STATE OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of Rockingham County:

The grand jurors in and for the body of said county of Rockingham and now attending said court at its ~~October~~ December term, 1920, upon their oaths, do present that S. S. Snarr, 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 and W. P. Wine, witnesses sworn in court and sent before the grand jury to give evidence.

D. H. Welch.

We the jury find the accused L. S. Snarr guilty as charged in the indictment and fix his punishment at a fine of $50.00 and confinement in jail for one month.

E. Rockingham Foreman

STATE OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of Rockingham County:

The grand jurors in and for the body of said county of Rockingham and now attending said court at its October term, 1920, upon their oaths, do present that S. S. Snarr, 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.

D. W. Farmer
Commonwealth's Att'y.

December term, 1920.

Commonwealth
vs. Indictment
S. S. Snarr

For misdemeanor

A true bill

G. H. Earthman
Foreman

This indictment is found on the testimony of W. E. Dillard and W. P. Wine, witnesses sworn in court and sent before the grand jury to give evidence.

Virginia
In the Circuit Court of Rockingham County.

Com. &
vs
S. S. Snarr

Plea before the Circuit Court at the February Term 1921

Com. v. S. S. Snarr

~~This day came~~ The said S. S. Snarr, who was convicted of a misdemeanor at the last term of Court and sentenced to pay a fine of fifty dollars and to confinement in jail for a term of one month, and who, having signified an intention to apply to the Court of Appeals for a writ of error to the said judgment of this Court, was bailed for his appearance on the first day of the present term of the Court, came this day pursuant to his recognizance, and the attorney for the Commonwealth became also, and thereupon the said Snarr moved the Court to admit him to bail until his said case should be decided by the Court of Appeals, and submitted in support of his said motion the record of the case in which he was convicted as aforesaid, including in said record the certificate of the evidence and the bills of exceptions signed in that case, but the Court overruled the application of the said Snarr for renewal of his bail, for reasons expressed in writing and now made a part of this order. And to this action of the Court the said Snarr excepted. And thereupon the said Snarr having (under the provisions of sec. 4930 of the Code) signified his intention to apply to the Court of Appeals for a writ of error

to the aforesaid action of the Court in refusing to restore his bail until the decision of his case in the Court of Appeals ~~(and the provisions of Section 1,930 of the Code of Civil Procedure)~~, or his motion he was admitted to bail for his appearance before this Court on Saturday the 5th day of March next, to enable him to make application for such writ of error; and thereupon the said S. S. Snarr, with Ashby Turner as his surety, who justified to his sufficiency, were duly recognized, each in the sum of $500.00 for the personal appearance of said S. S. Snarr before this court on the 5th day of March next and not to depart thence without leave of court.

Opinion of the Court

IN VACATION:-

In the Clerks Office of the Supreme Court of Appeals of Virginia at Staunton, on Saturday the 3rd., day of December, 1921.

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 17th., day of November, 1921.

S. S. Snarr, Plaintiff in error.

Vs.

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 4th., day of January, 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 as well the plaintiff in error by counsel as the Attorney General on behalf of the Commonwealth, and the court having maturely considered the transcript of record of the judgment aforesaid and arguments of counsel, is of opinion, for reasons stated in writing and filed with the record, that the said judgment is erroneous. It is therefore adjudged and ordered that the said judgment be reversed and annulled, the verdict of the jury set aside, and the cause is remanded to the said circuit court for a new trial to be had in accordance with the views expressed in the said written opinion of this court.

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.

A Copy, Teste:
H. Stewart Jones, C. C.

A Copy, Teste:-

S S Wayt Clerk.

3/5

Com
vs —
S. S. Swarr

E.R. Shank	2.55
L.E. Zirkel	3.20
L.B. Bowman	3.20
L.B. Cline	2.30
C.W.m Atchison	2.60
W.m. Menifee	1.50
A.P. Sumpton	1.50
	$16.85

In the matter of the application of S. S. Snarr for a renewal of his bail pending the hearing in the Court of Appeals of a writ of error to the judgement of this Court at the December term last in the case of the Com. vs. the said Snarr, in which the said Snarr was convicted of a misdemeanor for violation of the Prohibition law.

MEMORANDUM OF THE COURT

On the conviction of the said accused on January 16th last, the Court, on this motion, overlooking for the time the act of the general assembly of 1920, which gives the accused in all criminal cases a writ of error as of right, admitted the said Snarr to bail until the next term, the intention of the Court being to renew the bail until the decision of the case in the Court of Appeals in case a writ of error was granted on examination of the record, and to commit him in accordance with the verdict if the writ of error was denied.

The writ of error, however, will be granted as matter of right under the late statute, and the question now is whether this Court shall admit the accused to bail until the decision of the case by the Court of Appeals.

There is, in the opinion of the Court, no reason to treat this case differently from other misdemeanor cases, or other cases in which a short jail term is imposed, and unless the act giving a writ of error as of right is to be given the effect of also entitling the accused to bail as of right, pending the action of the Court of Appeals, this Court sees no reason to admit to bail in this case. file to deny bail would be in most cases to deprive the accused of the possit from the statute giving the writ of error as of right, bag and avoidance does not sf breashall be admitted to bailbut

leaves section 4930, which places the matter in the discretion of the Court with a right of appeal if bail is refused, to stand, the amendment to sec. 4930 by chap. 165 of the acts of 1920 not altering it in this particular.

On the other hand the granting of bail as of right in all misdemeanors after conviction, is of such consequence to the administration of justice and the peace and good order of society, that this Court deems it proper to pass the question on to the Court of Appeals to declare the policy that shall be pursued. To admit to bail as of right would mean that, in practically all cases where the accused could procure anyone to go bail for him, the case would be appealed and the punishment postponed-certainly that would be the case in this jurisdiction.

If the Court considered that there was any serious question about the law of the case, or about the guilt of the accused under the law and the evidence, it would admit him to bail; but the Court does not see any reasonable question of that sort. The accused was transporting ardent spirits on his person when he was arrested by the officer. This circumstance is undisputed, and such transportation is certainly unlawful under the statute.

The statement of the accused that he had had the liquor in his hand bag until after the final wreck of his car, and he had gotten into a passing truck to go back to his home at Mt. Jackson when he transferred it to his pocket for fear it would break or be broken by a mirror he had in his hand bag, would of course not alter the case if true. But as matter of the fact, and of course, the Court does not credit that statement any more than it credits his statement that he was not intxicated or his statement that he had not drunk from the bottle. If he had felt the uneasiness he mentions about the possible breaking, he might have taken the mirror from the hand bag and avoided the danger of breaking and also the danger of hav-

ing liquor on his person. But why he should have felt any such apprhension after he got into the truck to proceed by a smooth road and with a sober driver to his home, if the bottle and the mirror had successfully passed through two collisions and two fences in intimate and friendly association wthout either hurting the other, it is not easy to perceive.

In ~~all most~~ almost every liquor case that comes into Court there is some such flimsy claim put foward in attempted mitigation or excuse of the proven facts. Moreover, the paragraph of the statute which gives the right to transfer in one's baggage (next to the last paragrapg of sec. 39 of the act) is qualified by the words that the liquor is " not to be used contrary to the provisions of this act", and the defendent in this case affered no evidence as to the use to which this liquor was to be put, other than that it was for his personal use. Sec. 60- b, of the act puts the burden on the accused to prove that he comes within any exception of the statute. The accused was not taking the liquor home, but was going away from his home. It is difficult to see even if he had not had the liquor on his person but hadhad it in his ~~bugg~~ baggage, how he could have designed it for a lawful use, in the light of the provisions of the first paragraph of sec.17 and of sec. 37 of the act. The real use for which it was intended, however, is pretty well shown by the condition of the doctor, the unhappy experiences of his travel from Mt. Jackson to Harrisonburg, and by the depleted condition of the bottle and its presence on his person.

It is claimed on the part of defendent that that under the standard form of indictment employed in the case the accused could not be convicted of unlawful transportation alone, but only of unlawful "transportation for sale." Many convictions of unlawful transportation, when there was no evidence or claim that a sale was intended, have occurred in this Court under the same indictment

and also under the form of 1916, and the Court is not aware of any decision of the Court of Appeals holding differently.

It does not seem to be a correct interpretation of sec.3 of the statute to limit its application to cases where the acts mentioned are done with intent to sell. Neither the heading to sec. 3 of the act of 1918, nor the heading of sec. 4583 of the revised code (which is the same as sec. 3 of the act) would suggest the idea of so limiting it in the remotest degree, but the contrary is indicated. And neither does the language of the sec. itself seem to justify that interpretation. The language of the law is: " It shall be unlawful for any person in this state to manufacture, transport, sell"xx xxx " keep, or store for sale" etc. If the words for sale qualify the word transport they also qualify the word sell, making the statute declare that it shall be unlawful for any one to sell for sale etc, which would be absurd

However, the accused is certainly guilty under sec.39 of the act of 1918 (sec.4633 of the code) which forbids transportation except in those cases where it is allowed by the statute, and the indictment in this case (the form prescribed by sec.7 of the act, sec. 4587 of the code) charges simply unlawful transportation in plain terms, not transportation for sale.

This Court, seeing no reasonable ground on which to take this case to the Court of Appeals, will refuse the renewal of the bail, and leave it to the higher Court to declare the policy or rule that shall govern in misdemeanor cases hereafter.

T.N.H.

D. S. Snarr

Memo. of Curb on

Repeating Bail

The jury are instructed that if they believe from the evidence that the accused, S. S. Snarr, had on his person, while travelling on the Valley Turnpike, ~~for his use~~, ardent spirits, even though the quantity be only six ounces, then he is guilty of unlawfully transporting liquor, as charged in the indictment.

Commonwealth

vs.

S. S. Swan

Indictment

5.30
1.25
1.60 per
1.00 "
1.50 mile
1.25
50
10.90

The jury are instructed that it and they believe from the evidence that on the 20 day of March, 1877, at and in said County, S. S. Swan, did on the day and date aforesaid, unlawfully transport, [illegible] spirits, wine and liquors in quantities of not less than six ounces, and did at the time of trying at the transportation as charged in the indictment.

We the jury find the accused Dr. A. S. Starr guilty and fix his fine at Fifty Dollars and thirty days in jail. We further request the court to ask the Governor to waive the jail sentence.

E. R. Shaud, Foreman

Refused

INSTRUCTION NO._____.

The Court instructs the jury that if they believe from the evidence in this case, beyond a reasonable doubt, that the accused, Dr. S.S.Snarr, had in his overcoat pocket less than one quart of ardent spirits when he got out of the truck between Harrisonburg and Mount Jackson in the County of Rockingham, Virginia, on the 5th day of November, 1920, and if they further believe from the evidence that the said accused was carrying these ardent spirits for his own personal use, and not as a means of evading the intent and meaning of the prohibition act of this State, and not to be used contrary to the prohibition act of this State then the jury must find the accused not guilty.

ON EXCHEQUER NO. _____.

The court instructs the jury that it does believe from the evidence in this case, beyond a reasonable doubt, that the accused, W. S. S. GRANT, had in his overcoat pocket less than one quart of strong spirits when he got into the train and during the time of strong spirits when he got on the train at Rockingham, between Harrisonburg and Mount Jackson in the county of Rockingham, and he did then and there unlawfully and knowingly have the same in his possession, and that the evidence that the accused had been convicted within twelve months next before the time of the offence charged in the indictment, and that the accused is a person of bad character and habits.

Forney

Refused

INSTRUCTION NO._____.

The Court instructs the jury that even though they believe from the evidence that the accused, Dr. S.S.Snarr, had in his overcoat pocket less than one quart of ardent spirits on the road from Harrisonburg to Mount Jackson, on the 8 day of Jan., 1920, yet if they further believe from the evidence that the said accused was not transporting the aforesaid ardent spirits for sale, then the jury must find the accused not guilty.

Cox
v.
A. J. Drexel

Guidelines
for Defense
Reference

December Term 1920

DOCKET NO. _____ FILE NO. _____

Commonwealth

VS { IN Misdemeanor }

G. S. Snaud

_____ p. q.

_____ p. d.

FINAL ORDER _____ 191____

Jany 16, 85

191____ PROCEEDINGS

	Memo:	Filed.	Process Issued.
Jan. 4th, 1921.			
30/39/41			

CIRCUIT COURT, ROCKINGHAM CO., VA.

Bushnell

QUALITY WORKMANSHIP

637-34

OK

COMMONWEALTH

V).

S. S. SNARR.

TRANSCRIPT OF TESTIMONY introduced at the trial of the above entitled cause, Jany., 4, 1921, before Hon. T. N. Haas and a Jury of seven, in Circuit Court of Rockingham County, Va.

I N D E X

COMMONWEALTH

v).

S. S. BEAMER.

TRANSCRIPT OF TESTIMONY introduced at the trial of the above entitled cause, "Vol. 4, Last" before Hon. T. M. Hass and a jury to wit seven, in Circuit Court of Rockingham County, Va.

