUCTION NO. A

The Court instructs the jury that the failure of the
accused to testify creates no presumption against her and is not
a circumstance which the jury should consider against her.

Conn.
or
Chapman
11113

INSTRUCTION NO. 13

The Court instructs the jury that the law presumes every person to be innocent until every fact essential to her guilt is proven beyond ^{all} a reasonable doubt, and if there is upon the mind of the jury any reasonable doubt of the guilt of the accused, the law makes it their duty to acquit her. Her guilt is not to be inferred even though the facts proven were consistent with her guilt, but they must be inconsistent with her innocence. Mere suspicion or probability of her guilt, no matter how strong, is not sufficient to convict, nor is it sufficient if the larger weight or preponderance of the evidence supports the charge, but to warrant her conviction her guilt must be proven so clearly that there is no reasonable theory consistent with the evidence upon which she can be innocent.

Comm
v
Shope
11/10/3

INSTRUCTION NO. C

The Court instructs the jury that the crime of homicide for which the accused is being tried, consists of the killing of a human being by another human being, and that it is essential that the human being alleged to have been killed was in fact alive at the time the acts/^{were}committed which are alleged to have caused death; and further that the burden is upon the Commonwealth to prove beyond all reasonable doubt that such person was in fact alive at that time.

Com
v
Shope
HVB

INSTRUCTION NO. 7.

The Court instructs the jury that if they have a reasonable doubt as to any fact necessary to convict the accused, or have a reasonable doubt upon all the evidence as to her guilt, they will acquit her. If, however, they believe from the evidence, beyond all reasonable doubt, that she is guilty, but have a reasonable doubt as to the grade of offence she is guilty of, that is of murder in either degree, or manslaughter, voluntary or involuntary, then they can only find her guilty of the offence of the lower grade.

INSTRUCTION NO. 2

The Court instructs the jury that if they have a reasonable doubt as to any fact necessary to convict the accused, or if they have a reasonable doubt upon all the evidence as to her guilt, they will acquit her. If, however, they believe from the evidence, beyond all reasonable doubt, that she is guilty of a crime, they may find her guilty of that crime if the evidence shows that she is guilty of that crime, or if the evidence shows that she is guilty of a crime of a higher grade than that of the crime charged, they may find her guilty of that crime. If the evidence shows that she is guilty of a crime of a lower grade than that of the crime charged, they may find her guilty of that crime.

Com
v
Shope
1943.

The Court instructs the jury that a confession made by a person accused of crime is not presumed to be voluntary, and the commonwealth must show by affirmative testimony as a condition precedent to its admissibility that the confession was not made under inducements of fear or favor.

The Court instructs the jury that a confession made by a person accused of crime is not presumed to be voluntary, and the Commonwealth must show by affirmative testimony as a condition precedent to its admissibility that the confession was not made under inducements of fear or favor.

Copy
of
the
original

The Commonwealth of Virginia, }
 Rockingham County, } To-wit
 To the Sheriff of Said County:

Whereas, W. J. Kean of said County, has this day
 made complaint and information on oath before me, J. C. Swartz, Clerk of T. J. Court
 of the said County, that Sarah Margaret Shope T.J. or J. P.
 on the 17th day of Aug., 1943, in the said County, did unlawfully
and feloniously kill and murder her new-born
and unnamed female child, against the
peace and dignity of the Commonwealth
of Virginia

These are therefore, in the name of the Commonwealth of Virginia, to command you forthwith to apprehend and bring
 before the Trial Justice of the said County, the body of the said

Sarah Margaret Shope

to answer the said complaint and to be further dealt with according
 to law.

Given under my hand this 23d day of August, 1943.

