

October Term 1931

THOMAS SAGER

ADS

Upon an Indictment
for a Misdemeanor.

COMMONWEALTH

Gray
W.P. Linnell
H

| | | |
|-----|-------------------|--------|
| " " | Sheriff Costs | |
| | Each warrant | 100 |
| | Arrest " " | 100 |
| Cal | Tails 3 witnesses | 150 |
| | Board of Jury | 100 |
| | Tails of Court | 150 |
| | Jury | 150 |
| | | <hr/> |
| | | \$7.50 |
| | Jail Fee " | 150 |
| | | <hr/> |
| | Total = = | 900 |



20-4446

STATE OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of said County:

The grand jurors in and for the body of said county of Rockingham and now attending said court at its October term, 1921, upon their oaths, do present that Thomas Sager within one year next prior to the finding of this indictment, in the said county of Rockingham, did unlawfully manufacture, sell, offer, keep, store and expose for sale, give away, transport, dispense, solicit, advertise and receive orders for ardent spirits, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of W. L. Dillard, D. W. Shifflett, B. C. Fulk, and Bryan Baugh, witnesses sworn in court and sent before the grand jury to give evidence.

1105
680
W.C.

Commonwealth of Virginia

Commonwealth of Virginia

As the jury find the defendant, Thomas Sager, guilty as charged in this indictment and for the punishment or fine of \$100.00
C. D. Lawrence
Prosecutor

STATE OF VIRGINIA,
COUNTY OF ROCKINGHAM,

VIOL. PRO. ACT.

Commonwealth

v.) Indictment
Thomas Sager

Misdemeanor - Viol. Pro. Act.

October term, 1921

A True Bill

D. B. Lucas

Foreman

D. W. Earman
Commonwealth's Attorney

We the jury find the defendant Thomas Sager guilty as charged and sentence him to pay a fine of \$50.00 and to serve one month in jail.

C. B. Lawrence
Foreman

We the jury find the defendant, Thomas Sager, guilty as charged in this indictment and fix his punishment at one month in jail for one month and a fine of \$50.00

C. B. Lawrence
Foreman

IN THE CIRCUIT COURT OF ROCKINGHAM COUNTY, VIRGINIA.

COMMONWEALTH

Vs).

THOMAS SAGER.

BE IT REMEMBERED THAT on the trial of this case the Commonwealth, to maintain the indictment returned by the grand jury, introduced the following witnesses, all of whom were first duly sworn and who testified:

W. L. DILLARD, examined in chief by Mr. Earman for the Commonwealth:

Q Mr. Dillard, you are the sheriff of Rockingham County?

A Yes, sir.

Q Mr. Dillard, just state to the jury, there, what you know about this case of your own knowledge?

A Gentlemen, on October 11th, 1921, I had information as to a car that was coming in the direction of Harrisonburg containing some suit cases, and that it was a West Virginia car with two men in it under the influence of whiskey. I swore out a warrant for the West Virginia car and proceeded on my way towards Broadway. I found this car on the road leading from the Valley turnpike through Mayland, and across to the Broadway road, near the Sigler orchard on top of the hill, and when I pulled up to it I found three men in the car; one was Mr. Byron Baugh, who lives ^{between} ~~xxxxx~~ Broadway and Timberville; C. B. Fulk, who lives at Bennett's Run near the West Virginia line, and this young man who gave his name as Tom Sager. They were all in the car at the time. The two men, C. B. Fulk and Byron Baugh, were on the back-seat playing cards. They had a deck of cards and money up,

COMMONWEALTH

vs.

THOMAS SAGER.

BE IT REMEMBERED THAT on the trial of this case the Commonwealth, to maintain the indictment returned by the grand jury, introduced the following witnesses, all of whom were first duly sworn and who testified:

W. L. DILLARD, examined in chief by Mr. Warren for the Commonwealth:

Q Mr. Dillard, you are the sheriff of Rockingham County?

A Yes, sir.

Q Mr. Dillard, just state to the jury, there, what you know about this case of your own knowledge?

A Gentlemen, on October 15th, 1931, I had information as to a car that was coming in the direction of Harrisonburg containing some suit cases, and that it was a West Virginia car with two men in it under the influence of whiskey. I swore out a warrant for the West Virginia car and proceeded on my way towards Broadway. I found this car on the road leading from the Valley turnpike through Maryland, and across to the Broadway road, near the Sigler orchard on top of the hill, and when I pulled up to it I found three men in the car; one was Mr. Byron Baugh, who lives at ^{between} Broadway and Timberville; C. B. Fulk, who lives at Bennett's Run near the West Virginia line, and this young man who gave his name as Tom Sager. They were all in the car at the time. The two men, C. B. Fulk and Byron Baugh, were on the back-seat playing cards. They had a deck of cards and money up

and Mr. Sager was on the front seat, leaning over, with some cards in his hand. He claimed that he wasn't playing. The other men were playing. It might be that Mr. Sager was not playing, and I gave him the benefit of it. It might have been that he was just holding the cards. I asked them to get out of the car and stated to them that I had a warrant for them -- for the car. They all three got out, and I told Mr. Shiflett to look through Mr. Sager, and Mr. Sager had contained under his coat, or he had on a sweater at the time, and he had contained under that sweater right here (indicating) that quart can (jar) with that whiskey in it. Mr. Fulk was considerably drunk and Mr. Baugh was considerably under the influence of whiskey. Mr. Sager did not show to me to be under the influence of whiskey, although I found the liquor on him and he said it was his at the time and the car was his. So I brought the three gentlemen here to Harrisonburg; and Mr. Baugh and Mr. Fulk were tried before the magistrate and were fined five dollars in each case for gambling, and were turned loose. I will show you gentlemen that I got the cards and I also got the money, or I got that much money, (producing deck of cards of some money) and that money I picked up off the seat, and shows that they were really in the car.

MR. EARMAN: I do not think that has anything to do with this question.

WITNESS: I just wanted to show that that was there. Mr. Sager had some of the cards in his hands, but whether he was playing or whether he wasn't, I do not know.

MR. HAMMER: I submit that that is not evidence in this case, whether he was or was not playing cards.

THE COURT: The witness says he does not know whether Sager was playing or not.

Q Mr. Dillard, about how much liquor is in this quart jar which you found on the person of Mr. Sager?

A There is about, I judge -- That is a quart can and it is

and Mr. Sager was on the front seat, leaning over, with some cards in his hand. He claimed that he wasn't playing. The other men were playing. It might be that Mr. Sager was not playing, and I gave him the benefit of it. It might have been that he was just holding the cards. I asked them to get out of the car and stated to them that I had a warrant for them -- for the car. They all three got out, and I told Mr. Shifflett to look through Mr. Sager, and Mr. Sager had contained under his coat, or he had on a sweater at the time, and he had contained under that sweater right here (indicating that quart can jar) with that whiskey in it. Mr. Fuik was considerably drunk and Mr. Baugh was considerably under the influence of whiskey. Mr. Sager did not show to me to be under the influence of whiskey, although I found the liquor on him and he said it was his at the time and the car was his. So I brought the three gentlemen here to Harrisburg; and Mr. Baugh and Mr. Fuik were tried before the magistrate and were fined five dollars in each case for gambling, and were turned loose. I will show you gentlemen that I got the cards and I also got the money, or I got that much money, (producing book of cards of some money) and that money I picked up off the seat, and shows that they were really in the car.

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MR. HAMMER: I submit that that is not evidence in this case, whether he was or was not playing cards.

THE COURT: The witness says he does not know whether Sager was playing or not.

Q Mr. Dillard, about how much liquor is in this quart jar

which you found on the person of Mr. Sager?

A There is about, I judge -- That is a quart can and it is

about three quarters full --

MR. HAMMER: (Interrupting) It is three parts gone, you mean, do you not?