I N D E X

	In Chief	Cross-examination	Redirect-ex.	Recross
S. S. Beamer,	34	41		
A. T. Hawthorne,	44	--		
T. W. Allen,	48	--		
W. R. Bowman,	51	--		
Pexton Milliken,	52	--		
Chas. W. Newman,	55	57		
Geo. G. Grant,	58	--		
H. W. Bertram,	59	60		
Freeman Kinker,	62	--		
Rigler Mostert,	64	--		
Frank Pennybacker,	66	--		
W. L. Dillard,	1	4		
A. P. Mize,	8	10		
D. H. Meier,	17	18	22	
W. L. Dillard, recalled	22			

TESTIMONY FOR THE ACCUSED:

Commonwealth
vs
S. S. Snarr

On an Indictment for Misdemeanor

The following evidence on behalf of the Commonwealth and of the accused, respectively, as hereinafter denoted, is all the evidence that was introduced on the trial of the cause

a witness for the Commonwealth

W. L. DILLARD, ~~sworn by the Court~~, testified:

Q You are Mr. W. L. Dillard, the Sheriff of Rockingham County?

A Yes, sir.

Q You arrested Dr. S. S. Snarr, I believe, on or about November 5th, 1920?

A Yes, sir; Friday evening there was a warrant put in my hands from Squire Pickering; the gentleman was a travelling-man who brought it to me, and he said Dr. Snarr had run into his car and damaged him considerably, down there on the pike.

Q Mr. Dillard, just state to the jury what occurred when you arrested Dr. Snarr on that warrant, charging him with reckless driving?

MR. OTT: Question is objected to.

THE COURT: Did you arrest Dr. Snarr?

WITNESS: Yes, sir.

THE COURT: State the circumstances, what happened, what you saw and what you know about it? When was it?

WITNESS: It was on November 5th, 1920.

MR. OTT: It is perfectly possible, your Honor, for the witness to tell about the transportation of this liquor without going back into the details of this accident, he can go into the facts for this case without doing that. I object to his doing that.

THE COURT: I understood you to state to the jury (in opening statement) that there were 4 or 5 ounces of ardent spirits in the possession of Dr. Snarr when he was arrested.

MR. OTT: That is so; yes, sir.

THE COURT: Now, it is perfectly competent to show the jury that Dr. Snarr was intoxicated, at that time, the extent to which he was intox-

Commonwealth of Massachusetts
Middlesex, ss.
Superior Court
Criminal Term, A.D. 1950

W. L. DILLARD, ~~sworn to the court~~, testified:

Q Your name Mr. W. L. Dillard, the Sheriff of Rockingham County?

A Yes, sir.

Q You arrested Dr. S. S. Smart, I believe, on or about November 1st 1950?

A Yes, sir. Briefly examine there was a warrant but it was hands from Sunrise Pickering: the gentleman was a fireworks-man who promptly if so me, and he said Dr. Smart had run into his car and damaged him considerably down there on the pike.

Q Mr. Dillard, just state to the jury what occurred when you arrested Dr. Smart on that warrant, charging him with reckless driving?

THE COURT: Question is objected to.

Mr. OTT: Did you arrest Dr. Smart?

WITNESS: Yes, sir.

THE COURT: State the circumstances, what happened, what you saw and what you know about it? Men saw it?

WITNESS: It was on November 1st, 1950.

Mr. OTT: It is perfectly possible, your Honor, for the witness to tell about the transportation of this liquor without going back into the details of this accident, as can go into the facts for this case without going that. I object to his going that.

THE COURT: I understood you to state to the jury (in opening statement) that there were 4 or 5 cases in evidence against this defendant in the possession of Dr. Smart when he was arrested.

Mr. OTT: That is so: yes, sir.

THE COURT: Now, if is perfectly competent to show the jury that Dr. Smart was intoxicated, at that time, the extent of which he was intox-

icated, and what he was doing, in order to place before the jury evidence tending to show that there was more liquor than that quantity at one time in the bottle. That he was drunk, or had been drinking at that time, is evidence tending to shed light on the question of what quantity of liquor he had and what he was doing with it -- whether he was using it lawfully or not. It is a part of the **res gestae**. The whole circumstances of the transaction are admissible in evidence.

MR. OTT: The point is saved on the ruling of the Court.

A On the evening of November 5th, I proceeded down the pike with the warrant to arrest Doctor Snarr for running into a travelling man. When I got down below Mr. Cooley's farm, I found a car there wrecked, and, also, a truck; the car had hit the truck.

THE COURT: Whose car was that?

WITNESS: Dr. Snarr's car; his own car.

Q The truck was another man's?

A Yes, sir; Mr. Welsh's; he hit Mr. Welsh's truck. I asked if that was Dr. Snarr's car and they said it was; I asked where he was, and they said that he had just a few minutes before gotten into another truck.

MR. OTT: Do not tell what someone else told you.

A Well, Dr. Snarr had left the car and was in another truck proceeding down towards Mt.Jackson. I immediately got in my car and proceeded after him. I overtaken him at Mr. Robert Yancey's place, right this side of his home; there is a kind of little bank there and I drove my car ahead of the truck and stopped and waived the truck down. I asked the driver if he had a man in there, and he said that he did; I said, "Just stop,"and he did; and I walked around to the other side, and I said to a man in there, "Is this Dr. Snarr?" and he said it was. I said, "Doctor, I have a warrant for your arrest." I taken him out of the car. He was

looked, and what he saw gave, in order to
place before the jury evidence showing
that there was more liquor than that
that he saw in the bottle. That he saw
at one time in the bottle, is evidence
to find been diminished at that time, is
evidence to show that he had been drinking
liquor to intoxication or else
drinking to intoxication. The whole
with it -- whether he saw water
not. If it is a part of the res gestae.
circumstances of the transaction are admissible
in evidence.

MR. OTT: The point is based on the limits of the
court.

Q On the evening of November 8th, I proceeded down the pike
with the assistant to street Doctor SMITH for immediate info a fireary-
line man. When I got down below Mr. Cooley's farm, I found a car
there wrecked, and, also, a truck: the car had hit the truck.

THE COURT: Whose car was that?

WITNESS: Dr. Smith's car: his own car.

Q The truck was another man's?

A Yes, sir: Mr. Weland's: he hit Mr. Weland's truck. I asked
Smith: Was Dr. Smith's car and they also had it saw: I asked Smith
if that was Dr. Smith's car and they also had just a test a minute before getting
on saw, and they said that he had just a test minute before getting
into another truck.

MR. OTT: Do not tell what someone else told you.

A Well, Dr. Smith had left the car and saw his another truck
proceeding down towards Mt. Lookout. I immediately got in my car
and proceeded after him. I overtaken him at Mr. Hopert Jenney's
place, right this side of his home: there is a kind of little
bank there and I drove my car around to the back of the truck and stopped
behind it on the road: I asked the driver if he had a man in
my car: he said he had: I said, "Doctor" and he said: "Smith, Dr. Smith is
a man in my car: I have it saw." I said, "Doctor, I have
found a car and truck: the car had hit the truck.
Then I got down below Mr. Cooley's farm, I found a car
line man. When I got down below Mr. Cooley's farm, I found a car
wrecked, and, also, a truck: the car had hit the truck.

THE COURT: Whose car was that?

WITNESS: Dr. Smith's car: his own car.

Q The truck was another man's?

considerably intoxicated. My deputy, Mr. Wine, was with me. Those trucks are high, and as I took hold of Dr. Snarr and he stepped down onto the pike, I noticed he had a pint bottle in his pocket wrapped up with paper, and I taken it out of his pocket, and that contained this stuff that is there (indicating), this moonshine liquor. After I put the Doctor in the car, I said, "Doctor, where did you get this liquor?" "Oh," he said, "I don't know"; I said, "What did you pay for it?" and he said, "Twenty dollars a gallon. I tell you, sheriff, you are always on your job." He said, "I would have been better off if I wouldn't have had this stuff with me."

Q Mr. Robert Yancey lives in this county?

A Yes, sir.

Q Is this the bottle that you found on the person of Dr. Snarr?

A That is; yes, sir; and that is what it contained at that time.

Q Will you smell the contents of this bottle and state to the jury whether or not you think it is liquor?

MR. OTT: Question is objected to.

MR. EARMAN: I will let the jury smell it, then, and they can see.

Q Mr. Dillard, let the jury smell it. There is no question about it.

MEMO: Bottle with contents passed to jury to smell and examine.

THE COURT: Is that a pint bottle or a quart bottle?

WITNESS: Pint bottle.

THE COURT: About how full is it now?

WITNESS: It is about three parts full.

THE COURT: Three parts?

WITNESS: I mean, about one-fourth is gone.

MR. OTT: About five ounces, they say it is.

consistently introspected. Why, yes, Mr. Wine, saw with me. Those trunks are high, and as I took hold of Dr. Smart and he stepped down onto the hike, I noticed he had a brown bottle in his pocket wrapped up with paper, and I taken it out of his pocket, and that contained just enough to smell it, then, and they can see.

MR. BRANNAN: I will let the jury smell it.

MR. OTT: Objection is objected to.

Q Will you smell the contents of this bottle and state whether you smelled or not you think it is liquor?

A. Yes, sir; and that is what it contained on that time.

Q Is this the bottle that you found on the person of Dr. Smart?

A. Yes, sir.

Q. Mr. Robert Jensen lives in this county?

A. Yes, sir.

Q. Will you smell the contents of this bottle and state whether or not you think it is liquor?

MR. OTT: Objection is objected to.

MR. BRANNAN: I will let the jury smell it, then, and they can see.

Q Mr. Dillard, let the jury smell it. There is no dispute about it.

MEMO: Bottle with contents passed to jury to smell and examine.

THE COURT: Is that a brown bottle or a quart bottle?

WITNESS: Pint bottle.

THE COURT: About how full is it now?

WITNESS: It is about three parts full.

THE COURT: Three parts?

WITNESS: I mean, about one-fourth is gone.

MR. OTT: About five ounces, they say it is.

MR. BRANNAN: I mean, "Mr. Robert Jensen lives in this county?

A. Yes, sir.

Q. Is this the bottle that you found on the person of Dr. Smart?

A. Yes: sir; and that is what it contained at that time.

Q Will you smell the contents of this bottle and state whether you think it is liquor?

MR. OTT: Objection is objected to.

MR. BRANNAN: I will let the jury smell it, then, and they can see.

Q Mr. Dillard, let the jury smell it. There is no dispute about it.

MEMO: Bottle with contents passed to jury to smell and examine.

THE COURT: Is that a brown bottle or a quart bottle?

WITNESS: Pint bottle.

THE COURT: About how full is it now?

WITNESS: It is about three parts full.

THE COURT: Three parts?

WITNESS: I mean, about one-fourth is gone.

MR. OTT: About five ounces, they say it is.

MR. BRANNAN: I mean, "Mr. Robert Jensen lives in this county?

A. Yes, sir.

Q. Is this the bottle that you found on the person of Dr. Smart?

A. Yes: sir; and that is what it contained at that time.

Q Will you smell the contents of this bottle and state whether you think it is liquor?

MR. OTT: Objection is objected to.

MR. BRANNAN: I will let the jury smell it, then, and they can see.

Q Mr. Dillard, let the jury smell it. There is no dispute about it.

MEMO: Bottle with contents passed to jury to smell and examine.

THE COURT: Is that a brown bottle or a quart bottle?

WITNESS: Pint bottle.

THE COURT: About how full is it now?

WITNESS: It is about three parts full.

THE COURT: Three parts?

WITNESS: I mean, about one-fourth is gone.

MR. OTT: About five ounces, they say it is.

THE COURT: It is about two-fifths full, is it not?

WITNESS: Yes, sir.

JUROR: I can't tell what it is.

WITNESS: You can tell what it is, though. You can tell it is not coal-oil.

MEMO: Jurors smell the bottle.

Q Has the beverage in the bottle the odor of moonshine liquor or not?

A It undoubtedly has. I have had the same substance tested out, and it tests anywheres from from forty to sixty-two per cent alcohol. I never had it test under forty per cent.

THE COURT: To what extent was he under the influence of liquor?

WITNESS: Considerable, Judge; considerably so.

THE COURT: Was it plainly apparent that he was under the influence of liquor?

WITNESS: Yes, sir; to anyone -- to anybody.

CROSS-EXAMINATION BY MR. OTT:

X Now, Mr. Dillard, Dr. Snarr was on his way back towards Mt. Jackson, his home, when you met him?

THE COURT: When he overtook him, you mean.

A When I overtaken him; yes, sir.

X You spoke about helping the Doctor out of the car; the truck was high and you would have had to have helped anyone else out of the car if you had wanted them to get out, wouldn't you?

A Absolutely so; yes, sir.

X You made an examination of Dr. Snarr's automobile to see whether or not there was any liquor in it?

A I did; yes, sir.

THE COURT: If it is about two-fifths full, is it not?

WITNESS: Yes, sir.

TUROR: I can't tell what it is.

WITNESS: You can tell what it is, though. You can tell if it is not cast-off.

MEMO: Instrument shell the bottle.

Q Has the percentage in the bottle the odor to accommodate liquor or not?

A It accomplishes that. I have had the same experience tested and it does evaporate from two-fifths of fifty-two per cent and it does evaporate from forty per cent. I never had it test higher than forty per cent.

THE COURT: To what extent was he under the influence of liquor?

A I did: yes, sir.

Q Was it plainly apparent that he was under the influence of liquor?

A Absolutely so: yes, sir.