J. C. Swartz
 Clerk T.J. or J. P.

Memo. of Commonwealth Witnesses:

Name

Address

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

I, _____, in and for the County of Rockingham, State of Virginia, do hereby certify that _____, T. J. or J. P. or Bail Commissioner _____, as his suret _____, have this day acknowledged themselves indebted to the Commonwealth of Virginia in the sum of _____ dollars (\$ _____) as to which they severally waived their exemption, to be made and levied of their goods and chattels, yet upon this condition: That the said _____ shall appear before the Trial Justice Court of Rockingham County at _____, on the _____ day of _____, 19____, at _____ o'clock A. M., and not depart hence without leave of said Court, and at such other time or times to which the proceedings may be continued or further heard, and before any court or judge hereafter having or holding any proceedings in connection with said charge, and then and there answer the Commonwealth of Virginia concerning the within charge until the same is finally disposed of, then this recognizance shall be null and void, otherwise to remain in full force and effect.

Given under my hand this, the _____ day of _____, 19____.

T. J. or J. P. or Bail Commissioner

Trial Justice Court

Criminal Docket No. _____

Commonwealth

vs.

Arrest Warrant

Sarah Margaret Shopes

Executed the within warrant by arresting and delivering the body of

Sarah Margaret Shopes

before _____

this 22nd day of _____

August, 1913
W. J. Keaw

Officer's Mileage

Miles travelled by officer - - - _____

Miles carried prisoner - - - _____

Total mileage - - - _____

JUDGEMENT

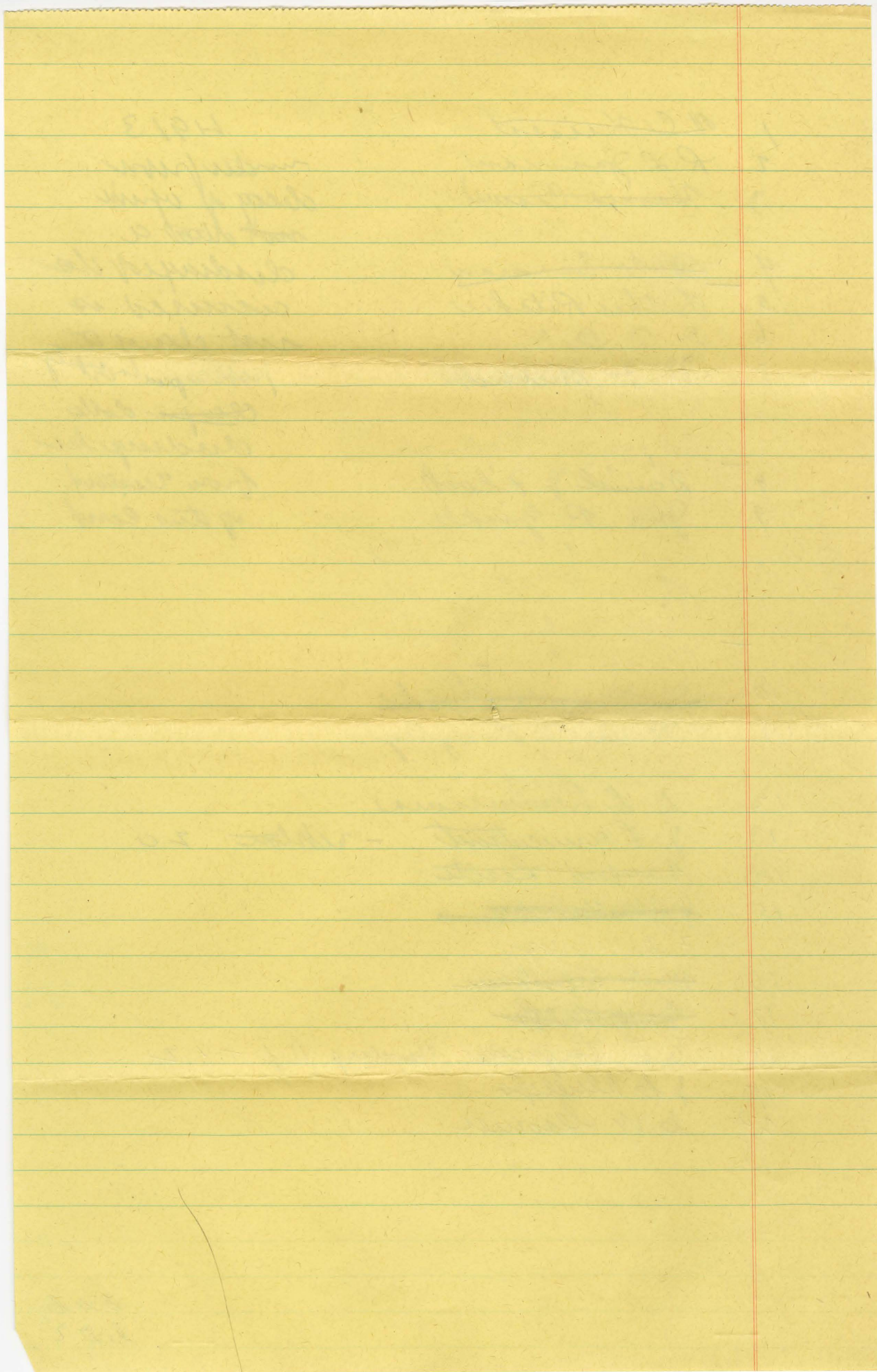
Upon the hearing of the within charge,

| | |
|-----------------------------------|----------------|
| Fine - - - - - | \$ _____ |
| Issuing Justice's Fee - | \$ <u>1.00</u> |
| Clerk's Fee - - - - - | \$ <u>1.25</u> |