WITNESS: That is what I mean.

Q It is one-fourth full?

A One-fourth full; that is what I mean. I had it analyzed, and this is the analysis that was made. I got the liquor on the 11th and I had it analyzed on the 12th.

Q What per cent of alcohol did the analysis show?

A Fifty-four and thirty-eighth hundredths per cent alcohol. It is grain alcohol.

Q Then, in the quart jar which you found on the person of Mr. Sager that day there was something between a pint or a half pint of moonshine liquor, containing 54.38 per cent of alcohol?

A Yes, sir.

Q And ~~at~~ the point at which you found Sager in the automobile is in Plains Magisterial District, Rockingham County, Virginia?

A Yes, sir; it is.

Q And he admitted that the liquor was his?

A Yes, sir.

Q And the automobile was his?

A Yes, sir.

CROSS-EXAMINATION BY MR. HAMMER:

X Mr. Earman has asked you about that being moonshine liquor; all you have to judge from that it is moonshine liquor is the fact that it is white? Is not that the fact?

A It bears all that this class of liquor bears that I have taken in custody.

X You know, as a matter of fact, that there is no difference in liquor as it runs from the still whether it is legally made or illegally made? It has the same color at that time; you know

about three quarters full --

MR. HANMER: (Interrupting) It is three parts gone, You mean, do you not?

WITNESS: That is what I mean.

Q It is one-fourth full?

A One-fourth full; that is what I mean. I had it analyzed, and this is the analysis that was made. I got the liquor on the 15th and I had it analyzed on the 18th.

Q What per cent of alcohol did the analysis show?

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It is grain alcohol.

Q Then, in the quart jar which you found on the person of Mr. Seger that day there was something between a pint or a half pint of moonshine liquor, containing 54.38 per cent of alcohol?

A Yes, sir.

Q And at the point at which you found Seger in the automobile is in Plains Magisterial District, Rockingham County, Virginia?

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Q And the automobile was his?

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all you have to judge from that it is moonshine liquor is the

fact that it is white? Is not that the fact?

A It bears all that this class of liquor bears that I have

taken in custody.

X You know, as a matter of fact, that there is no difference

in liquor as it runs from the still whether it is legally made

or illegally made? It has the same color at that time; you know

that?

A I would not say that it is all the same color. I have seen liquor that is not the same color as that.

X Not when it was newly made have you?

A Yes, when it is run off -- when it is newly run off. I have some in my possession, now, that I got when it was running off that is not like that liquor (indicating).

X Do you or do you not know that the distilling process with liquor is nothing in the world but the condensed steam which arises from boiling the beer or fluid and which runs out clear as water, after it has come from the distillery?

A Depends on what brand they are making; some make one brand and some another of goods.

X I do not want to put you in a bad position, Mr. Dillard. I know you are wrong. I will ask you, have you ever been to a grain distillery?

A Not to a grain distillery.

X Have you ever seen rye liquor run off?

A No, sir.

X Have you ever seen corn run off at a distillery?

A No, sir.

X You have seen apple brandy run off?

A Yes, sir; I have seen apple brandy made.

X That comes out clear?

A Yes, sir. And I am telling you about this mash that they make up that looks like hog slop.

X Did you ever see any distillery, government or otherwise, where they were making rye or corn liquor that was not produced from a mash just such as you mention?

A I don't know. I never saw a government still in operation.

X You never saw one?

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brand and some another of goods.

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grain distillery?

A Not to a grain distillery.

X Have you ever seen the liquor run off?

A No, sir.

X Have you ever seen corn run off at a distillery?

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X You have seen apple brandy run off?

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they make up that looks like hog slop.

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where they were making the or corn liquor that was not produced

from a mash just such as you mention?

A I don't know. I never saw a Government still in operation.

X You never saw one?

A No, sir.

X As a matter of fact, it does run white just like that. This boy (Sager) you say, was sober?

A Yes, sir. I do know this, that these little distilleries -- and you know it yourself -- if you catch them, that the stuff is not always white like that. They run the stuff through the still the second time, or they are supposed to do it.

X It is all white, but they run it through the second time to get strength, don't they?

A I do not know. I do not know the process of running liquor. I know that when I have got them the liquor is not clear and white like that.

X Is not that due in a large measure to the vessels they use, that some of them are not cleanly?

A I do not know.

Witness told to stand aside.

D. W. SHIFLETT, examined in chief for the Commonwealth by Mr. Earman, testified:

Q Mr. Shiflett, what is your given name?

A Daniel W. Shiflett.

Q You are a special officer, are you, for this county?

A Yes, sir; of the town.

Q Of the city of Harrisonburg?

A Yes, sir.

Q You were with Mr. Dillard when he arrested Thomas Sager on October 11, 1921, down here near the Sigler orchard, were you not, along the road there?

A Yes, sir.

Q Who searched Mr. Sager?

A I did.

A No, sir.

X As a matter of fact, it does run white just like that.

This boy (Sager) you say, was sober?

A Yes, sir. I do know this, that these little distiller-

ies -- and you know it yourself -- if you catch them, that the

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X Is not that due in a large measure to the vessels they

use, that some of them are not cleanly?

A I do not know.

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D. W. SHIFFETT, examined in chief for the Commonwealth by Mr.

Hartman, testified:

Q Mr. Shiffett, what is your given name?

A Daniel W. Shiffett.

Q You are a special officer, are you, for this county?

A Yes, sir; of the town.

Q Of the city of Harrisburg?

A Yes, sir.

Q You were with Mr. Dillard when he arrested Thomas Sager

on October 11, 1921, down here near the Sigler orchard, were you

not, along the road there?

A Yes, sir.

Q Who searched Mr. Sager?

A I did.

Q What did you find on him?

A I found a quart can underneath his sweater, on his right side, in here (indicating).

Q What sized can was it?

A Quart.

Q How much liquor was in the can?

A Looked like between a pint and a half-pint; it wasn't a pint and it was over a half-pint, I think.

Q Did he have his sham or coat buttoned up?

A Yes, sir; I think it was buttoned up. I know I searched his pockets and began to think I wasn't going to find anything. I searched in there (indicating) and he kind of had his arm in that way, and this can was right up in there. I reached underneath his sweater and pulled it out.

Q Did he have this container or fruit jar with the liquor in it in his pocket?

A No, it was right underneath his sweater. It was not in his pocket at all; it was underneath his sweater. I do not know whether he had his hand in his pocket or whether it was down this way -- his sweater was tolerably tight -- and I do not know what kept the can up there, whether the tightness of the sweater or whether he held it there by his arm.

Q You do not know how he held it on his person?

A No, sir.

Q He had the liquor in a can underneath his sweater?

A Yes, sir.

Q Did you say he had a coat on or not?

A No, sir; he had no coat on.

Q Did he say whose liquor it was?

A. I don't know as he said whose liquor it was. They asked him about the car and I understood him to say it was his car. I

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Q What did you find on him?

A I found a quart can underneath his sweater, on his right

side, in here (indicating).

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Q How much liquor was in the can?

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pint and it was over a half-pint, I think.

Q Did he have his shirt or coat buttoned up?

A Yes, sir; I think it was buttoned up. I know I searched

his pockets and began to think I wasn't going to find anything.

I searched in there (indicating) and he kind of had his arm in

that way, and this can was right up in there. I reached under-

neath his sweater and pulled it out.

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in it in his pocket?

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whether he had his hand in his pocket or whether it was down this

way -- his sweater was tolerably tight -- and I do not know what

kept the can up there, whether the tightness of the sweater or

whether he held it there by his arm.

Q You do not know how he held it on his person?

A No, sir.

Q He had the liquor in a can underneath his sweater?

A Yes, sir.