X You made an examination of Dr. Smart's automobile to see whether or not there was any liquor in it?

A I did: yes, sir.

THE COURT: Was it plainly apparent that he was under the influence of liquor?

WITNESS: Considerable, judge: considerably so.

THE COURT: Was it plainly apparent that he was under the influence of liquor?

WITNESS: Yes, sir: to anyone -- to everybody.

CROSS-EXAMINATION BY MR. OTT:

X Now, Mr. Dillard, Dr. Smart was on his way back towards Mt. Jackson, his home, when you met him?

THE COURT: When he overtook him, you mean.

A When I overtaken him: yes, sir.

X You spoke about helping the Doctor out of the car: the truck was high and you would have had to have helped someone else out of the car if you had wanted them to help out, wouldn't you?

A Absolutely so: yes, sir.

X You made an examination of Dr. Smart's automobile to see whether or not there was any liquor in it?

A I did: yes, sir.

X Tell the jury what you found.

A I found nothing, that is, no intoxicants in the car whatever.

X None whatever?

A None. I also taken the Doctor's grip; he had his grip with him; I also taken his grip out of the car and handed it to Mr. Wine, as I stepped out first.

X You saw nothing else about him except this little quantity of ardent spirits, and that was in his overcoat pocket?

A Yes, sir; except what he had in his person.

X You could not see that?

A No, sir; but he showed it very plainly.

X Now, when you overtook Dr. Snarr, you ran your car on in front of the truck in which he was and stopped it?

A Yes, sir.

X And you went back to the truck?

A Yes, sir.

X Dr. Snarr, after you assisted him to get down from the truck to the road, went over to your car and got in on the seat with you?

A Yes, sir.

X Unassisted, and rode back to Harrisonburg with you, did he not?

A Yes, sir.

X Soon afterwards, when you wanted to make an examination of Dr. Snarr's car to see whether or not he had any liquor, you could not get the door open to his car, could you, very well?

A I did not know how to open the rear of his car. He had a lock on it and I did not want to break his lock.

X And you asked Dr. Snarr to open that car for you, and Dr.

X Tell the jury what you found.

A I found nothing, that is, no intoxicants in the car whatever.

X None whatever?

A None. I also taken the Doctor's grip: he had his grip with him: I also taken his grip out of the car and handed it to Mr. Milne, as I stepped out first.

X You saw nothing else about him except this little dangerous pocket?

A Yes, sir: except what he had in his person.

X You could not see that?

A No sir: but he stepped it very briskly.

X Now, when you overtook Dr. Smart, you ran your car on in front of the truck in which he was and stopped it?

A Yes, sir.

X And you went back to the truck?

A Yes, sir.

X Immediately, and took back to Hartingburgh with you, did he not?

A Yes, sir.

X Dr. Smart, after you assisted him to get down from the truck to the road, went over to your car and got in on the seat with you?

A Yes, sir.

X And you asked Dr. Smart to open that car for you, and Dr. Lock on it and I did not want to press his lock.

A I did not know how to open the rear of his car. He had a

Snarr readily opened the car for you, did he not?

A I don't know whether I asked him to open it; I believe I did later on ask him to open it, which he did, for there was a certain way you had to turn something to open it, and I believe he did; yes, sir.

X He had to do that with a key, put a key in the lock to open it, didn't he?

A Yes, sir, he did.

X You could not open it, or did not open it?

A Yes, sir; because he knew the working of his car.

X As I say, he walked over from the truck to his car and opened the car for you to examine to see whether there was any liquor in it; and, then, unaided and unassisted, by you, he got in your car; came over to your car from his car, got in and sat with you, on the back seat, and Mr. Wine and some other gentleman were on the front seat?

A That is correct.

X And you four came up to Harrisonburg?

A Yes, sir.

X And during the drive from Mr. Yancey's place to Harrisonburg, you and Dr. Snarr conducted a conversation, had a very pleasant conversation between you, did you not?

A Yes, sir; we did; just what I told you passed between us.

X When you arrived at Harrisonburg, Dr. Snarr got out of the automobile unassisted, opened the door of the car and walked unassisted into your office here in this building, did he not?

A Yes, sir; he walked along with me into my office.

THE COURT: To what extent was his car damaged?

WITNESS: Considerably, Judge. There was a wheel broken.

THE COURT: Did you say it ran off the road?

Grant readily opened the car for you, did he not?

A I don't know whether I asked him to open it: I believe I did ask him to open it, which he did, for there was a certain time you had to stop somewhere to open it, and I believe he did! then you had a key, but a key in the lock to open it, didn't he?

A Yes, sir: he did.

X He had to do that with a key, but a key in the lock to open it:

A Yes, sir: he did not open it, or did not open it?

X You could not open it, because he knew the mechanism of his car.

A Yes, sir: because he knew the mechanism of his car and opened it:

X As I see, he walked over from the front of his car and opened the car for you to examine to see whether there was any liquor in it:

THE COURT: Did you see it was off the road?

WITNESS: Considerably angle. There was a wheel broken.

THE COURT: To what extent was his car damaged?

A Yes, sir: he walked along with me into my office.

X Then you entered at Hattisburg. Dr. Grant got out of the car and walked around, opened the door of the car, looked at the automobile underneath, did he not? Then your office here in this building, did he not?

A Yes, sir: he walked along with me into my office.

X And you went came up to Hattisburg?

A Yes, sir.

X And getting the drive from Mr. Kennedy's place to Hattisburg, you and Dr. Grant conducted a conversation, had a very pleasant conversation between you, did you not?

A Yes, sir: we did: that what I told you passed between us.

X When you arrived at Hattisburg, Dr. Grant got out of the car and walked around, opened the door of the car, did he not?

A Yes, sir: he did.

X He had to do that with a key, but a key in the lock to open it, didn't he?

A I don't know whether I asked him to open it: I believe I did ask him to open it, which he did, for there was a certain time when you had to stop somewhere to open it, and I believe he did: then you had a key, but a key in the lock to open it, sir.

WITNESS: It was clean off the road. He was on the lefthand side of the pike as you come up -- the righthand side as you come up. He struck the rear of Mr. Welsh's car and that threw his car around and he went right straight across pike and went off on the east side of the pike.

THE COURT: To what extent was the Welsh car damaged?

WITNESS: Mr. Welsh is here and he can tell you, exactly, himself; it was considerable, though, at the rear end to the body; he damaged his bed considerably. I think the Doctor paid for it, whatever it was.

X Where this accident occurred, do you remember that it was at a culvert, at a very narrow place in the road, where you say the Doctor's car ran into some other car?

A The pike is as wide there as any place else. There is a little culvert right where Doctor Snarr's car went over; but the width of the pike is the same there as any place else.

X Right at the culvert where this happened there is a little place cut out, which makes it rather hard to pass a car at that place?

A No, sir; I don't think so.

X Now, do you remember that the Doctor's car was not in good order, but was in bad order that day?

A I don't know at all what order his car was in.

X You do not know that it was in bad order?

A No, sir; I don't know that it was in bad order. I know this, that when I found his car it was in bad condition.

Witness told to stand aside.

WITNESS: It was clean off the road. He was on the left-hand side of the bike as you come up -- the right-hand side as you come up. He struck the rear of Mr. Melan's car and that threw him the car ~~stopped and he went right straight across bike and went off on the east side of the bike.~~

THE COURT: So what exactly was the Melan car damaged?

WITNESS: Mr. Melan is here and he can tell you, exactly, himself: it was considerable, though, as the rear end of the body: he damaged his bod considerably. I think the Doctor being for it, whatever it was.

X When this accident occurred, do you remember that it was at a corner, at a very narrow place in the road, where you see the Doctor's car run into some other car?

A The bike is as wide there as any place else. There is a little corner right where Doctor Smith's car went over. But the bike is the same there as any place else.

X Right at the corner where this happened there is a little place out out, which makes it rather hard to pass a car at that place?

A No, sir! I don't think so.

X Now, do you remember that the Doctor's car was not in good order, but was in bad order that day?

A I don't know at all what order his car was in.

X You do not know that it was in bad order?

A No, sir! I don't know that it was in bad order. I know this, that when I found his car it was in bad condition.

Witness told to stand aside.

a witness for the Commonwealth,

W. P. WINE, ~~sworn,~~ examined by Mr. Earman:

Q Mr. Wine, you are deputy sheriff of this county?

A Yes, sir.

Q And you were with Mr. Dillard when he arrested Dr. Snarr on November 5th?

A Yes, sir.

Q Under a warrant charging reckless driving?

A Yes, sir.

Q State to the jury the facts and circumstances in connection with the arrest of Dr. Snarr?

A When we got the word that he had run into somebody, we went down there and found his car below Warren Cooley's. There were several persons there who stated that Dr. Snarr had gotten into a truck and had gone down the pike. My son was along and he was driving my car. We drove on down the pike and overtaken him about Mr. Robert Yancey's, somewhere along there, and we stopped the truck. Mr. Dillard went around first and asked if he was there, if that was Dr. Snarr, and he said it was, and we asked him to get out; and he was almost too drunk to get out by himself, and I reached up and got ahold of him and taken him out; and when I got him down on the ground, my son and I, I practically carried him across the pike and put him up in my car; and,as I put him up in there, I found that he had in his overcoat pocket, this bottle. It didn't have that much out of it when I found it. I took it and put it over on the front-seat of the car, and in putting it over on the seat I must have loosened the cork to some extent and the liquor run out on the seat, some of it, and I smelt it for several days on the seat of my car. If I hadn't noticed it, I guess it would have been all out. I happened to notice it when I went to the front seat the second time; I rode up with my

W. P. WIRE, ~~sworn~~, examined by Mr. Eastman:

Q Mr. Wire, you are deputy sheriff of this county?

A Yes, sir.

Q And you were with Mr. Dillard when he attacked Dr. Smart on November last?

A Yes, sir.

Q Tell a somewhat startling tragedy?

A Yes, sir.

Q Describe to the jury the facts and circumstances in connection with the attack of Dr. Smart?

A When we got the word that he had run into somebody, we went down there and found his car below Matten Cooley's. There were several persons there who stated that Dr. Smart had fallen into a ditch and had gone down the bike. We soon saw alone and he was driving the car. He drove on down the bike and overtaken him about Mr. Robert Kennedy's. We stopped alone there, and we stopped the truck. Mr. Dillard went somewhere alone there and he was there. It that saw Dr. Smart, and started that and asked it he was there. Then he saw almost too he had it saw, and we asked him if he got out: and he said he had been to his house if he got out yet himself, and I reached up and got hold of him and taken him out: and when I got him down on the ground, we son and we in the bike and put him up in the car. I. I practically carried him across the bike and put him up in his over-car: and, as I put him up in there, I found that he had in his over-coat pocket, this pistol. It didn't seem that much out of it when I found it. I took it and put it over on the front-seat of the car, and in putting it over on the seat I must have loosened the cock of some extent and the trigger mm out on the seat, some of it, and I remembered noticed that it not several gets on the seat of my car. If I hadn't noticed it. I guess it would have been all out. I happened to notice it when I went to the front seat the second time: I took up with my

son in the car and I was on the front seat.

THE COURT: The bottle was full when you got it, was it?

WITNESS: About one-third was out, probably one third.

Q Where did you say this liquor was on Dr. Snarr's person?

A In his righthand coat pocket on the outside. As I lifted him in the car, I seen it in there and I got hold of it.

Q Did you see Dr. Snarr's automobile on your way back to Harrisonburg that night?

A Yes, I did.

Q Where was it?

A Right below Warren Cooley's, run in the fence, the front wheel was over on the wire fence. It had mashed the wire fence down and was standing over across the fence.

Q At that point, where you saw his car, is the road plenty wide enough for two cars to pass?

A Certainly; it is the usual width there; it is plenty wide there. I looked at it, and it is not only wide enough for two but three cars could pass there.

Q I understand you to say that this beverage had the odor of liquor?

A Very bad odor of it, too.

THE COURT: Did he say anything about where he had come from or what he had been doing?

WITNESS: No, sir, he did not. He wasn't capable of doing very much talking when I talked to him, when I got him there, in fact, after we got him here, he hardly knew what he was doing. When I took him to jail he hardly realized what I was doing with him until I began opening the door of the cell, and then he swore he wasn't going in there. I told him, I guesses he was, and he quieted down then. I put him in there with another man and he hardly knew where he was at, and he didn't realize it until the next morning.

ran in the car and I was on the front seat.

THE COURT: The bottle was full when you got it.

Was it?

WITNESS: About one-third was out, probably one third.

Q Where did you see this liquor was on Dr. Smith's person?

A In his right-hand coat pocket on the outside. As I lifted him in the car, I seen it in there and I got hold of it.

Q Did you see Dr. Smith's automobile on your way back to Hartford?

A Yes, I did.

Q Where was it?

A Right below Martin Cooley's, run in the fence, the front wheel was over on the white fence. It had smashed the white fence down and was standing over again the fence.

Q At that point there was not much car. It was long enough for two cars to pass;

A Certainly: it is the usual width there: it is pretty wide enough for two cars to pass.

Q I understand you to say that this percentage had the odor of liquor;

A Very bad odor of it, too.