| Trial Justice Fee - - - | \$ <u>2.00</u> |
| Arrest and Mileage - | \$ _____ |
| Summoning Witness - | \$ _____ |
| Witness Attendance and Mileage | \$ _____ |
| Commonwealth's Attorney - - - - - | \$ _____ |
| Jail Fees - - - - - | \$ _____ |
| _____ | \$ _____ |
| Total - - - - - | \$ _____ |

Trial Justice

- | | | |
|----|----------------------------|---|
| 1 | M. C. Keiser | 1913 |
| 2 | R. L. Jannan | under prison |
| 3 | Harriet Caswell | deaf of opinion not dead a |
| 4 | M. C. Easman | discharged the |
| 5 | Luther Ritchie | accused is |
| 6 | D. M. Guil | not deaf to |
| 7 | W. F. Messick | - public peace & safety deaf debt discharged by from custody of this court |
| 8 | Samuel J. Flook | |
| 9 | Jno. P. Zirkle | |
| 10 | J. J. ... | |
| 11 | Willie C. Langley | |
| 12 | D. L. Linneman | |
| 13 | J. L. Armentant | - return 20 |
| 14 | Samuel Leete | |
| 15 | J. W. ... | |
| 16 | M. L. ... | |
| 17 | J. M. ... | |
| 18 | E. L. Layman | Prudg R. 1 - 12 |
| 19 | J. G. Phillips | |
| 20 | W. W. Lerouer | |

BWB
b12



In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

*E. E. Miller, Chas. L. Fauls,
Charles Dean, Clarence Shope, Christine Shope,
E. F. Miller, & L. Brown Bradley*

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof,
at 9:30 o'clock, a. m., on the *18th* day of *Nov.* 19 *43* to testify and the truth to
say in behalf of the Defendant in the prosecution of the Commonwealth, against

Sarah Margaret Shope

who stands charged with and indicted for a felony misdemeanor.

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

Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the *17th*
day of *Nov* 19 *43*, and in the *168th* year of the Commonwealth.

J. Robert Switzer, Clerk

Mary Lou
vff

Sarah Margaret Shapel

In the Name of the Commonwealth of Virginia:

To the Honorable Circuit Court of the County of Rockingham, Virginia:

ads

You are hereby commanded to summon

Com.