Q Did you say he had a coat on or not?

A No, sir; he had no coat on.

Q Did he say whose liquor it was?

A I don't know as he said whose liquor it was. They asked

him about the car and I understood him to say it was his car. I

do not know as he said whose liquor it was.

Q Did he say how long he had been carrying this can under his sweater, or anything like that?

A No, sir; he did not state at all.

Q Did he say where he was going?

A I think he said he was going to Roanoke.

Q Did he say where he had come from?

A West Virginia, I think.

Q Did he say how he happened to come in possession of this liquor?

A No; I did not understand him to say that.

Q Did you see in his automobile there a suit case?

A I saw two.

Q Or a hand-bag?

A I searched two suit-cases.

Q Where were the suit cases?

A One was behind, I think, on the hind seat, and one was in front. The sheriff stood there with the prisoners and told me to search this car and I searched these two suit cases and did not find anything but clothes.

Q One suit case was in the front part of the car, and the other was in the rear of the car between the two seats?

A Yes, sir.

MR. HAMMER: I don't wish to cross-examine.

Witness told to stand aside.

BYRON BAUGH, another witness examined by Mr. Earman for the Commonwealth, testified:

Q You were one of the occupants of the car when the sheriff and Mr. Shiflett made the arrest of Mr. Sager and yourself and Mr. Fulk, were you not?

A Yes, sir.

Q Did he say how long he had been carrying this can under
do not know as he said whose liquor it was.

his sweater, or anything like that?

A No, sir; he did not state at all.

Q Did he say where he was going?

A I think he said he was going to Roanoke.

Q Did he say where he had come from?

A West Virginia, I think.

Q Did he say how he happened to come in possession of this

liquor?

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in front. The sheriff stood there with the prisoners and told

me to search this car and I searched these two suit cases and did

not find anything but clothes.

Q One suit case was in the front part of the car, and the

other was in the rear of the car between the two seats?

A Yes, sir.

MR. HAMILTON: I don't wish to cross-examine.

Witness told to stand aside.

BYRON BAUGH, another witness examined by Mr. Examan for the

Commonwealth, testified:

Q You were one of the occupants of the car when the sheriff

and Mr. Shifflet made the arrest of Mr. Sager and yourself and

Mr. Fulk, were you not?

A Yes, sir.

X Which suit case belonged to you?

A The tan one.

X Where did you have it?

A In the hind-seat of the car.

X And there was not room in the suit-case for this jar?

A No, sir.

X You say the car belonged to you?

A Yes, sir.

X What is your age, Mr. Sager?

A I will be 22 the 6th of February.

X I believe the other two occupants of the car, Fulk and Baugh, were under the influence of liquor to a certain extent?

A Yes, sir; I guess they were.

X Sir?

A I guess they were; they acted like it.

X You were sober?

A Yes, sir.

X Do you know where they got their liquor?

A No, sir; I do not.

X You spent the night, I believe, at Mr. Fulk's home?

A Yes, sir.

X What time did you leave ^{Mr. Fulk's} home that morning?

A About 8 o'clock in the morning.

X About 8 O'clock?

A Eight or 9 o'clock, something like that.

X C. B. Fulk was sober when he left home that morning, was he not?

A I thought he was. He might have taken some, I don't know. I don't know of his drinking anything before he left his home.

X Which suit case belonged to you?

A The tan one.

X Where did you have it?

A In the hind-seat of the car.

X And there was not room in the suit-case for this jar?

A No, sir.

X You say the car belonged to you?

A Yes, sir.

X What is your age, Mr. Sager?

A I will be 22 the 6th of February.

X I believe the other two occupants of the car, Fulk and

Baugh, were under the influence of liquor to a certain extent?

A Yes, sir; I guess they were.

X Sir?

A I guess they were; they acted like it.

X You were sober?

A Yes, sir.

X Do you know where they got their liquor?

A No, sir; I do not.

X You spent the night, I believe, at Mr. Fulk's home?

A Yes, sir.

X What time did you leave home that morning?

A About 8 o'clock in the morning.

X About 8 o'clock?

A Eight or 9 o'clock, something like that.

X C. B. Fulk was sober when he left home that morning, was

he not?

A I thought he was. He might have taken some, I don't know.

I don't know of his drinking anything before he left his home.

X You do not know where he got his liquor after he left his home?

A No; we stopped at several places, but I don't know whether he got liquor or not. I don't know where he got it. He did not get it of me, I am sure.

X Where did you stop?

A Stopped at Cootes' for one place.

X Cootes' Store?

A Yes, sir. And at Fulk's Run.

m X You stopped at Fulk's Run, too?

A Yes, sir. I was getting gas; and at Broadway I got some cylinder oil. I do not know where he went. I wasn't watching him, then.

X Do you know where Mr. Baugh got his liquor?

A No, sir. He was about the same way when I saw him as he was when he was up here.

MR. HAMMER: What was that?

WITNESS: I did not see any change in him. I don't drink it myself.

X Did Baugh or Fulk know that you had this liquor under your sweater?

A I don't suppose they did. They both said they did not. I don't think they did.

X What did you do with the liquor that night when you went to Mr. Fulk's? You took your sweater off when you went to bed, didn't you?

A Yes, sir.

X What did you do with your liquor then?

A I had it hid until the next morning.

X You hid it until the next morning?

A Yes, sir.

Witness dismissed.

X You do not know where he got his liquor after he left

his home?

A Not we stopped at several places, but I don't know whether he got liquor or not. I don't know where he got it. He did not get it of me. I am sure.

X Where did you stop?

A Stopped at Coates' for one place.

X Coates' Store?

A Yes, sir. And at Fulk's Run.

X You stopped at Fulk's Run, too?

A Yes, sir. I was getting gas; and at Broadway I got some cylinder oil. I do not know where he went. I wasn't watching him, then.

X Do you know where Mr. Brough got his liquor?

A No, sir. He was about the same way when I saw him as he was when he was up here.

MR. HAMMER: What was that?

WITNESS: I did not see any change in him. I don't drink it myself.

X Did Brough or Fulk know that you had this liquor under your

sweater?

A I don't suppose they did. They both said they did not. I don't think they did.

X What did you do with the liquor that night when you went to Mr. Fulk's? You took your sweater off when you went to bed,

didn't you?

A Yes, sir.

X What did you do with your liquor then?

A I had it hid until the next morning.

X You hid it until the next morning?

A Yes, sir.

Witness dismissed.

B. F. MOYERS, sworn, examined in chief by Mr. Hammer for the accused, testified:

Q Doctor Moyers, you are a practicing physician, I believe, and practice at Matthias, West Virginia?

A Yes, sir.

Q How long have you known this young man, Thomas Sager?

A I have known Sager from childhood.

Q You have known him since he was a little child?

A Yes, sir.

Q Do you know the general reputation that he bears in that community among the people there for truth?

A Well, this has been a surprise to the people over there, quite a surprise, because the people thought better of him than that. He has had a good reputation back there ever since I have known him.

Q You mean, reputation for truth, too?

A Yes, sir.

Q From your answer what am I to understand as to the surprise of the people -- that he had a good reputation or a bad reputation as a law-abiding citizen?

A He had the reputation of a good citizen. It was a surprise that he would be into a thing like this.

CROSS-EXAMINATION BY MR. EARMAN:

X Where do you live, Doctor?

A Matthias.

X Does Mr. Sager live in the same town?

A I do not know just where he makes his home. His father is not living and he stays with his mother part of the time; and then he staid with his uncle part of the time this summer.

X How far do they live from where you live?

B. F. MOYERS, sworn, examined in chief by Mr. Hammer for the

accused, testified:

Q Doctor Moyers, you are a practicing physician, I believe,

and practice at Martins, West Virginia?

A Yes, sir.