THE COURT: Did he say anything about where he had come from or what he had been doing;

WITNESS: No, sir, he did not. He seemed to be very much staggering when I talked to him. When I got him there, in fact, after I got him there, he staggered when he was going up the steps. When I took him to jail he staggered and was going with him until I began opening the door of the cell, and then he swore he was, I suppose he was going to the cell, and I swore he was, I told him, I suppose he was going in there. I put him in there and he dropped down then. I put him in there with another man and he staggered when he was at and he did not, I believe it until the next morning.

CROSS-EXAMINATION BY MR. OTT:

X Now, Mr. Wine, did I understand you to say that you took this bottle out of Dr. Snarr's pocket?

A Yes, sir; I sure did.

X Now, I thought Mr. Dillard took that bottle out of his pocket: which one of you did do that?

A I taken it out; positively I taken it out of his pocket, after I got him partly in the car. I had to shove him in the car. My son and I had hold of him, and Mr. Dillard came behind.

X You took the bottle out of his pocket, and Mr. Dillard did not take it?

A I taken it out; yes, sir.

X You were present and saw Dr. Snarr open his car so Mr. Dillard could examine and see whether or not there was any liquor in the car, were you not?

A I will tell you what Dr. Snarr did. The back part of the toneau is closed, and it is one that has an extra tire fastened on there, and there are screws that holds it on. I had hold of Dr.Snarr and Mr. Dillard was trying to open it; and Dr. Snarr said, "I can tell you how to open that; he says, "open that screw," and he showed Mr. Dillard how to turn the screw.

X You two sober men, as you always are, couldn't get the car open, and Dr.Snarr, who was so drunk, could get it open. You did not open it?

A No, I didn't.

X And Mr. Dillard didn't open it?

A I did not open it for the simple reason that I had hold of Dr. Snarr, holding him up, and Mr. Dillard was trying to open the car.

X And you called on Dr. Snarr to open it and he did open it?

A No; I think he told how to open it, possibly.

CROSS-EXAMINATION BY MR. OTT:

X Now, Mr. Mine, did I understand you to say that you took that bottle out of Dr. Smart's pocket?

A Yes, sir: I sure did.

X Now, I thought Mr. Dillard took that bottle out of his pocket: match one of you did do that?

A I taken it out: positively I taken it out of his pocket, after I got him partly in the car. I had to shove him in the car. We son and I had hold of him, and Mr. Dillard came behind.

X You took the bottle out of his pocket, and Mr. Dillard did not take it?

A I taken it out: yes, sir.

X You were present and saw Dr. Smart when his car is in Mr. Dillard could examine and see whether or not there was any liquor in the car, were you not?

A I will tell you what Dr. Smart did. The back part of the foreman is closed, and it is one that has an extra fire insured on there, and there are screws that holds it on. I had hold of Dr. Smart Mr. Dillard and saw fighting to open it: and Dr. Smart said, "I can tell you how to open that: he says, "open that screw" and he showed Mr. Dillard how to turn the screw.

X You two scope men, as you always are, continued to get the car open, and Dr. Smart, who was so drunk, could get it open. You did not open it?

A No, I didn't.

X And Mr. Dillard didn't open it?

A I did not open it for the simple reason that I had hold of Dr. Smart, holding him up, and Mr. Dillard was trying to open the car.

X And you called on Dr. Smart to open it and he did open it?

A No! I think he told you to open it, possibly.

X Well, he told you or explained to you how to open it?

A Yes, sir.

X Now, Dr. Snarr, after going with you gentlemen to examine his car to see whether he had any liquor in it, went back to your car, and when you and Mr. Dillard got in the car, he got on the back seat of the car with Mr. Dillard, is that right?

A Yes, sir.

X And you and your boy got on the front seat?

A Yes, sir.

X And you know further that,during that ride back to Harrisonburg, Dr. Snarr and Mr. Dillard engaged in a conversation all the way back, practically?

A I couldn't say that.

X Don't you know that?

A No, sir.

X You mean, you did not hear them?

A I could hear it, of course. He was talking at times; that is, I will say, he was talking at times; he wasn't so drunk that he could not talk, he could talk.

X Did he talk intelligently?

A No, sir, he didn't.

X He didn't talk intelligently?

A No, sir, he did not.

X And when you got him here in Harrisonburg, you let him out about the front of the Courthouse, here, and he came on into the sheriff's office, in this court building, didn't he?

A Yes, sir.

X And then he went from there over to the jail, did he not?

A Yes, sir.

X Well, he told you or explained to you how of who you to open it?

A Yes, sir.

X Now, Dr. Smart, either Robin with you Gentlemen to examine this case of see whether he had any light in it, went back to your car, and when you and Mr. Dillard got in the car, he got on the back seat of the car with Mr. Dillard, is that right?

A Yes, sir.

X And you and your pal got on the front seat?

A Yes, sir.

X And Dr. Smart and Mr. Dillard engaged in a conversation all the way back, principally?

A I couldn't see that.

X Don't you know that?

A No, sir.

X You mean, you did not hear them?

A I could hear it, of course. He was talking at times; that is, I mean, so much that he could not talk, he could talk.

I will say, he was talking at times: he wasn't so much that he could not talk, he could talk.

X Did he talk intelligently?

A No, sir, he didn't.

X He didn't talk intelligently?

A No, sir, he did not.

X And when you got him here in Hartsburg, you let him out about the front of the courthouse, here, and he came on into the sheriff's office, in this court building, didn't he?

A Yes, sir.

X And then he went from there over to the jail, did he not?

A Yes, sir.

X Now, how long do you say he staid in jail?

A I did not say.

X I thought you said that the next morning or evening you saw the effects of intoxication on him?

A No, I did not say that. I say it now. I said this, that he hardly realized, or did not realize, until the next morning, where he was at.

X As a matter of fact, he was out of jail within half an hour after you put him in there; his friend Dr. Hawthorn heard about his having been arrested --

A (Interrupting) I beg your pardon, not in a half an hour.

X Well, how long was it?

A It was sometime.

X Give us an idea how long Dr. Snarr was in jail; two hours?

A Yes, sir. I said the next morning; he wasn't in there the next morning, I don't believe.

X You know his friend Dr. Hawthorn took it upon himself to come here and have him bailed out that night, don't you?

A Yes, sir; he came there, as well as I remember, along about one o'clock.

X As soon as he found out that Dr. Snarr was in jail?

A About one o'clock, I believe it was; yes, sir.

X Now, was it not about 11 o'clock when Dr. Hawthorn came there to the jail?

A No, sir; it wasn't.

X And he took Dr. Snarr before the bail-commissioner and had him bailed out, didn't he?

A Yes, sir.

X Where did you have that ceremony performed; where did you have the bail-bond fixed?

X Now, how long do you say he stayed in jail?

A I did not say.

X I thought you said that the next morning or evening you saw the effects of intoxication on him?

A No, I did not say that. I say it now. I said that, that he partly recalled, or did not recall the next morning, where he saw it.

X As a matter of fact, he saw one of jail mirror pal? on room in which his friend Dr. Hampton based upon his right to have him in there; he had been attested --

A (Interrupting) I get your Honor, not in a jail on point.

X Well, how long was it?

A It was sometime.

X Give us an idea how long Dr. Smart was in jail: two months?

A Yes, sir. I said the next morning: he wasn't in there the next morning, I don't believe.

X You know his friend Dr. Hampton took it upon himself to come here and have him pelled out that night, don't you?

A Yes, sir: he came there, as well as I remember, along about one o'clock.

X As soon as he found out that Dr. Smart was in jail?

A About one o'clock, I believe it was: yes, sir.

X Now, was it not about 11 o'clock when Dr. Hampton came there to the jail?

A No, sir: it wasn't.

X And he took Dr. Smart before the pell-commissioner and had him pelled out, didn't he?

A Yes, sir.

X Where did you have that ceremony performed: where did you have the pell-pond fixed?

A Mr. Bertram came up there to the jail.

X Mr. Bertram took the recognizance of Dr. Snarr and of Dr. Hawthorn to appear at a certain time before a certain court, didn't he, Mr. Wine?

A Yes, sir.

X And Dr. Snarr was not drunk at the time his recognizance was taken, was he?

A He certainly was drunk, if ever I saw a drunken man that was drunk.

X You mean to tell the jury that Mr. Bertram, an honorable member of this bar, took the recognizance of a man who was too drunk to know what he was doing?

A No, he didn't take his; he took Dr. Hawthorn's.

X You mean he did not take Dr. Snarr's as well as Dr. Hawthorn's?

A Yes, sir; he was taking his, but Dr. Hawthorn was responsible.

X Didn't you hear Mr. Bertram ask him whether he was held and firmly bound to the Commonwealth of Virginia, in the sum of so many dollars, conditioned upon his appearance, &c.?

A Most assuredly.

X And didn't you hear him answer coherently that he was?

A No, sir, I did not hear him say that he was.

X Were you not present where you couldhear?

A Yes, sir, I was.

X But Mr. Bertran did take his bond, and Mr. Bertram did think that he had sufficient intelligence to know what he was doing in giving his bond?

A Mr. Ott, if he had thought he was all right, he wouldn't

A Mr. Bertram came up there to the hall.

X Mr. Bertram took the recognizance of Dr. Grant and of Dr. Hamphorn to appear at a certain time before a certain court, didn't he, Mr. Minns?

A Yes, sir.

X And Dr. Grant was not drunk at the time his recognizance was taken, was he?

A He certainly was drunk. It was I was a drunken man that was drunk.

X You mean to tell the jury that Mr. Bertram, an honorable member of this bar, took the recognizance of a man who was too drunk to know what he was doing?

A No, he didn't take his; he took Dr. Hamphorn's.

X You mean he did not take Dr. Grant's as well as Dr. Hamphorn's?

A Yes, sir: he was taking his, but Dr. Hamphorn was responsible.

X Didn't you hear Mr. Bertram ask him whether he was held and firmly bound to the Commonwealth of Virginia, in the sum of so much dollars, conditioned upon his appearance, &c.?

A Most assuredly.

X And didn't you hear him answer correctly that he was?

A No, sir, I did not hear him say that he was.

X Were you not present where you could hear?

A Yes, sir, I was.

X But Mr. Bertram did take his bond, and Mr. Bertram did think that he had sufficient intelligence to know what he was doing in giving his bond?

A Mr. Off, it he had thought he was ill tight, he wouldn't

have asked Dr. Hawthorn, too; he would have taken his alone.

X You know that you always have to have someone to go on your bail; that is a correct proposition, is it not?

A Certainly.

X How much of the contents do you say was out of this bottle?

A I said, possibly about a third.

X Now, do you know how much was out of this bottle?

A How do you know how much is out of it now?

X I am asking you, now.

A Well, for the same reason you know how much is out now --by the same reason.

X You don't know; you are just guessing?

A I do know, for I taken the paper from around it and looked at it.

X When did you do that?

A When I taken it out of his pocket, most assuredly.

X Can you tell this jury, upon your oath, here, how much ardent spirits were in this bottle when you first unwrapped it and looked at it?

A I just told you.

X Well, tell us again.

A I don't know that it is necessary. I told you as plainly as I could tell you that it was down about one-third.

X You mean it was two-thirds full?

A Yes, sir; two-thirds full. More than that, I can show you where it ran out on the cushion; I think the marks are there yet where it eat the cushion to some extent.

X Now, then, what is the size of that bottle; do you say it is a 16 ounce bottle?

A Yes, sir.

have asked Dr. Hawthorne, too: he would have taken his stone.

X You know that you always have to have someone to go on your path: that is a correct proposition, is it not?

A Certainly.

X How much of the contents do you say was out of this poffle?

A I said, roughly about a third.

X Now, do you know how much saw out of this poffle?

X How, do you know how much is out of it now?

A I am asking you, now.

X Well, for the same reason you know how much is out now --by the same reason.

X You don't know: you are just guessing?

A I do know, for I taken the paper from around it and looked at it.

X When did you do that?

A When I taken it out of his pocket, most assuredly.

X Can you tell this jury, upon your oath, here, how much argent chrisis were in this poffle when you first unwrapped it and looked at it?

A I just told you.

X Well, tell us again.

A I don't know that it is necessary. I told you as plainly as I could tell you that it was down about one-third.

X You mean it was two-thirds full?

A Yes, sir: two-thirds full. More than that, I can show you where it ran out on the crayion: I think the marks are there yet where it was the crayion to some extent.

X Now, then, what is the size of that poffle: do you see it is a le ounce poffle?

A Yes, sir.

X Sixteen fluid ounces?

A Yes, sir.

X That is what it is marked; then, if it was one-third gone, it would have had about 10 fluid ounces?

A Somewhere along there. I can't tell the exact amount. Somewhere near that.

X Do you know, in terms of pints, how much 10 fluid ounces is?

A Most assuredly.

X How much is it?

A How much is it?

X Yes, sir; in terms of pints.

A It is two-thirds of a pint.

X Now, then, according to your statement, you found two-thirds of a pint of ardent spirits in Dr. Snarr's coat pocket?

Q That is what I said; yes, sir.

X That was in his overcoat pocket, wasn't it?

A Yes, sir.

X It was down in his pocket so you could see the top of the bottle?

A It was down in his righthand coat pocket, on the outside?

X Aren't you mistaken about that? Wasn't it in his lefthand coat pocket instead of his righthand pocket?