Francis S. Miller

to appear before the Judge of the Circuit Court of the County of Rockingham, Virginia, at 9:30 o'clock, a.m., on the 19th day of January, 1918, to testify and the truth to say in behalf of the defendant in the within-entitled cause.

Sherriff Fees \$ 2 00

who stands charged with and indicted for a felony misdemeanor.

And this you shall not omit under penalty of \$100. And have them and their heirs

Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the

day of _____ 1918 and in the _____ part of the Commonwealth of Virginia.

Clerk

1918

Jan-18

Executed 11-17-43 by delivering a true copy

of the within summons to E. E. Miller

Charles L. Fauls E. E. Miller
V.S. Burns Brettleby

each in person.

Sam H. Callender

Not finding Charles Dean at his usual

place of abode, Executed 11-17-43 by delivering a

true copy of this summons to Mary Dean

wife in person, at said Charles Dean

usual place of abode. Mary Dean, being a member of
his family above the age of 16 years, and explaining the purport thereof
to her.

Sam H. Callender
S.H.C.

1-17-13
by conveying a true
if the within addition to
18. Bureau
each in person
not finding
plate of abode. Except
the copy of this
in person, at said
usual place of abode
family above listed of 10 years, and explaining the reason
being a resident
18. Bureau
1-17-13
by delivering a
not finding
plate of abode. Except
the copy of this
in person, at said
usual place of abode
family above listed of 10 years, and explaining the reason
being a resident
18. Bureau

Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

Dr. J. L. Byers,

L. E. Payne and W. J. Kean

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof,
at 9:30 o'clock, a. m., on the *18th* day of *Oct.* 19 *43*,

to testify and the truth to say in behalf of the Commonwealth before the GRAND JURY

Sarah Margaret Shope

who stands charged with a felony misdemeanor.

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

Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the *15th*
day of *Oct.* 19 *43* and in the *168th* year of the Commonwealth.

J. Robert Switzer, Clerk

10-16-43

Executed by delivering a true copy

of the within summons to

Mr F.S. Boyer
and W.J. Keane

each in person.

Sam H. Hallward
S.R. Ct.

Sam
Frank Thompson (Shopper)

Shuff for \$1.20

Oct. 18

1943

Not finding L.E. Payne at his usual

place of abode, Executed 10/15/43 by delivering a

true copy of this Sum. to Ada Payne

his Mother in person, at said L.E. Payne

usual place of abode Ada Payne, being a member of his family above the age of 16 years, and explaining the purport thereof to her.

Berlitz Bookkin Dep.
for S.H. Hallward, S.R. Ct.

359

In the Name of the Commonwealth of Virginia:

To the Sheriff of Rockingham County, Greeting:

You are hereby commanded to summon

*Marie Kite, P. W. Earman,
R. E. Payne, Dr. J. L. Byers, Dr. C. J. C.
Harschberger and Wm. J. Keane*

to appear before the Judge of the Circuit Court of Rockingham County, at the Court House thereof,
at 9:30 o'clock, a. m., on the *18th* day of *Nov.* 19 *43*,
to testify and the truth to say in behalf of the Commonwealth against

Sarah Margaret Shape

who stands charged with and indicted for a felony misdemeanor.

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

Witness, J. ROBERT SWITZER, Clerk of our said Court, at the Court House, the *17th*
day of *Nov.*, 19 *43*, and in the 16 *8th* year of the Commonwealth.

J. Robert Switzer, Clerk

Executed 11/17/43 by delivering a true copy

of the within summons to Marie Kite,
P. M. Carman, J. E. Payne,
Dr. G. F. Byers, Dr. F. C. Harschburger &
Wm. J. Keen.

each in person. Berlin, Bodking, Dep
to S. H. Ballender, S.R.C.

Nov. 18

1943

Sherriffs Fee 2.40

Frank M. [unclear]

Carroll

THE STATE ARCHIVE