Q How long have you known this young man, Thomas Sager?

A I have known Sager from childhood.

Q You have known him since he was a little child?

A Yes, sir.

Q Do you know the general reputation that he bears in that

community among the people there for truth?

A Well, this has been a surprise to the people over there,

quite a surprise, because the people thought better of him than

that. He has had a good reputation back there ever since I have

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Q You mean, reputation for truth, too?

A Yes, sir.

Q From your answer what am I to understand as to the surprise

of the people -- that he had a good reputation or a bad reputation

as a law-abiding citizen?

A He had the reputation of a good citizen. It was a surprise

that he would be into a thing like this.

CROSS-EXAMINATION BY MR. BARNER:

X Where do you live, Doctor?

A Martins.

X Does Mr. Sager live in the same town?

A I do not know just where he makes his home. His father

is not living and he stays with his mother part of the time;

and then he stays with his uncle part of the time this summer.

X How far do they live from where you live?

A Just across the road, perhaps, 50 or 100 yards from my house.

X You say his general reputation for truth is good?

A His general reputation in every way, as far as I know, is good.

Witness dismissed.

J. C. HEPNER, sworn, examined by Mr. Hammer for the accused, testified:

Q Where do you live, Mr. Hepner?

A Matthias, West Virginia.

Q What business are you engaged in there?

A I am post-master, and in the mercantile business.

Q How long have you been engaged in that business?

A About twelve years, I guess.

Q Do you know Thomas Sager?

A Yes, sir; I know Mr. Thomas Sager.

Q How long have you known him?

A Ever since he could walk.

Q Do you know his general reputation in the community in which he lives as a truthful man?

A His reputation is good as far as I know. I never heard anything at all to the contrary.

Q Do you know the reputation he bears in that community as a law-abiding citizen?

A He has never been arrested before as I know of, and I have known him ever since he was a boy.

Q As I understand, his reputation both for truth and as a law-abiding citizen is good among the people with whom he lived?

A Yes, sir.

Witness dismissed.

A Just across the road, perhaps, 50 or 100 yards from my

house.

X You say his general reputation for truth is good?

A His general reputation in every way, as far as I know, is

good.

Witness dismissed.

J. C. HEPPER, sworn, examined by Mr. Hammer for the accused,

testified:

Q Where do you live, Mr. Hepper?

A Mathias, West Virginia.

Q What business are you engaged in there?

A I am post-master, and in the mercantile business.

Q How long have you been engaged in that business?

A About twelve years, I guess.

Q Do you know Thomas Sager?

A Yes, sir; I know Mr. Thomas Sager.

Q How long have you known him?

A Ever since he could walk.

Q Do you know his general reputation in the community in

which he lives as a truthful man?

A His reputation is good as far as I know. I never heard

anything at all to the contrary.

Q Do you know the reputation he bears in that community as

a law-abiding citizen?

A He has never been arrested before as I know of, and I

have known him ever since he was a boy.

Q As I understand, his reputation both for truth and as a

law-abiding citizen is good among the people with whom he lives?

A Yes, sir.

Witness dismissed.

E. L. STRAWDERMAN, sworn, examined by Mr. Hammer for the accused, testified:

Q Where do you live, Mr. Strawderman?

A At Matthias, West Virginia.

Q What is your business?

A Blacksmithing.

Q How long have you been living in Matthias and conducting the blacksmith business there?

A I can't just exactly tell you, but for the last 12 or 15 years.

Q Do you know Thomas Sager, the defendant here?

A Yes, sir; I have known him ever since he was a baby.

Q Do you know the general reputation he bears in that community as a truthful boy?

A Yes, sir; good.

Q Do you know the general reputation he bears in that community as a law-abiding citizen?

A Yes, sir; it is good. I have never known him to misbehave, even, anywhere. This is the first I ever heard anything against him at all.

Witness dismissed.

T. W. MATTHIAS, sworn, examined by Mr. Hammer for the accused, testified:

Q Where do you live, Mr. Matthias?

A Near Matthias, W. Va.

Q What is your business?

A Farming.

Q Do you know Thomas Sager, the defendant here?

A Yes, sir.

Q How long have you known him?

E. L. STRAWBRMAN, sworn, examined by Mr. Hammer for the

accused, testified:

Q Where do you live, Mr. Strawbrman?

A At Mattias, West Virginia.

Q What is your business?

A Blacksmithing.

Q How long have you been living in Mattias and conducting

the blacksmith business there?

A I can't just exactly tell you, but for the last 12 or 13

years.

Q Do you know Thomas Sager, the defendant here?

A Yes, sir; I have known him ever since he was a baby.

Q Do you know the general reputation he bears in that com-

munity as a truthful boy?

A Yes, sir; good.

Q Do you know the general reputation he bears in that commu-

nity as a law-abiding citizen?

A Yes, sir; it is good. I have never known him to misbehave,

even anywhere. This is the first I ever heard anything against

him at all.

Witness dismissed.

T. W. MATHIAS, sworn, examined by Mr. Hammer for the accused,

testified:

Q Where do you live, Mr. Mathias?

A Near Mattias, W. Va.

Q What is your business?

A Farming.

Q Do you know Thomas Sager, the defendant here?

A Yes, sir.

Q How long have you known him?

A Ever since he was a small child.

Q Do you know the reputation he bears among the people of that community for truth?

A Yes, sir; a very good reputation, as far as I know. I have never heard anything to the contrary.

Q How about his reputation as a law-abiding citizen?

A Very good as far as I know. I never knew him to misbehave anywhere.

Witness dismissed.

And thereupon the accused, by counsel, rested; and this being all of the testimony introduced, or offered to be introduced on behalf of either the Commonwealth or on behalf of the accused, the accused, by counsel, requested the Court to instruct the jury as follows:

1.

The Court instructs the jury that the accused is presumed to be innocent until his guilt is established by the evidence, and that he rests secure in this presumption of innocence until proof is adduced which establishes his guilt beyond reasonable doubt.

2.

The Court instructs the jury that if they believe from the evidence that the accused had in his pocket less than one pint of liquor which he was transporting upon his person from Matthias, West Virginia, to Roanoke, Virginia, for his own use, and if they believe from the evidence that this was an inadvertent violation of the law on his part, then the jury are instructed that they may find him guilty of a misdemeanor and fix his punishment by fine, provided said fine shall not be less than \$_____.

Q Ever since he was a small child.
 Q Do you know the reputation he bears among the people of
 that community for truth?
 A Yes, sir; a very good reputation, as far as I know. I
 have never heard anything to the contrary.
 Q How about his reputation as a law-abiding citizen?
 A Very good as far as I know. I never knew him to misbehave
 anywhere.

Witness dismissed.

And thereupon the accused, by counsel, rested; and this
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 is adduced which establishes his guilt beyond reasonable doubt.

2.

The Court instructs the jury that if they believe from the
 evidence that the accused had in his pocket less than one pint
 of liquor which he was transporting upon his person from Martins-
 burg, West Virginia, to Roanoke, Virginia, for his own use, and if they
 believe from the evidence that this was an inadvertent violation
 of the law on his part, then the jury are instructed that they
 may find him guilty of a misdemeanor and fix his punishment by
 fine, provided said fine shall not be less than \$_____.

3.

The Court instructs the jury that if they believe from the evidence that the accused Thomas Sager had in his overcoat pocket less than one quart of ardent spirits which he was transporting from Matthias, West Virginia, where he formerly lived, to Roanoke, Virginia, where he was going to work, on the 11th day of October, 1921, yet if they further believe from the evidence that the accused was not transporting liquor for sale, then the jury must find the accused not guilty.

4.