A It was not; because as I put him in the car, he fell over , he fell over limp and as I pushed him in the car I felt the bottle as I pushed him in, and before he got in the seat I taken the bottle out of his pocket. He was lying in a condition that I could hardly get it, and I got hold of the cork, I suppose, is the reason I got it loose. I pulled the bottle out and showed it to my son and laid it over on the seat -- front seat -- of my car.

X Sixteen thirty ounces?

A Yes, sir.

X That is what it is marked: then, it is one-fifth gone.

A It would have had about 10 thirty ounces?

A Somewhere along there. I can't tell the exact amount.

X Do you know, in terms of pints, how much 10 thirty ounces

Somewhere near that.

A Mostly essentially.

X How much is it?

X How much is it?

A How much is it?

X Yes, sir: in terms of pints.

A It is two-fifths to a pint.

X Now, then, according to your estimate, you found two-fifths

of a pint of stolen whiskey in Dr. Smith's coat pocket?

Q That is what I said: yes, sir.

X That was in his overcoat pocket, wasn't it?

A Yes, sir.

X It was down in his pocket so you could see the top of the

bottle?

A It was down in his trousers coat pocket, on the outside?

X When, if you mistaken about that? Wasn't it in his left-hand

coat pocket instead of his trousers pocket?

A It was not: because as I put him in the car, he fell over

, he fell over this quite and as I braced him in the car I felt the bottle

as I braced him in, and before he got in the seat I taken the bottle

out of his pocket. He was lying in a condition that I could hardly

get it, and I got hold of the cork, I suppose, is the reason I got

it loose. I hurled the bottle out and showed it to you men and

held it open on the seat -- front seat -- to the car.

X Now, aren't you as mistaken about that as you are about how long Dr. Snarr was in jail?

A No, sir.

X And that he walked over to the car, instead of, as you said, your carrying him?

A I partly carried him, I said, which I did. My son and I carried him over and I lifted him in the car.

X What you mean is that you took hold of his arm and walked with him, don't you?

A I took hold of his arm and partly carried him.

X You partly carried him?

A Yes, sir; I had the greater part of his weight.

X Yet he was sober enough to show you how to get into his automobile?

A That was sometime afterwards.

X Didn't you examine his car before you put him in your car?

A No, sir; his car was three or four miles up this way.

X How long did it take you to run in your car four miles on the Valley pike?

A I don't know how far it was. I don't mean to say that he sobered up.

X You ran it in six or seven minutes, and you came from where you got Dr. Snarr to where his car was?

A Probably we did. I did not see that he sobered up any during that time.

X I will ask you this; if his condition wasn't such that he could act as an intelligent man, which he did do?

A No, sir; he did not.

X He did unlock the back part of that car for you?

X Now, sir, don't you as a qualified doctor that as you are about

how long Dr. Grant was in jail?

A No, sir.

X And that he walked over to the car, inspected it, as you said,

you carrying him?

A I helped carrying him, I said, which I did. My son and I

carried him over and I lifted him in the car.

X What you mean is that you took hold of his arm and walked

with him, don't you?

A I took hold of his arm and partly carried him.

X You partly carried him?

A Yes, sir: I had the greater part of his weight.

X He did unlock the back part of that car for you?

A No, sir: he did not.

X I will ask you this: if his condition were such that he could act as an intelligent man, which he did do?

A Properly we did. I did not see that he acted in any duplicity that time.

X You can if in six to seven minutes, and you came into where you got Dr. Grant to where his car was?

A I don't know how that it was. I don't mean to say that he acted in.

X How long did it take you to run in your car into Miles on the Kelley Pike?

A No, sir: his car was three to four miles up that way.

X Didn't you examine his car before you put him in your car?

A That was sometime afterwards.

X Yet he was sober enough to know you and to say into his automobile?

A Yes, sir: I had the greater part of his weight.

X You partly carried him?

A I took hold of his arm and partly carried him.

X What you mean is that you took hold of his arm and walked with him, don't you?

A I partly carried him, I said, which I did. My son and I carried him over and I lifted him in the car.

X Now, sir, don't you as intoxicated about that as you are about how long Dr. Grant was in jail?

A No, sir.

X And that he walked over to the car, inspected it, as you said, your carrying him?

A Any drunken man could do that who knows his car.

X You couldn't unlock it?

A I wasn't familiar with his car. If I were ever so drunk I could unlock my own car, if I was able to stand up to get to it.

Witness told to stand aside.

a witness for the Commonwealth.

D. H. WELSH, ~~sworn,~~ examined by Mr. Earman ~~for Commonwealth:~~

Q Where do you live, Mr. Welsh?

A Tenth Legion, on the Valley pike.

Q Did Dr. S. S. Snarr run into your truck, or the truck that you were driving, on the Valley turnpike, several miles north of Harrisonburg, on November 5th?

A Yes, sir.

Q Just tell the jury what happened down there on that occasion.

MR. OTT: I am making the same objection; objection overruled, exception for defendant.

A Friday evening, a little after dark, I was on my road home and I noticed a car coming up the road,and it ran at a fair rate of speed, and, under the circumstances, he was running pretty rapidly, and he wasn't keeping just to the middle of the road; I was to the right considerably, and about the time he just got close to me he made a pass for me and I cut the truck to the right and he struck the hind end of it, the back part of the bed, and he just went a little bit further, and over a small embankment, and went through the fence; he did not go clear through the fence, but, possibly, half way, and the car was considerably smashed up.

Q At the point you met his car, how far could you see north down the pike?

A I would think quite half a mile, or not quite. The pike is pretty near straight below Mr. Cooley's, but you can't see quite a half mile.

A Why drunken men could do that who knows the car.

X You couldn't unlock it?

A I mean, I familiar with the car. If I were very so drunk

I could unlock my own car, if I was able to stand up to get to it.

witnesses told to stand aside.

D. H. MELEN, ~~sworn~~, examined by Mr. Eastman ~~for defendants~~:

Q Where do you live, Mr. Melen?

A Tenth Location, on the Valley Pike.

Q Did Dr. R. S. Smart run into your truck, or the truck that you were driving, on the Valley turnpike, several miles north of Harrisonburg, on November 8th?

A Yes, sir.

Q Just tell the jury what happened down there on that occasion.

MR. TOY: I am making the same objection: objection incompetent for defendants.

overruled, exception, bailment

A Briefly speaking, a little after dark, I saw no way to keep some

to stay that a is as man it hms,bsot and qu ymimos a cas comiug I noticed

sms ,beeqs, and, nuqsr the circumstances, he saw smmmmt pretty rsbidly,

bms nr mssw n,t kssbimg jsut to the middle to the bsot: I sww t and

light considerably, and about the time he jsut fog close to me nr

msde a bsss tor ms sms I cut the truck to the light sms nr sctrck

the mind sms to it, the sack ysrt to the bsd, sms nr jsut sms a

little bit trntsst, sms ~~[illegible]~~ a tsvo ~~[illegible]~~ sms ,tnemkmdms bms ,mswf

tnrough the tsnce: ns dih not go clsst through the tsnce, but,

bossibly, nsit msv, sms the cst sww tsc sbsrsms vyldsrsbsnos qu.

Q At the point you sms hm ysm ist won tsc cost, you see motfn

qosm the bikes;

A I would think quite nsit a mile, or non duite. The bike

at pretty nsst straight below Mr. Cooley's, but you can,t see quite

a nsit mile.

Q I understood you to say that you saw his car coming up the pike?

A Yes, sir; I did.

Q Did he have his lights on or not?

A Yes, sir; he had his lights on.

Q And did you state whether he came on up the road in the middle of the pike or was he running in a zig-zag condition, or how was he driving his car?

A He wasn't driving straight at all. He was taking the middle of the road, and was taking the greater part of the road; he wasn't just in the middle of the road, but was right on one side. and then the other -

THE COURT: Do you mean he wobbled?

WITNESS: He wobbled, yes, sir. His left front wheel was in bad order; I noticed that before I got to him. That is one reason why I kept out of the road.

Q Did he have ample space in which to pass your car in the road without striking it?

A Oh, yes, sir; three cars could have passed there. There was a little culvert, I judge, an 8 or 10 inch galvanized culvert, passed through the pike, and I was north of that when he hit me. He ran down about over it, and a little further, before he went over to the side of the road.

Q How many feet do you suppose it was from your truck to the end of the culvert?

A It wasn't a hundred feet.

Q It was not 100 feet?

A No,I wouldn't judge it was; it was just a short distance. I couldn't tell you just how far, but it happened very quickly.

Q The accident did not happen on the culvert?

A No; just below the culvert; I had run over the culvert

Q I understood you to say that you was not carrying up the bike?

A Yes, sir: I did.

Q Did he wave his lights on or off?

A Yes, sir: he had his lights on.

Q And did you state afterwards he came on up the road in the middle of the bike or saw he turning in a six-ass condition, or was he drinking his car?

A He seemed drivingly affected at all. He was taking the middle of the road, and was taking the greatest part of the road; but saw right on one he seemed just in the middle of the road, but saw right on one side.

THE COURT: Do you mean he dropped?

WITNESS: He dropped, yes, sir. His left front wheel saw it had orders: I noticed that before I got of him. That is one reason why I kept out of the road.

Q Did he have ample space in which to pass you not in the left without striking it?

A Oh, yes, sir: there was plenty space there. There was a little curve, I judge, as 8 or 10 inch elevated curve, based through the bike, and I saw room to that man as his car go down upon over it, and a little infront, before he went over to the side of the road.

Q How many feet do you suppose it was from your front truck to the end of the curve?

A It seem, I seemed a hundred feet.

Q It was not 100 feet?

A No, I wouldn't judge it saw: it saw just a short distance. I couldn't tell you just how far, but it happened very quickly.

Q The accident did not happen on the curve?

A No: just below the curve: I had run over the curve

and it happened just below the culvert.

Q What was Dr. Snarr's condition at that time?

A He got out from under the fence, from his car, and came down the pike and I went down to meet him, rather; and he came out and said something about my taking all the road, as far as I could understand; and I explained to him that I did not have the road; and he said afterwards that he did not believe it was anybody's fault. I told him that his machine was in pretty bad order, and he said to me that it was the machine's fault and wasn't anybody's fault.

Q With reference to Dr. Snarr's being under the influence of liquor, what was his general appearance, did he appear to have been drinking or not?

A He appeared to be under the influence of liquor.

Q To what extent?

A I can't just say to what extent because I have never been about a great many drunken men and never drank in my life; but he was under the influence of liquor all right. He asked us to pull that car out from under the fence, from that little embankment; but that would have been impossible. I don't suppose fifteen men could have done it. He asked me, then, to pull it out with the truck, and pull it into MtJackson for him, but I could not have done that.

CROSS-EXAMINATION BY MR. OTT:

X Now, Mr. Welsh, you did notice that the Doctor's car was in bad condition?

A I noticed that before I got to him?

X Did you notice it sufficiently to tell the jury what was the matter with the car?

A What was the question?

X Did you notice his car sufficiently to be able to tell the

and it happened just below the chest.

Q What was Dr. Smith's condition at that time?

A He got out from under the fence, from his car, and came down the hike and I went down to meet him, Herbert! and the same out came some bits something upon we taking all the Lord, as far as I could understand; and I explained to him that I did not have the Lord; and he said afterwards that he did not believe it was anybody's else in bad conditions?

X Now, Mr. Meyer, you did notice that the Doctor's car

CROSS-EXAMINATION BY MR. OTT:

Q Did you notice if anything to do with the fence, but I could not have done that. He asked me, then, to pull it out with the truck, and pull it into McIlracken for him, but I could not have done it.

that would have been impossible. I don't suppose little men could that car out from under the fence, from that little compartment: but spout a great man vum drunken man and never drank in my life: but he saw under the influence to light all right. He asked us to pull

A I can't just say to what extent because I have never been

Q To what extent?

A He appeared to be under the influence to light.

been drinking to not?

Q With reference to Dr. Smith's being under the influence light appearance, did he appear to have

A What was his general appearance, mean that was under influence to light, what was the disease?

X Did you notice his car sufficiently to be able to tell the

A I noticed that before I got to him?

Q What was Dr. Smith's condition at that time?

X Did you notice if anything to tell the just what was the matter with the car?

A I noticed that before I got to him.

X Now, Mr. Meyer, you did notice that the Doctor's car was in bad conditions?

jury just what the trouble was?

A No, sir, I couldn't tell just what the trouble was, but the left front wheel was in badly.

X Was wobbling?

A It was.

X Now, if a man had a car the left hind wheel of which wobbled it would be impossible for him to run that car straight in the road like a man usually runs a car, would it not?

A It would.

X So when the doctor got near you he might have lost the control of his car, might he not, in the condition it was in?

A He must have.

X He must have lost control of that car?

A Certainly.

X After you were just about going up on this culvert, you had not reached the culvert yet, but you were just ready to go to the culvert --

A (Interrupting) You are mistaken; I had passed over the culvert. It was just a little culvert.

X You had passed over it?

A Yes, sir.

X Was it after you passed over the culvert that the Doctor ran into you?

A Yes, sir. You couldn't hardly notice it. If you were going down the pike with an automobile, I don't believe you would notice that there was a culvert there.

X After you came together, the Doctor got out of his car unassisted, is that right?

A Yes, sir.

X And he came towards you to make an explanation about the

that that what the trouble was?

A No, sir, I couldn't feel that what the trouble was, but the left front wheel was in badly.

X Was wobbling?

A If was.

X Now, if a man had a car the left hind wheel of which wobbled it would be impossible for him to run that car straight in the road like a man normally runs a car, would it not?

A If would.

X So when the doctor got near you he might have lost the control of his car?

A He must have.

X He must have lost control of that car?

A Certainly.

X After you were thrown out some people came up on this contract, you had not terminated the contract yet, but you were just ready to go to the contract --

A (Interrupting) You are mistaken: I had passed over the contract. It was just a little contract.

X You had passed over it?

A Yes, sir.

X Was it after you passed over the contract that the Doctor met you then?

A Yes, sir. You couldn't probably notice it. If you were going down the hill with an automobile, I don't believe you would notice that there was a contract there.

X After you came forward, the Doctor got out to hit the car mu-
nicipal, is that right?

A Yes, sir.

X Had he come forward you to make an examination upon the

matter, and you were going towards him?

A I so not know what his purpose was, but that was my purpose in going back to see him.

X Both of you got out of your cars and went to talk the matter over, didn't you?

A We talked it to an extent; yes, sir.

X You say you have never been drunk yourself, which is a credit to you, and that you do not know anything about drunken men?

A I did not say that I didn't know anything, but I said my experience has been limited.

X And you wouldn't tell the jury now that Dr. S. S. Snarr was drunk?

A Well, he was under the influence of liquor. Now, just what constitutes that, you will have to explain to the jury.

X Your meaning is that he had a drink or two on, isn't it?

A I can't tell you that. I don't know how many drinks he had on.

X But he talked to you intelligently, did he not?

A To a degree, of course.

X He asked you about pulling his car out from where it was?

A Yes, sir.

X And he asked you to pull his car down to his home?

A He did.

X And that would have been the natural thing that a man would have asked that had gotten stranded there, wasn't it?

A It surely was.

THE COURT: Did he tell you what was the matter with his car, or do you know what was the matter with it?

X Was you acquainted with Dr. S. S. Guett?

A I did not see that very much, but I believe I didn't know anything, but I believe my experience has been limited.

X Did he tell you that I'm a man who was a great sufferer, and he was under the influence of liquor. Now, that drink was drunk?

A Well, he was under the influence of exhaustion of the liquor. You will have to explain to the jury, that's what constituted that, you understand.

X You'll remember it that he had a drink or two on, isn't it?

A I can't tell you that. I don't know how much drinks he had on.

X But he talked to you intelligently, did he not?

A To a degree, of course.

X He asked you about bringing his car out from where it was?

A Yes, sir.

X And he asked you if you would go his car down to his home?

A He did.

X And that would have been the natural thing that a man would have asked that had been staying there, wasn't it?

A If entirely sober.

THE COURT: Did he tell you that he was the master with his car, or do you know what was the matter with it?

A He said, he was under the influence of liquor. Now, that constitutes that, you will have to explain to the jury.

X You'll remember it that he had a drink or two on, isn't it?

A I can't tell you that. I don't know how much drinks he had on.

X But he talked to you intelligently, did he not?

A To a degree, of course.

X He asked you about bringing his car out from where it was?

A Yes, sir.

X And he asked you if you would go his car down to his home?

A He did.

X And that would have been the natural thing that a man would have asked that had been staying there, wasn't it?

A If entirely sober.

X Both of you got out of your car and went to talk the matter over, didn't you?

A We talked it to an extent: Yes, sir.

X You saw you have never been drunk yourself, which is a credit to you, and that you do not know anything about drunken men?

A I did not see that I didn't know anything, but I said my experience has been limited.

X Did you hear Mr. S. S. Guett tell the jury that he had a drink or two on, isn't it?

A I do not know what his purpose was, but that was my purpose in going back to see him.

X Both of you got out of your car and went to talk the matter over, didn't you?

A We talked it to an extent: Yes, sir.

X You saw you have never been drunk yourself, which is a credit to you, and that you do not know anything about drunken men?

A I did not see that I didn't know anything, but I said my experience has been limited.

X And you mentioned that Mr. S. S. Guett was the man who was drunk?

A If entirely sober.

THE COURT: Did he tell you that he was the master with his car, or do you know what was the matter with it?

WITNESS: The reason for it being in a bad way? I have an idea. He had run into a Ford car down the country, and had also run over a fence before he came up to me. It had ample reason to be out of order.

Q Did he tell you whether he had had trouble with his car before starting up the road there from Mt.Jackson?

A I don't recall that he did.

Q And that he had not had a chance to get his car fixed; did he tell you anything about that?

A He didn't tell me anything about running into the other fellow.

REDIRECT EXAMINATION BY MR. EARMAN:

Q Do you know, Mr. Welsh, at what point on the public road, or, rather, on the Valley turnpike, he ran into this Ford car?

A I never saw it at all, but they told me.

MR. EARMAN: You need not tell that.

MR. OTT: Which Ford are you talking about?

WITNESS: The Ford or my truck?

MR. EARMAN: The Ford car.

MR. OTT: I object to that.

WITNESS: I only know what was told me.

Q Was the boy who was with you hurt?

A No, he wasn't hurt.

Witness told to stand aside.

W. L. DILLARD, recalled, examined by Mr. Earman:

Q Do you know whether or not Dr. S. S. Snarr had another automobile wreck that same evening on down the pike further?

MR. OTT: I object to that on the ground that that automobile wreck has nothing to do with the offense charged here.

Objection overruled; exception for accused.

Q Do you know, Mr. Mason, as owner of the Empire Road, or in the Vestley Funeral Home, he ever had into this Ford car?

A I never saw it as she left, but they told me.

MR. EARMAN: You need not tell that.

MR. OTT: Which Ford are you talking about?

WITNESS: The Ford of Mr Francis?

MR. EARMAN: The Ford car.

MR. OTT: I object to that.

WITNESS: I only know what was told me.

Q Was the boy who saw with you that?

A No, he wasn't there.

Witness told to stand aside.

W. L. DILLARD, recalled, examined by Mr. Earman:

Q Do you know whether or not Dr. S. S. Smart had another automobile wreck that same evening on down the Pike Interfere?

MR. OTT: I object to that on the ground that that automobile wreck has nothing to do with the offense charged here.

objection overruled: exception for accused.

CROSS-EXAMINATION BY MR. EARMAN:

Q Do you know, Mr. Mason, as owner Empire Road, or in the Vestley Funeral Home, he ever had into this Ford car?

Or, Interfere, on the Vestley Funeral Home, he ever had into this Ford car?

A I never saw it as she left, but they told me.

MR. EARMAN: You need not tell that.

MR. OTT: Which Ford are you talking about?

WITNESS: The Ford of Mr Francis?

MR. EARMAN: The Ford car.

MR. OTT: I object to that.

WITNESS: I only know what was told me.

Q Was the boy who saw with you that?

A No, he wasn't there.

Witness told to stand aside.

W. L. DILLARD, recalled, examined by Mr. Earman:

Q Do you know whether or not Dr. S. S. Smart had another automobile wreck that same evening on down the Pike Interfere?

MR. OTT: I object to that on the ground that that automobile wreck has nothing to do with the offense charged here.

objection overruled: exception for accused.

CROSS-EXAMINATION BY MR. EARMAN:

Q Did he tell you whether he had had trouble with his car before starting up the road there from Mr. Jackson?

A I don't recall that he did.

Q And that he had not had a chance to get his car fixed: did he tell you anything about that?

A He didn't tell me anything about turning into the other road.

CROSS-EXAMINATION BY MR. EARMAN:

WITNESS: The reason for it being in a bad way? I have an idea. He had run into a Ford car road, and had also run over a fence down the country, and had some trouble. If had some reason before he came up to me. to be out of order.

Q Did he tell you whether he had had trouble with his car

A That is what I had the warrant for his arrest for -- running into a travelling'man's car down the pike, down next to the John Liskey place. He admitted running into the travelling man's car -

Q That was on his same trip to Harrisonburg?

A Yes, sir.

Q And about how far would you say it is from where he had this trouble to the place he ran into Mr. Welsh's truck?

A I should say that the distance is about 8 or 9 miles. I went down there with my car and taken the travelling man's cases from his car and taken them up to Mr. Liskey's and put them in Mr. Liskey's care over night, so he could get his car moved.

MR. EARMAN: The State rests, if your Honor,please.

MEMO: Recess taken until 1.45 p. m., after which testimony for the accused was introduced,as follows:

A That is what I had the pleasure for his arrest for -- run-
ning into a freewheeling man's car down the bike, down next of the
John Lakey place.

Q Just saw on his same trip to Hartsdonville?

A Yes, sir.

Q And about how far would you say it is from where he had
this trouble of the brace on car into Mr. Wolan's truck?

A I should say that the distance is about 8 or 9 miles.

I went down there with my car and taken the traveling man's
cases from his car and taken them up to Mr. Lakey's and put them
in Mr. Lakey's car overnight, so he could get his car moved.

MR. EVANAN: The state rests, if your Honor please.

MEMO: Recess taken until 1.45 p. m., after which
testimony for the accused was introduced, as
follows:

TUESDAY AFTERNOON, JAN., 4, 1921. TESTIMONY FOR THE ACCUSED.

S. S. SNARR, the accused, sworn in his own behalf, testified:

Q By Mr. Ott: You are Dr. S. S. Snarr, the accused, here?

A Yes, sir.

Q How old are you, Doctor?

A Forty.

Q Are you single or married?

A Single.

Q Where do you make your home at present?

A Mt.Jackson, Virginia. Mother and father live there.

Q Your mother and father live with you?

A Yes, sir.

Q How long have you lived at Mt.Jackson?

A About two years the first of the coming March.

Q What is your business, Doctor?

A Practicing medicine.

Q Are you a specialist or a general practitioner?

A General practitioner.

Q Where did you practice before you came to Mt.Jackson?

A Lebanon Church.

Q That is in Shenandoah County?

A Near Strasburg, Shenandoah County.

Q How long did you practice there?

A Nearly twelve years.

Q Did you have any other experience in the practice of medicine?

TUESDAY AFTERNOON, JAN. 4, 1921. TESTIMONY
FOR THE ACCUSED:

S. S. SMAHR, the accused, sworn, testified:

Q BY MR. OFF: You are DR. S. S. SMAHR, the accused, here?

A Yes, sir.

Q How old are you, Doctor?

A Forty.

Q Are you single or married?

A Single.

Q Where do you make your home at present?

A Mr. Jackson, Virginia. Mother and father live there.

Q Your mother and father live with you?

A Yes, sir.

Q How long have you lived at Mr. Jackson?

A About two years the first of the coming March.

Q What was your business, Doctor?

A Practicing medicine.

Q Are you a specialist or a general practitioner?

A General practitioner.

Q Where did you practice before you came to Mr. Jackson?

A Lebanon County.

Q What is in Shenandoah County?

A Near Strasburg, Shenandoah County.

Q How long did you practice there?

A Nearly two years.

Q Did you have any other experience in the practice of medicine?

A Before that, I was in the army for six years, in the medical department of the regular army.

Q Were you a surgeon in the army?

A Yes, sir.

Q Did you rank as lieutenant?

A Equal or equivalent of lieutenent; yes, sir.

Q In your position as surgeon in the army did you serve a part of your time in the Philippine Islands?

A Yes, sir; three years.

Q Did you serve part of the time in Cuba?

A Yes, sir.

Q You are accused here,Doctor, of transporting ardent spirits, contrary to the Prohibition Act of the State of Virginia,--

MR. OTT: I am correct in that, am I, Mr. Earman; that is the basis of your charge, the transportation, is it not?

MR. EARMAN: Yes, sir; I think so.

Q On the 5th day of November, 1920. This is the bottle that was produced here this morning -- this bottle that I hold in my hand -- did you have that on the 5th day of November, 1920?

A Yes, sir.

Q How much was in the bottle when you had it?

A Just about the same amout that is in there now, could possibly have been a tablespoonful more, but just about that amount. I remember it wasn't quite half full.

Q How was that?

A I say, I remember it wasn't quite half full.

Q This seems to be about a 16 fluid ounce bottle, according to the marks on the bottle?

A Yes, sir.

Q That is correct, is it? It is a 16 ounce bottle?

A Before that, I was in the army for six years, in the medical department of the regular army.

Q Were you a surgeon in the army?

A Yes, sir.

Q Did you rank as lieutenant?

A Equal to equivalent of lieutenant: yes, sir.

Q In your position as surgeon in the army did you serve a part of your time in the Philippine Islands?

A Yes, sir: three years.

Q Did you serve part of the time in Cuba?

A Yes, sir.

Q You are accused here 'Doctor' of fraudulently stating that

constituty to the Prohibition Act of the State of Virginia.--

MR. TTO: I am correct in that, am I, Mr. Freeman:

that is the basis of your charge, the fraudulent-
Portraction, is it not?

MR. EAGMAN: Yes, sir: I think so.

Q On the 8th day of November, 1920. This is the bottle that was produced here this morning -- this bottle that I hold in my hand -- did you have that on the 8th day of November, 1920?