The Court instructs the jury that if they believe from the evidence in this case beyond a reasonable doubt that Thomas Sager had in his overcoat pocket less than one quart of ardent spirits when he was arrested near Broadway, Va., in Rockingham County, yet if they further believe from the evidence that he was carrying these ardent spirits for his own personal use and not as a means of evading the meaning and intent of the Prohibition Act of this State, and not to be used contrary to the Prohibition Act of this State, then they must find the accused not guilty.

5.

The Court instructs the jury that if they believe from the evidence that Thomas Sager when he started from his residence near Matthias, West Virginia, had less than one quart of liquor in his suit case, and, that, thereafter, while en route from Matthias, West Virginia, to Roanoke, Va., he stopped at the home of S. D. Holloman where he got a pair of shoes which he placed in his suit case, taking said liquor therefrom and placing the same in his pocket, that the carrying of said liquor

3.

The Court instructs the jury that if they believe from the evidence that the accused Thomas Sager had in his overcoat pocket less than one quart of ardent spirits which he was transporting from Mathias, West Virginia, where he formerly lived, to Roanoke, Virginia, where he was going to work, on the fifth day of October, 1921, yet if they further believe from the evidence that the accused was not transporting liquor for sale, then the jury must find the accused not guilty.

4.

The Court instructs the jury that if they believe from the evidence in this case beyond a reasonable doubt that Thomas Sager had in his overcoat pocket less than one quart of ardent spirits when he was arrested near Broadway, Va., in Rockingham County, yet if they further believe from the evidence that he was carrying these ardent spirits for his own personal use and not as a means of evading the meaning and intent of the Prohibition Act of this State, and not to be used contrary to the Prohibition Act of this State, then they must find the accused not guilty.

5.

The Court instructs the jury that if they believe from the evidence that Thomas Sager when he started from his residence near Mathias, West Virginia, had less than one quart of liquor in his suit case, and, that, thereafter, while en route from Mathias, West Virginia, to Roanoke, Va., he stopped at the home of S. D. Hefloman where he got a pair of shoes which he placed in his suit case, taking said liquor therefrom and placing the same in his pocket, that the carrying of said liquor

on his person under those circumstances was within the fair intendment of the law carrying the same in his personal baggage, and they must acquit him.

But the Court refused to grant said instructions ^{and each of them,} requested by Counsel for the accused; to which action of the Court the accused, by counsel, excepted.

Thereupon, the Court, on request of the Commonwealth by Counsel, gave the Jury the following instruction, orally:

INSTRUCTION

Gentlemen of the Jury, the law forbids the transportation of ardent spirits for any distance or for any period of time, except that it allows one to transport ardent spirits in his baggage provided it is not to be used for an illegal purpose. He cannot carry it about his person at any time for any purpose. If he carries it, transports it, from one place to another, about his person, he is guilty of a violation of the law.

To the granting and giving of said instruction by the Court to the jury the accused, by counsel, excepted.

Thereupon the case was submitted to the jury without argument, and the jury, after having retired to their jury-room to consider of their verdict, returned into Court, and rendered the following verdict:

"We, the jury, find the defendant, Thomas Sager, guilty as charged in the indictment and fix his punishment at confinement in jail for one month and a fine of \$50.00. C. B. Lawson, Foreman."

Thereupon, the accused, by counsel, moved the Court to set

on his person under these circumstances was within the fair
intendment of the law carrying the same in his personal baggage,
and they must acquit him.

But the Court refused to grant said instructions requested
by Counsel for the accused; to which action of the Court the
accused, by counsel, excepted.

Thereupon, the Court, on request of the Commonwealth by
Counsel, gave the jury the following instruction, orally:

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of ardent spirits for any distance or for any period of time,
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pose. If he carries it, transports it, from one place to
another, about his person, he is guilty of a violation of the
law.

For the granting and giving of said instruction by the
Court to the jury the accused, by counsel, excepted.
Thereupon the case was admitted to the jury without argu-
ment, and the jury, after having retired to their jury-room to
consider of their verdict, returned into Court, and rendered
the following verdict:

"We, the jury, find the defendant, Thomas Sager, guilty
as charged in the indictment and fix his punishment at confine-
ment in jail for one month and a fine of \$50.00. C. B. Lawson,
Foreman."

Thereupon, the accused, by counsel, moved the Court to set

aside the said verdict and grant him a new trial, on the ground that said verdict was contrary to the law and the evidence; but the Court refused to grant said motion, and proceeded to enter judgment in accordance with said verdict.

To which action of the Court in refusing to instruct the jury as requested by the accused, by counsel, and in instructing the jury in accordance with the request of the Commonwealth, by counsel, and in refusing to set aside the said verdict of the jury, as contrary to the law and the evidence, and in entering judgment in accordance therewith, the accused, by counsel, excepted, and prays that this his Bill of Exception No. 1, may be signed, sealed and enrolled and made a part of the record of this Court, which is accordingly done this 14th day of November, 1921, ^{during the term ~~at which~~ of the Court} ~~and within~~ ~~days from the day~~ ~~at which said judgment was rendered~~ ~~of the rendering of said judgment.~~

J. H. Nease

JUDGE.

...the said verdict and grant him a new trial, on the ground
that said verdict was contrary to the law and the evidence; but
the Court refused to grant said motion, and proceeded to enter
judgment in accordance with said verdict.

To which action of the Court in refusing to instruct the
jury as requested by the accused, by counsel, and in instructing
the jury in accordance with the request of the Commonwealth, by
counsel, and in refusing to set aside the said verdict of the
jury, as contrary to the law and the evidence, and in entering
judgment in accordance therewith, the accused, by counsel, ex-
cepted, and prays that this Bill of Exception No. 1, may
be signed, sealed and enrolled and made a part of the record

of this Court, which is accordingly done this 11th day of
November, 1921, and which ~~does not~~ ~~is~~ ~~not~~ ~~of~~ ~~the~~ ~~nature~~ ~~of~~ ~~the~~ ~~Bill~~ ~~of~~ ~~Exceptions~~ ~~of~~ ~~this~~ ~~Court~~
of the rendering of said judgment.

JUDGE J. A. Keay

Q You and Mr. Fulk were on the rear seat of the car?

A Yes, sir.

Q And where was Mr. Sager?

A He was on the front seat.

Q Did you see Mr. Sager when the liquor was found on his person?

A Yes, sir; I saw him at the time he was taken out of the car and examined.

Q How was that?

A I saw the jar when it was taken out from underneath his sham.

Q How much liquor did he have under his sham, and what was it in?

A In a quart jar. I judge between a pint or a half pint, something like that, as near as I can recollect.

Q Do you know who had that?

A Indeed, I do not.

Q Do you know how long he had it under his sham?

A No, sir; I do not.

Q Where did you meet up with him?

A I was in Broadway when I met up with him.

Q What time of day did he come there, Byron?

A Indeed, I don't know, exactly, what time it was. I wanted to come to Harrisonburg, and it was just a few minutes before or after 9 o'clock, somewhere along there.

Q In the morning?

A Yes, sir. I heard Mr. Fulk say that Mr. Sager was coming to Harrisonburg and I could go along.

Q Did you know he had the liquor?

A No, sir.

Q You and Mr. Fink were on the rear seat of the car?

A Yes, sir.

Q And where was Mr. Sager?

A He was on the front seat.

Q Did you see Mr. Sager when the liquor was found on his

person?

A Yes, sir; I saw him at the time he was taken out of the

car and examined.

Q How was that?

A I saw the jar when it was taken out from underneath his

sham.

Q How much liquor did he have under his sham, and what was

it in?

A In a quart jar. I judge between a pint or a half pint,

something like that, as near as I can recollect.

Q Do you know who had that?

A Indeed, I do not.

Q Do you know how long he had it under his sham?

A No, sir; I do not.

Q Where did you meet up with him?

A I was in Broadway when I met up with him.