A Yes, sir.

Q How much was in the bottle when you had it?

A Just about the same amount that is in there now, could possibly have been a teaspoonfull more, but just about that amount.

I remember it was half full.

Q How was that?

A I see, I remember it was half full.

Q This was a half gallon bottle, according to the marks on the bottle?

A Yes, sir.

Q That is correct, is it? If is a 1/2 ounce bottle?

A Yes, sir.

Q Now, then, measured in terms of pints, how much ardent spirits did this bottle contain when it was taken from you on November 5, 1920?

A About one ounce less than one-half pint.

Q About one ounce less than one-half pint?

A Yes, sir.

Q How were you carrying that when it was taken from you?

A In my outside overcoat pocket.

Q Where were you going that day, Doctor?

A I was going from Mt.Jackson to Danville. I was coming to Harrisonburg to meet my brother, and we were going to Staunton to catch the train going to Danville that night. I wanted to be in Danville the next morning.

Q You were coming to Harrisonburg to meet your brother, Dr. Geo. G. Snarr, a practisioner here in this City?

A Yes, sir.

Q And you were on your road from Mt.Jackson to meet him here that evening?

A Yes, sir.

Q And you were going from here with him to Danville?

A Yes, sir.

Q When did you put this bottle containing these ardent spirits -- when did they come into your possession that day?

A I started from home with them. I had the bottle in my hand-bag, and when I left my car to get in the truck, going back towards Mt.Jackson, I had a mirror and some other things in the hand-bag and the bottle knocked against it and for fear it would break the mirror, or the mirror would break the bottle, I took the bottle and put it in my overcoat pocket out of my hand-bag

A Yes, sir.

Q Now, then, measured in terms of pints, how much strength was in the bottle when it was taken from you on November 2, 1950?

A About one ounce less than one-half pint.

Q About one ounce less than one-half pint?

A Yes, sir.

Q Where were you when it was taken from you?

A In my onsight overcoat pocket.

Q Where were you going that night, Doctor?

A I was going from Mr.Jackson to Denville. I was coming to Hattiesburg to meet my proofer, and we were going to stopping to meet the next morning.

Q You were coming to Hattiesburg to meet your proofer, Dr. Geo. C. Smith, a prescriptionist here in this city?

A Yes, sir.

Q And you were on your road from Mr.Jackson to meet him here that evening?

A Yes, sir.

Q And you were going from here with him to Denville?

A Yes, sir.

Q When did you put this bottle containing these strength capsules -- when did they come into your possession that day?

A I started from home with them. I had the bottle in my hand-pad, and when I left my car to get in the church, going back hand-pad, and the bottle knocked against it and for fear it would somebody Mr.Jackson, I had a mirror and some other things in the hand-pad and the bottle knocked against it and for fear it would break the mirror, or the mirror would break the bottle, I took the bottle and put it in my overcoat pocket out of my hand-pad

when I left my car.

Q If I understand you, when you left your home in Mt.Jackson you put it in your hand-bag?

A Yes, sir.

Q And carried it up to the point --

A (Interposing) Where I left my car.

Q When you started back to Mt.Jackson, you took it out of the handbag for fear it might hit against your looking-glass, and so forth, and you put it in your overcoat pocket?

A Yes, sir.

Q Now, there has been some discussion here this morning as to how much the bottle contained. One witness testified that it was two-thirds full when it came out of your pocket; did it or not, Doctor?

A No, sir; it did not have that much in when I started. I did not take any of it out after I left, and I know it could not have been that full.

Q You spoke of coming to Harrisonburg to meet your brother; how were you travelling when you left Mt.Jackson on your way to meet your brother?

A When I left Mt.Jackson I -- In fact, I had been preparing for this trip for sometime, and I had been up the night before and busy all day, and when I got my work up so I could leave that evening, the steering gear of my car got wrong and I took the car to the garage and asked the garage man if he could fix it and what was wrong with it. He looked over it and said he didn't think there was anything wrong to amount to anything -- he did not say exactly what the trouble was -- and he would fix it when I came back; and if I had a chance to send it back from Harrisonburg, while I was gone to Danville he would fix it. I started, and

right this side of New Market, I met the bus -- the big bus that runs from Staunton to Winchester -- and I was late then and in a hurry, and the bus never gave any road; it very seldom does for it knows you are not going to hit them; and I had to get out to the side and let this bus pass. There was a car following right behind this bus, and as I turned back into the road I struck that car, hit it a side-wipe; and, after that, when I turned the car it would turn hard at first, and then it would turn over that way (indicating) and I would have to turn it back; and that was the cause of my hitting that second car or truck. Where I met him is where I left my car. As I met this second truck, I saw in the road right in front of me the end of a culvert that was scooped out leaving a kind of a hole there, and I wanted to miss that and in trying to miss that my wheel turned and struck the hind end of the truck and turned my car off the road and I went over in the ditch.

Q As you came from Mt.Jackson up the pike did you have full control of your car?

A Only when it would catch and turn quickly. I found afterwards that the bearing of the left front wheel was broken, letting this front wheel play around that way. Sometimes the car would follow that wheel and sometimes it would follow the other one.

Q When the car would catch could you control it fully?

A No, sir; that is the reason I hit the truck.

Q What effect did that have on your wheel, could you control the car?

A It would let the wheel flop around.

Q You mean, that is what caused the wobbling of the car?

A Yes, sir.

Q Now, Doctor, it has been intimated here by some one that the accident that occurred there was due to the fact that you were

tight this side of New Market.' I met the bus -- the pile bus that runs from Stanton to Winchester -- and I was late then and in a hurry, and the bus never ever got: it very seldom does for hours, and I had to get out to if known you are not going to hit them: and I had the side and let this bus pass. There was a car following tight behind, but it a side-wipe: and, after that, when I turned the car, but it would turn back into the road I struck that way if it was a side-way: and, after, when I turned the car to miss that and I went over in the ditch.

Q As you came from Mr. Jackson up the pike did you have any conflict of your car?

A Only when it would catch and turn quickly. I found difficulty when the pedaling of the left front wheel was broken, leaving this front wheel play around that way. Sometimes the car would lollow that wheel and sometimes it would lollow the other one.

Q When the car would catch could you control it fully?

A No, sir: that is the reason I hit the truck.

Q What effect did that have on your wheel, could you control the car?

A It would let the wheel flop around.

Q You mean, that is what caused the wobbling of the car?

A Yes, sir.

Q Now, Doctor, it has been intimated here by some one that the accident that occurred there was due to the fact that you were a kind of a hole there, and I wanted to raise that and in trying to raise that wheel turned and struck the kind of the truck and turned the car off the road and I went over in the ditch.

Q As you came from Mr. Jackson up the pike did you have full control of your car?

A Only when it would catch and turn quickly. I found difficulty when the pedaling of the left front wheel was broken, leaving this front wheel play around that way. Sometimes the car would lollow that wheel and sometimes it would lollow the other one.

Q When the car would catch could you control it fully?

A No, sir: that is the reason I hit the truck.

Q What effect did that have on your wheel, could you control the car?

A It would let the wheel flop around.

Q You mean, that is what caused the wobbling of the car?

A Yes, sir.

Q Now, Doctor, it has been intimated here by some one that the accident that occurred there was due to the fact that you were

drunk; I want you to tell that jury whether or not you were drunk?

A No, sir, I wasn't drunk. I had taken a drink at my home before leaving, but I knew everything that was going on. I could walk as straight as I ever walked. While, of course, I may have had the scent of whiskey on my breath, I was not intoxicated. I knew exactly what was going on, and could drive a car that could be driven as well then as I ever could. I had taken one drink, a right good drink, before I left my home, and I did not believe I was violating the law in carrying that much whiskey in my baggage, from all I read in the newspapers and heard; for my own personal use to carry that much I did not think I was violating any law.

Q I will ask you, while you are on that subject; from what you have read and from what you had learned from talking with others, were you of the opinion that you had the right to carry with you in your baggage for your own personal use less than one quart of whiskey or ardent spirits within the statute?

A Yes, sir; I believed that or I would not have carried any. If I had had the least idea that I was violating the law I would not have carried it. I did not have to carry it. I thought I was not violating the law at all in carrying less than a quart for my own personal use in my baggage -- personal baggage.

Q Did you have any intention whatever of violating the law?

A No, sir; none whatever.

Q Have you ever been in this kind of trouble or any other kind of trouble before this in your life?

A Never before in my life.

Q Did you ever transport liquor for sale?

A No, sir.

Q Have you ever been engaged in the transportation of liquor for sale?

Q Have you ever been in the transportation of liquor for sale?

A No, sir.

Q Did you ever transport liquor for sale?

A Never before in my life.

Q Have you ever been in this kind of trouble or any other kind of trouble before this in your life?

A No, sir: none whatever.

Q Did you have any information whatever of anybody that was in the passage -- personal passage.

Q I will ask you, while you are on that subject: from what time you have been made that you had learned from talking with the officers, were you to the opinion that you had the right to carry liquor for your own personal use less than one half of whatever quantity the afternoon?

A Yes, sir: I believed that to I would not have carried any.

Q Did you know I was arrested the last time I was in the house?

A No, sir: I believed that I would not have carried it. I did not have to carry it. I thought I was not arrested the last time in carrying less than a drop for personal use or to carry any quantity of liquor in my possession -- personal passage.

Q Did you have any information whatever of anybody that was in the house, no, and could give a car that could carry exactly what was going on, and could give me a drink, as I was coming. I had taken one drink, so that was all I was in the house, but I thought I had a good drink, before I left my home, and I did not believe I was arrested in carrying any quantity of liquor in my possession that much I did not think I was arrested any more.

Q Have you ever been engaged in the transportation of liquor for sale?

A No, sir.

Q Now, you have told about the car wobbling; you did, I believe, run into a car out here not so far from town, did you not?

A The first one?

Q Yes, sir.

A That was down on this side of New Market.

Q You did run into Mr. DeWitt's car?

A Yes, sir.

Q Explain that occurrence.

A He was driving right behind the big bus; it did not give me any road, and I was in a hurry and I came back in the road, and I did not slow down as much as I should have, probably, and I came back in the road in the dust behind that bus; and I saw Mr. DeWitt's car, but, as I say, my wheels were hard to steer on account of this broken bearing, and before I could turn out of the pike again I sort of side-wipped his car.

Q You say your wheel was a little hard to turn, and before you could get the car back out of the road to pass the car in front of you, you had run into Mr. DeWitt's car?

A Yes, sir; he was following the bus and I did not see him, and I did not know he was there until I came back into the road.

Q Was that likely to have happened to any man who was in the same position you were in?

A Yes, sir; because it was impossible for me, in front of that bus which was coming towards me, to know that there was a car coming behind. When I turned out of the road and went to come back in was the first intimation I had that there was a car there. Of course, if my car had worked real easy, I might have turned without hitting him at all, but, as I say, it would catch that way and turn hard, and in a second it would run and come right over.

Q At the time you had this accident and ran into Mr. DeWitt's

A No, sir.

Q Now, you have told about the car moonlight; you did, I you not? believe, that the car did not come from Main Street, did you not?

A The first one?

Q Yes, sir.

A That was down on this side of New Market.

Q You did run into Mr. DeWitt's car?

A Yes, sir.

Q Explain that occurrence.

A He was driving right behind the pie pus; it did not give me any room, and I saw it a little early and I came back in the road, and I was in a hurry, because I knew I was going to have trouble passing the car ahead of me, in front of the car ahead of me, and I came back in the road and I was in the same position you were in?

A Yes, sir; because it was impossible for me, in front of the car that was coming behind. When I turned out to the road and went to come back in the same place I had that there was a car there. Yes, sir, it was very dark and there was a little fog, and before I could turn out to the right to avoid the car, I was in the road, and I was in a second it blew and came right over. Defendant's Mr. DeWitt, Q Do you see your car here in the courtroom?

car, I want you to tell the jury whether or not you were intoxicated, and whether that accident to his car was because you were intoxicated?

A No, sir; I could drive a car then just as well as I ever could.

Q Now, then, with regard to DeWitt's accident; you did pay for the damage done to that car to Mr. DeWitt, did you?

A Yes, sir; the reason I did that was because I was in a hurry and I did not stop, I was a little late then; Mr. DeWitt had a touring car and I only had a roadster, and I did not think I had done him much damage. It did not seem to hurt my car, it could go. I don't think I damaged him more than bent a fender, and I was perfectly willing to pay his damage.

Q And you were fined for driving and you paid that?

A Yes, sir.

THE COURT: You were fined for what did you say?

MR. OTT: For driving this car recklessly, was it not, Mr. Earman?

MR. EARMAN: Yes, sir.

THE COURT: For driving the car in an intoxicated condition or for reckless driving?

MR. EARMAN: I do not recall. I have been trying to find the warrant but have not been able to.

THE COURT: Never mind about the warrant; let the witness say. You were fined for reckless driving, was it not, Doctor?

WITNESS: I was fined for reckless driving.

Q After this happened, what was the effect on your car; after you had run into DeWitt's car?

A Simply made the front wheel wobble more and bent my fender.

Q Were you able to go on?