Q What time of day did he come there, Byron?

A Indeed, I don't know, exactly, what time it was. I wanted

to come to Harrisonburg, and it was just a few minutes before or

after 9 o'clock, somewhere along there.

Q In the morning?

A Yes, sir. I heard Mr. Fink say that Mr. Sager was coming

to Harrisonburg and I could go along.

Q Did you know he had the liquor?

A No, sir.

This being all of the evidence introduced, or offered to be introduced by the Commonwealth, to support the charge alleged in the indictment, the Commonwealth, by Counsel, rested; and, thereupon, the accused, offered the following evidence in his defense:

THOMAS SAGER, the accused, being first duly sworn, examined in chief by Mr. Hammer, testified:

Q Where do you live, Mr. Sager?

A Matthias, West Virginia.

Q In what county is that?

A Hardy county.

Q I believe your father is dead but your mother is living?

A Yes, sir.

Q You are charged here with transporting liquor from Matthias, W. Va., into this county, on the 11th of October, 1921; where were you ^{going} on that day?

A I was going to Roanoke, Va.

Q For what purpose?

A To work.

Q When you started from Matthias, West Virginia, from your home, I mean, what did you have? You were transporting your property and this liquor, if you had it. Where did you get the liquor? Where did you bring it from?

A From my home.

Q You brought it from your home, at Matthias, West Va.?

A Yes, sir.

Q When you started from home where was the liquor? I mean, where did you have it?

A I put it in my suit case.

Q You put it in your suit case?

A Yes, sir.

Q Did you afterwards take it out of your suit case?

A Yes, sir.

This being all of the evidence introduced, or offered to be introduced by the Commonwealth, to support the charge alleged in the indictment, the Commonwealth, by Counsel, rested; and, thereupon, the accused, offered the following evidence in his defense: THOMAS BAKER, the accused, being first duly sworn, examined

in chief by Mr. Hammer, testified:

Q Where do you live, Mr. Baker?

A Martins, West Virginia.

Q In what county is that?

A Hardy county.

Q I believe your father is dead but your mother is living?

A Yes, sir.

Q You are charged here with transporting liquor from Martins,

W. Va., into this county, on the fifth of October, 1931; where were you on that day?

A I was going to Roanoke, Va.

Q For what purpose?

A To work.

Q When you started from Martins, West Virginia, from your

home, I mean, what did you have? You were transporting your

property and this liquor, if you had it. Where did you get the

liquor? Where did you bring it from?

A From my home.

Q You brought it from your home, at Martins, West Va.?

A Yes, sir.

Q When you started from home where was the liquor? I mean,

where did you have it?

A I put it in my suit case.

Q You put it in your suit case?

A Yes, sir.

Q Did you afterwards take it out of your suit case?

A Yes, sir.

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Q Why did you do that?

A I stopped at my sister's, about two and a half miles this side of Matthias and got a pair of shoes and a pair of rubbers and put them in my suit-case, and, after I did that, I did not have enough room to carry it in my suit-case.

Q Which of the two suit cases was yours?

A The yellow or tan one.

Q Whose was the other suit-case?

A Bruce Fulk's.

Q And when you found you did not have room in your suit-case you took the liquor out of your suit-case and put it in your pocket?

A Yes, sir.

Q Had you been drinking out of it in any way at all?

A No, sir.

Q Why did you take it out of the suit case?

A I did not have room to put my shoes. There wasn't room in the suit case for the two.

Q Did you have that liquor for sale, or were you transporting it for sale in any way, Mr. Sager?

A No, sir; I was taking it along for my own use.

Q You were taking it along for your own use?

A Yes, sir.

CROSS-EXAMINATION BY MR. EARMAN:

X When did you leave home, Mr. Sager?

A October 11th.

X October 11th?

A Yes, sir.

X What time was it when the officers got down there were you were?

Q Why did you do that?

A I stepped at my sister's, about two and a half miles this

side of Mattias and got a pair of shoes and a pair of rubbers

and put them in my suit-case, and, after I did that, I did not

have enough room to carry it in my suit-case.

Q Which of the two suit cases was yours?

A The yellow or tan one.

Q Whose was the other suit-case?

A Bruce Park's.

Q And when you found you did not have room in your suit-case

you took the liquor out of your suit-case and put it in your

pockets?

A Yes, sir.

Q Had you been drinking out of it in any way at all?

A No, sir.

Q Why did you take it out of the suit case?

A I did not have room to put my shoes. There wasn't room in

the suit case for the two.

Q Did you have that liquor for sale, or were you transporting

it for sale in any way, Mr. Sagers?

A No, sir; I was taking it along for my own use.

Q You were taking it along for your own use?

A Yes, sir.

CROSS-EXAMINATION BY MR. KATZMAN:

X When did you leave home, Mr. Sagers?

A October 11th.

X October 11th?

A Yes, sir.

X What time was it when the officers got down there were you

were?

A I don't hardly know. It was between 11 and 12 o'clock when I got up here as near as I can tell.

X Where is Mr. Bruce Fulk?

A I do not know. I have not seen him since he was in Harrisburg.

X Did you not spend the night with C. B. Fulk on your way over here?

A Yes, sir. I left home on the 10th, I guess it was, and came out to Mr. Fulk's that evening, and left Mr. Fulk's home the next morning.

X Then you did not leave home the same day you were arrested?

A No, sir.

X You left home the day before that?

A Yes, sir.

X And you spent the night with Bruce Fulk?

A Yes, sir; at his father's.

X You say you never drank any liquor on your way over here?

A Yes, sir.

X This is all you had, then, when you left home? (indicating liquor).

A Yes, sir.

X You had just that much?

A Yes, sir.

X Now, you say, when you reached Fulk's you got a pair of shoes --

A (Interrupting) Not at Fulk's, but at my sister's, two miles and a half this side of home.

X That was before you got to Fulk's?

A Yes, sir.

X Your sister lives between Fulk's and your home?

A I don't hardly know. It was between 11 and 12 o'clock

when I got up here as near as I can tell.

X Where is Mr. Bruce Fulk?

A I do not know. I have not seen him since he was in Harris-

onburg.

X Did you not spend the night with G. B. Fulk on your way

over here?

A Yes, sir. I left home on the 10th. I guess it was, and

came out to Mr. Fulk's that evening, and left Mr. Fulk's home the

next morning.

X Then you did not leave home the same day you were arrested?

A No, sir.

X You left home the day before that?

A Yes, sir.

X And you spent the night with Bruce Fulk?

A Yes, sir; at his father's.

X You say you never drank any liquor on your way over here?

A Yes, sir.

X This is all you had, then, when you left home? (indicating

liquor).

A Yes, sir.

X You had just that much?

A Yes, sir.

X Now, you say, when you reached Fulk's you got a pair of

shoes --

A (Interrupting) Not at Fulk's, but at my sister's, two

miles and a half this side of home.

X That was before you got to Fulk's?

A Yes, sir.

X Your sister lives between Fulk's and your home?

A Yes, sir.

X In West Virginia?

A Yes, sir.

X And you got, at your sister's, a pair of shoes and a pair of rubbers and put them in your suit-case?

A Yes, sir.

X Couldn't you carry your shoes and your rubbers easier by rapping them up and putting them in the car someplace, or even put them on your person, than you could your whiskey?

A If you have something in a car, oftentimes somebody picks it up and carries it away.

X So, you looked after your shoes; you were more interested in your shoes than in the liquor?

A I wanted to take care of both of them, of course.

X Did you carry this liquor all the time under your sweater from the time your shoes were placed in your suit-case?

A Yes, sir.

X About a mile and a half this side of your home?

A Two and a half miles.

X How far is it from Matthias to where you were arrested?

A I guess, about twenty-seven miles, as near as I can tell you.

X So you had the glass jar, then, under your sweater, carrying it under your sweater, for a distance of about 24 1/2 miles?

A Twenty-seven miles; 25 miles from my home to Broadway, and we were about two or two and a half miles from Broadway when we were arrested.

X You say your suit-case was full and you couldn't get the liquor in it?

A Yes, sir; it was full.

A Yes, sir.

X In West Virginia?

A Yes, sir.

X And you got, at your sister's, a pair of shoes and a pair

of rubbers and put them in your suit-case?

A Yes, sir.

X Couldn't you carry your shoes and your rubbers easier by

putting them up and putting them in the car someplace, or even

put them on your person, than you could your whiskey?

A If you have something in a car, sometimes somebody picks

it up and carries it away.

X So you looked after your shoes; you were more interested

in your shoes than in the liquor?

A I wanted to take care of both of them, of course.

X Did you carry this liquor all the time under your sweater

from the time your shoes were placed in your suit-case?

A Yes, sir.

X About a mile and a half this side of your home?

A Two and a half miles.

X How far is it from Martins to where you were arrested?

A I guess, about twenty-seven miles, as near as I can tell

you.

X So you had the glass jar, then, under your sweater, carrying

it under your sweater, for a distance of about 24 1/2 miles?

A Twenty-seven miles; 25 miles from my home to Broadway,

and we were about two or two and a half miles from Broadway when

we were arrested.

X You say your suit-case was full and you couldn't get the

liquor in it?

A Yes, sir; it was full.

Ref.

INSTRUCTION No. _____.

The Court instructs the jury that the accused is presumed to be innocent until his guilt is established by the evidence, and that he rests **secure** in that presumption of innocence until proof is adduced which establishes his guilt beyond reasonable doubt.

Ref.

INSTRUCTION No. _____.

The Court instructs the jury that if they believe from the evidence that the accused had in his pocket less than one pint of liquor which he was transporting upon his person from Matthias, West Virginia, to Roanoke, Virginia, for his own use, and if they believe from the evidence that this was an inadvertent violation of the law upon his part, then the jury are instructed that they may find him guilty of a misdemeanor and fix his punishment by fine, provided said fine shall not be less than \$ _____.

Copy

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The Court instructs the jury that the accused is presumed to be innocent until his guilt is established by the evidence, and that he rests secure in that presumption of innocence until proof is adduced which establishes his guilt beyond reasonable doubt.

Copy

INSTRUCTION No. _____

The Court instructs the jury that if they believe from the evidence that the accused had in his pocket less than one pint of liquor which he was transporting upon his person from Martinsburg, West Virginia, to Roanoke, Virginia, for his own use, and if they believe from the evidence that this was an inadvertent violation of the law upon his part, then the jury are instructed that they may find him guilty of a misdemeanor and fix his punishment by fine, provided said fine shall not be less than \$_____.

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INSTRUCTION No. _____

Ref

The Court instructs the jury that if they believe from the evidence that the accused Thomas Sager had in his overcoat pocket less than one quart of ardent spirits which he was transporting from Matthias, West Virginia, where he formerly lives, to Roanoke, Virginia, where he was going to work, on the 11th day of October, 1921, yet if they further believe from the evidence that the accused was not transporting liquor for sale, then the jury must find the accused not guilty.

INSTRUCTION No. _____

Ref

The Court instructs the jury that if they believe from the evidence in this case beyond a reasonable doubt that Thomas Sager had in his overcoat pocket less than one quart of ardent spirits when he was arrested near Broadway, Va., in Rockingham County, yet if they further believe from the evidence that he was carrying these ardent spirits for his own personal use and not as a means of evading ~~the~~ the meaning and intent of the Prohibition Act of this ~~State~~ and not to be used contrary to the Prohibition Act of this State, then they must find the accused not guilty.

Page

INSTRUCTION No. _____

The Court instructs the jury that if they believe from the evidence that the accused Thomas Sager had in his overcoat pocket less than one quart of ardent spirits which he was transporting from Matthias, West Virginia, where he formerly lives, to Roanoke, Virginia, where he was going to work, on the fifth day of October, 1921, yet if they further believe from the evidence that the accused was not transporting liquor for sale, then the jury must find the accused not guilty.

Page

INSTRUCTION No. _____

The Court instructs the jury that if they believe from the evidence in this case beyond a reasonable doubt that Thomas Sager had in his overcoat pocket less than one quart of ardent spirits when he was arrested near Broadway, Va., in Rockingham County, yet if they further believe from the evidence that he was carrying these ardent spirits for his own personal use and not as a means of evading the meaning and intent of the Prohibition Act of this State, and not to be used contrary to the Prohibition Act of this State, then they must find the accused not guilty.

INSTRUCTION No _____

Ref

The Court instructs the jury that if they believe from the evidence that Thomas Sager, when he started from his residence near Matthias, West Virginia, had less than one quart of liquor in his suit case, and, that, thereafter, while en route from Matthias, W. Va., to Roanoke, Va., he stopped at the home of S. D. Holloman where he got a pair of shoes which he placed in his suit case, taking said liquor therefrom and placing the same in his pocket, that the carrying of said liquor on his person under those circumstances was within the fair intendment of the law carrying the same in his personal baggage, and that they must acquit him.

Part 102 - 102 - 102

of 102 - 102 - 102

Page

INSTRUCTION No. _____

The Court instructs the jury that if they believe from the evidence that Thomas Sager when he started from his residence near Matthews, West Virginia, had less than one quart of liquor in his suit case, and that, thereafter, while en route from Matthews, W. Va., to Rossmore, Va., he stopped at the home of S. D. Holloman where he got a pair of shoes which he placed in his suit case taking said liquor therefrom and placing the same in his pocket that the carrying of said liquor on his person under those circumstances was within the fair intendment of the law carrying the same in his personal baggage, and that they must acquit him.

Further shown above

Thomas Sager

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Page

VIRGINIA:

*In the Supreme Court of Appeals, held at
the Library Building in the City of
Richmond, on Friday the 18th
day of November, 1921.*

Upon the petition of Thomas Sager a writ of error and supersedeas is awarded him to a judgment rendered by the circuit court of Rockingham County on the 24th day of October, 1921, in a prosecution by the Commonwealth, for the alleged violation of the Prohibition Act, whereby it was considered by the court that the said Thomas Sager pay to the Commonwealth the sum of Fifty Dollars and serve one month's time in jail; but the said supersedeas is not to operate to discharge the prisoner from custody, if in custody, nor to release his bail, if out on bail.

A Copy.

Teste: W. H. H. H. H. C.C.

In the Supreme Court of Appeals, held at
the Library Building in the City of
Richmond, on Friday the 18th
day of November, 1921.

Upon the petition of Thomas Sager a writ of error and supersedeas
was granted by the said court of Appeals
on the 24th day of October, 1921, in a prosecution by the Common-
wealth for the alleged violation of the Prohibition Act, whereby it was
considered by the court that the said Thomas Sager pay to the Commonwealth
the sum of Fifty Dollars and serve one month's time in jail; but the said
supersedeas is not to operate to discharge the prisoner from custody, if in
custody, nor to release his bail, if out on bail.

A Copy.

Teste: W. A. Rorer
C. C.

IN VACATION:

In the Clerk's Office of the Supreme Court of Appeals of Virginia at Staunton, on Monday the 4th., day of December 1922

The Clerk of the Supreme Court of Appeals of Virginia at Richmond certifies the following order in words and figures following, to-wit:

VIRGINIA:

In the Supreme Court of Appeals, held at the State Library Building in the City of Richmond, on Thursday the 16th., day of November, 1922

Thomas Sager
against

Plaintiff in error.

Commonwealth of Virginia

Defendant in error.

Upon a writ of error and supersedeas to a judgment rendered by the circuit court of Rockingham County, on the 24th., day of October, 1921.

This cause, which is pending in this Court at its place of session at Staunton, having been fully heard but not determined at said place of session: this day came here the parties by counsel, ^{as the Attorney General on behalf of the Commonwealth} and the Court having maturely considered the transcript of the record of the judgment aforesaid and arguments of counsel, is of opinion, for reasons stated in writing and filed with the record, that there is no error in the judgment complained of. It is therefore considered that the same be affirmed, and that the plaintiff in error pay to the Commonwealth damages according to law, and also her costs by her expended about her defence herein.

Which is ordered to be entered in the order book here and forthwith certified, together with a certified copy of the opinion in this cause, to the Clerk of this Court at Staunton, who will enter this order in the order book there and certify it to the said circuit court

Atty's tax fee \$20.00
Cost at Rich'm. \$ 1.77
\$21.77

A Copy, Teste:

H. Stewart Jones, C. C.

A Copy, Teste:

H. Stewart Jones - Clerk

IN VACATION:

In the Clerk's Office of the Supreme Court of Appeals of Virginia at Staunton, on Monday the 4th day of December 1914

The Clerk of the Supreme Court of Appeals of Virginia at Richmond certifies the following order in words and figures following, to-wit:

VIRGINIA:

In the Supreme Court of Appeals, held at the State Library Building in the City of Richmond, on Thursday the 11th day of November, 1914

Plaintiff in error

James [unclear]
[unclear]

Defendant in error

James [unclear]

Upon a writ of error and return thereon to a judgment rendered by the circuit court of Loudoun County, dated the 11th day of October, 1914.

This cause, which is pending in this Court at its place of session at Staunton, having been fully heard but not determined at said place of session, this day came here the parties by counsel, and the Court having carefully considered the transcript of the record of the judgment rendered and arguments of counsel, is of opinion, for reasons stated in writing and filed with the record, that there is no error in the judgment rendered and it is therefore affirmed in the case herein.

Accordingly to law, and also her costs by her expended about her defense herein.

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which is ordered to be entered in the order book here and forthwith certified, together with a certified copy of the opinion in this case, to the Clerk of this Court at Staunton, who will enter this order in the order book there and certify it to the said circuit court.

Costs for the [unclear] A Copy, Teste:

H. Stewart Jones, C. C.

A Copy, Teste:

Handwritten signature

Arrest Warrant

COMMONWEALTH OF VIRGINIA, } TO WIT:
ROCKINGHAM COUNTY, }

To The Sheriff or any, a Constable of said County:

Whereas, W. L. Dillard of the said County, has this day made

complaint and information on oath before me, O. J. Argenbright a Justice of the said County,

that Thomas Sager

of the ~~said~~ ^{W. Virginia} County, on the 11 day of October 1921, in the said County, did

Unlawfully transport intoxicating liquor from one point in Virginia to another point in Virginia in an Ford touring car bearing West Virginia license tag No 72047, in violation of the Prohibition of Virginia

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

Thomas Sager

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

W. L. Dillard D. W. Shiflett B. C. Fultz Guy Rogers Bangh

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

Given under my hand and seal this 11th day of October, in the year 1921.

O. J. Argenbright J. P. (Seal)

Rockingham County State of Virginia
An Examination was made and upon the testimony of W. L. Dillard
and D. W. Shields the accused was sent on to await the action
of the Grand Jury at the next term of the Circuit Court of
said County

Given under my hand this the 11th day of October 1921

H. J. Carguebaugh, J.P.

not needed recognized

Jail Fee
Sheriff Fee

Justice
~~Search Warrant~~ 2.00
Warrant 1.00
Examination 2.00
\$ 4.00
5.00
1.00
6.00

Executed the within warrant by arresting
and delivering the body of

Thomas Sager.

before H. J. Carguebaugh
a Justice of Rockingham County, and by sum-
moning the within named witnesses in person,

this 11 day of Oct 1921
W. L. Dillard SRR
Constable of Rockingham County.

Commonwealth

vs.

Arrest Warrant

Thomas Sager.

COMMONWEALTH OF VIRGINIA
ROCKINGHAM COUNTY.

Arrest Warrant

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ROCKINGHAM COUNTY, GREETINGS:

We command you, that you take ^{arrest} *Thomas Sager* if he be found within your bailiwick, and him safely keep, so that you have his body forthwith before the ^{delivers him to jail to be there held in} ~~accordence with the judgment and order of the~~ Circuit Court of Rockingham County, ~~at the Court House thereof on~~ ^{of Oct 24th 1921,}
~~to answer us of a certain~~ ----- whereof ~~he~~ stands indicted.

And have then and there this Writ. Witness J. F. Blackburn, Clerk of our said Court at the Court House the ^{28th} day of ^{November}, in the 147 year of the Commonwealth.

J. F. Blackburn Clerk.

THE COMMONWEALTH OF VIRGINIA.

TO THE SHERIFF OF ROCKINGHAM COUNTY, GREETINGS:

We command you, that you take ^{arrest} Thomas Sager if he be found within your bailiwick, and ^{deliver him to jail, to be there held in} ~~him~~ safely keep, so that you have his body forthwith before the ^{attendance with the judgment and order of the} Circuit Court of Rockingham County, at the ~~Court House~~ thereof on ^{of Oct 24th 1921,} ~~_____~~ to ~~answer us of a certain~~ ~~_____~~ whereof he stands indicted.

And have then and there this Writ. Witness J. F. Blackburn, Clerk of our said Court at the Court House the 28th day of November, in the 1921 year of the Commonwealth.

J. F. Blackburn Clerk.

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

To the Sheriff of Rockingham County, Greeting.

Whereas W. L. Dillard Sheriff appeared before me,
R. J. Arguebright, a Justice of the Peace in and for the said County,
and made complaint on oath that he has reason to believe that ardent spirits are being trans-
ported in a certain Ford Car bearing W. Virginia License ^{no. 72047}

These are therefore in the name of the Commonwealth to command you forthwith to search said
Ford Car

for ardent spirits and if such ardent spirits are found, to take them into your possession and also
to take said car into your possession and bring the said ardent spirits and the person or per-
sons in whose possession they are found before me, or some other Justice of said County, to
answer the said complaint and to be further dealt with according to law.

Given under my hand this 11 day of October, 1921.

R. J. Arguebright (SEAL)
J. P.

Executed the within Cash warrant
and found a boat 3/4 of a boat of
Mason's in Bandy. by Thoms
Day of B.C. Yull's by Byron Bough
in custody of Cor. and being wharfed
and taken before J. J. of the libby at P.
This the 11 day of Oct 1921
W. H. Dullard, P.A.S.

Search Warrant for Cars

COMMONWEALTH

vs.

Executing Search warrant
Sheriff Fee 1.00
note fee 1.00
2.00

Tom Sawyer

Tom Sawyer
R. E. Thacker
Byron Bough

| | |
|---------------|-------|
| W P Lincoln | 1.50 |
| Henry Bowman | 2.30 |
| ER Lewis | 2.10 |
| Jno R. Bowman | 2.50 |
| EB Lewis | 2.00 |
| | <hr/> |
| | 10.40 |

Oct 20 1924

| | |
|------------|-------|
| Clerk - | 5.00 |
| ma | .50 |
| Copies | 2.50 |
| Baid - | 1.00 |
| order bind | 1.50 |
| ditto | 1.50 |
| <hr/> | 2.60 |
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| | 10.35 |

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| Copies | |
| order | .50 |
| bind | 1.00 |
| man | .50 |
| ans | <hr/> |
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141,143 267.269

[Faint, illegible handwriting at the top of the page, possibly bleed-through from the reverse side.]

5/2

2.00
6d