A Yes, sir; only I could not steer it right straight; it would go first one way and then the other.

intoxicated. I don't think I ever saw a car that was worse than this car was because you were intoxicated; and whether that accident of his car was because you were intoxicated or not you of full the truth whether or not you were intoxicated. I mean to say that car, I

A No, sir: I could drive a car that was well as I ever could.

Q Now, then, with regard to Dewitt's accident: You did be you did not see the actual accident?

A Yes, sir: the reason I did that was because I was in a little late that: Mr. Dewitt and the truck and I did not stop, I saw a little late that: Mr. Dewitt and I did not think I could not stop the car and I had a broken a front wheel and I did not see the truck of mean to turn my car, it could have done him much damage. It did not stop the truck and I had a front wheel and I don't think I damaged him more than I did the truck.

Q Were you able to do so?

A Simply made the front wheel wobble more and put my fender.

Q After that happened, what was the effect on your car: after you had run into Dewitt's car?

A Yes, sir: only I could not steer it right straight: it would go first one way and then the other.

Q Did you meet anybody else, then, as you continued on up here to Harrisonburg?

A Yes, sir.

Q Whom did you meet next?

A I do not know who was in the car.

Q I mean, did you meet the truck that Mr. Welsh was driving?

A Yes, sir; up this way further I met that.

Q Mr. Welsh has testified, I believe, that you ran into him. How did that happen?

A When I met him I thought I had plenty of room to pass, but, as I say, there was a little culvert there and just as he was coming over this culvert I was meeting him, and I saw right in front of me this scooped out place at the end of the culvert; the culvert itself extends clear across the road but it leaves a scooped out place, and in order to miss that place I turned over a little towards his truck, but instead of turning a little my car flopped over that way and kind of hit the corner of his truck, and that turned my car practically straight across the road. I slapped on the brakes and cut off the gas and stopped the car against the fence, stopped it short; from the time it got to the middle of the road until it got to the fence I had it stopped.

Q Tell the jury whether that meeting with Mr. Welsh's truck was the result of your being intoxicated or the result of the condition of your car?

A The condition of my car. It was impossible for me to know that it was going to turn over just at that particular time.

Q What did you do after having had this meeting with Mr. Welsh's car?

A I got out and looked at it and asked Mr. Welsh if he would help me to get it out. He said he didn't think he could. I said,

Q Did you meet anybody else, then, as you continued on up the road to Hartsbourne?

A Yes, sir.

Q Whom did you meet next?

A I do not know who saw it in the car.

Q I mean, did you meet the truck that MR. Melan was driving?

A Yes, sir; qu that was very interior I met that.

Q MR. Melan had stopped, I believe, that you met into him.

How did that happen?

A When I met him I thought I had plenty to room to pass, but as I saw, there was a little contact there and that as he did, the car swerved into the contact I saw mentioned him, and I was right

Q Did you meet anybody else, then, as you continued on the road to the contact; the contact itself extends clear across the road but it leaves a little somewhere the truck, but inasmuch of turning a little we scooped out place, and it has to wait of this place I turned over and scooped out place at the end of the contact; the truck, and then the car brought to the rear of the truck to the middle of the road until it got to the front I had it stopped.

Q Tell the jury whether that meeting with MR. Melan's truck saw the result of your being involved to inasmuch of the result of the con-

dition of your car?

A The condition of my car. It was impossible for me to know what that was going to happen to the truck because the front end of it was broken and the rear end of the truck bit very badly damaged.

Q Was that the result of your being involved in the accident?

Yes sir, Melan's truck

then, can you pull my car up on the road with your truck and he said he did not think he could. About that time there was another truck came down the road and stopped, and I asked the man if he was going going back towards Mt.Jackson and he said he was, and I asked him if he would take me along and I would get a man to come back and fix it up and get it out, which he did; he ran the car home on its own power.

Q You heard Mr. Welsh's testimony here about your coming towards him and he going towards you after this meeting had happened; I want you to tell the jury whether you were intoxicated then or not?

A No, sir, I was not.

Q Doctor, are you of an extraordinary nervous disposition?

A Well, yes, sir; I am rather nervous.

Q Were you at that time rather worked up by this accident that you had had; did this running into this truck put you in a somewhat nervous condition?

A Yes, sir; it did. I made arrangements to meet my brother here at 6 o'clock and it was getting close to 6 o'clock at that time and then my car got out of fix that way. It seemed the further I got the worse it got, although I believe I could have gotten to Harrisonburg with it. That seemed to be the only chance I had to get here, and that was enough to make me nervous and worried.

Q What kind of a car were you driving?

A Chevrolet roadster.

Q Were you running a little late, late to meet your brother, Dr. Geo. G. Snarr, here?

A Yes, sir; I had to see a party or two that I did not expect to have to see and that put me behind time.

Q Now, you say, you were in this truck and had started back home?

Q Was you at that time interested in the Bakersfield accident that you had had; did that claim into that truck try to get a somewhat nervous condition?

A Yes, sir: it did. I made arrangements to meet my profner here at 6 o'clock and it was getting close to 6 o'clock at that time and then we got one to fix that way. It seemed the tractor I got the worse it got, although I believe I could have gotten to Martinez- part with it. That seemed to be the only chance I had to get here, and that was enough to make me nervous and worried.

Q What kind of a car were you driving?

A Chevrolet roadster.

Q Were you running a little late, late to meet your profner.

Dr. Geo. C. Grant, peter?

A Yes, sir: I had to see a party to own that I did not expect to have to see and that try me behind time.

Q Now, you say, you were in this truck and had started back home?

A Yes, sir: it did. I made arrangements to meet my profner here at 6 o'clock and it was getting close to 6 o'clock at that time and then we got one fix that way. It seemed the tractor I got the worse it got, although I believe I could have gotten to Martinez- part with it. That seemed to be the only chance I had to get here, and that was enough to make me nervous and worried.

Q What kind of a car were you driving?

A Chevrolet roadster.

Q Were you running a little late, late to meet your profner.

Dr. Geo. C. Grant, peter?

A Yes, sir: I had to see a party to own that I did not expect to have to see and that try me behind time.

Q Now, you say, you were in this truck and had started back home?

A Yes, sir.

Q Where did Mr. Dillard get you?

A It was dark then and I do not know the places along there very well; we had not gone more than a mile or a mile and a half when he met us, or came in front of the truck and stopped the truck.

Q Mr. Dillard came to the truck where you were sitting?

A He came up and said "Is Dr. Snarr in here?" and I said, "Yes, sir." He said, "I have a warrant for you"; and I said, "All right," and I handed my satchel out and I got out. He took hold of my arm, which was absolutely unnecessary; I did not resist at all and had no idea of it; and Mr. Wine came up, I think, and took hold of my other arm, which was absolutely unnecessary; I could walk as well as they could.

Q Did you need any assistance in order to get down from the truck to the ground?

A Not a bit.

Q Did you walk straight?

A Yes, sir.

Q Did you know what you were doing?

A Yes, sir.

Q And you say you offered no resistance whatever?

A None whatever; no, sir.

Q Did they explain to you what they wanted with you?

A Yes, sir; said they wanted me for running into a car.

Q Do you mean Mr. DeWitt's car?

A They did not know anything about Mr. Welsh's car then, I don't suppose.

Q After you got out of the truck, I understand Mr. Dillard had hold of one of your arms and Mr. Wine the other arm?

A Yes, sir.

A Yes, sir.

Q Where did Mr. Dillard get out of the truck? I understand Mr. Dillard got out of the truck to the front and Mr. White the other man had hold of one of your arms and Mr. White and the other man?

A Yes, sir.

Q Did you walk straight?

A Yes, sir.

Q Did you know what you were doing?

A Yes, sir.

Q And you say you offered no resistance whatever?

A None whatever: no, sir.

Q. Did they explain to you what they wanted with you?

A Yes, sir: said they wanted me for running into a car.

Q Do you mean Mr. Demiff's car?

A They did not know anything about Mr. Meier's car then, I don't suppose.

Q After you got out of the truck, I understand Mr. Dillard had hold of one of your arms and Mr. White the other arm?

A Yes, sir.

Q Did you need any assistance in order to get down from the truck to the ground?

A Not a bit.

Q Did you walk straight?

A Yes, sir.

Q Where did Mr. Dillard get you?

A If was dark then and I do not know the places along there very well: we had not gone more than a mile or a mile and a half when he met us, or came in front of the truck and stopped the truck. Mr. Dillard came to the truck where you were sitting?

Q Mr. Dillard came up and said "Is Dr. Smith in here?" and I said, "Yes." He came up and said "Your brother wants to see you." and I said, "Right." He said, "I have a warrant for you." and I got out. He took hold of my arm and I handed my satchel out and I got out. He took hold of my arm and had on his pistol: I did not resist at all and he said we were speeding unnecessarily: I did not know what was specially unnecessary. I could walk as well as they could. Mr. White came up, I think, and took hold of my other leg to it: and Mr. White came up to one of your arms and Mr. Dillard had hold of one of your arms and Mr. White the other arm?

A Yes, sir.

Q Where did you go with them or they go with you?

A Walked over and got in the car.

Q In the officers' car?

A Yes, sir; and we started back towards Harrisonburg until we got up to where my car was.

Q Let me stop you there to keep the proper order of my examination. How far did you have to go from the truck in which you had been riding to get to the car in which the officers came there?

A Ten or fifteen steps.

Q Did Mr. Wine or Mr. Dillard, either or both, carry you across that space or did you walk yourself to their car?

A I walked. No, sir; they did not carry me.

Q What kind of a car did they have?

A I don't know what kind; it was a truck.

Q Was it a five passenger car?

A A five passenger truck.

Q Did you get in the back seat or the front seat?

A The back seat.

Q Did you step up on the running board yourself or did they assist you?

A I stepped up myself. Some one put their hand on my back. I felt like resenting it but I did not.

Q Did anybody put their hand on your back and shove you into the seat?

A No, sir.

Q With whom did you ride, coming up here?

A With Mr. Dillard.

Q Mr. Wine and his boy were on the front seat?

A Yes, sir.

Q Were did you go with them or they go with you?

A Walked over and got in the car.

Q In the officers, car?

A Yes, sir: and we started back towards Hattiesburg until we got up to where we saw the car.

Q Let me ask you there to keep the proper order of my examination. How far did you have to go after the truck in which you had mention. How far did you go to get the officers came back to go to the car in which the officers had been riding?

A Ten or fifteen steps.

Q Did Mr. Milne or Mr. Dillard, either or both, carry you across that space or did you walk yourself to their car?

A I walked. No, sir: they did not carry me.

Q What kind of a car did they have?

A I don't know what kind: it was a truck.

Q Was it a five passenger car?

A A five passenger truck.

Q Did you sit in the back seat or the front seat?

A The back seat.

Q Did you get up or get on the running board yourself or did they assist you?

A I stepped up myself. Some one put their hand on my back.

Q Did anybody put their hand on your back and shove you into the seat?

A No, sir.

Q With whom did you ride, coming up here?

A With Mr. Dillard.

Q Mine and his pol were on the front seat?

A Yes, sir.

Q Now, then, on the road up here, Mr. Dillard said something about asking you about moonshine, what this was and what it cost, and you replied to him that it cost $20.00 a gallon; tell the jury what if any conversation you had with Mr. Dillard.

A Mr. Dillard asked me where he could get some; and I supposed certainly the sheriff was kidding me and I thought I might just as well "kid" him. I said, "Sure, you can get plenty of it all around here"; he said, "How much does it cost?" and I said, "Twenty dollars a gallon." I had no idea the sheriff wanted it.

Q You knew Mr. Dillard did not want to buy any moonshine liquor?

A Yes, sir; I knew he was joking me.

Q You mean that you were treating this in a jocular manner?

A Yes, sir.

Q And you told him he could get plenty of it for $20 a gallon?

A Yes, sir.

Q Now, Doctor, as you rode along the pike did you converse with Mr. Dillard about things generally, and did he converse with you?

A Yes, sir. I realized my position and I did not feel so much like talking.

Q You mean that you did not talk much, but you did talk?

A Yes, sir; I did talk.

Q You remember, of course, about the incident; it is clear in your mind?

A Yes, sir.

Q Now, when you got up to where your car was on the pike, what did you do or what did they do?

A They stopped out there to search my car for ardent spirits and it seemed that they could not get the back end, the place where

Q Now, then, on the road up here, Mr. Dillard was something about moonshine, what did you see and what it cost.

A Mr. Dillard asked me where he could get some; and I supposed certainly the spirits was kidding me and I thought I might just as well go ahead and tell him. I said, "Sure, you can get plenty of it in all around town." He said, "How much does it cost?" and I said, "Twenty dollars a gallon." I had no idea the spirits meanted it.

Q You mean Mr. Dillard did not want of you any moonshine liquor?

A Yes, sir: I knew he was joking me.

Q Now, Doctor, as you rode along the bike did you converse with Mr. Dillard about things generally, and did he converse with you?

A Yes, sir. I remembered my position and I did not feel so much like talking.

Q You mean that you did not talk much, but you did talk?

A Yes, sir: I did talk.

Q You remember, of course, about the incident: it is clear in your mind?

A Yes, sir.

Q Now, Doctor, as you rode along the bike did you converse with Mr. Dillard about things generally, and did he converse with you?

A Yes, sir.

Q And you told him he could get plenty of it for $50 a gallon?

A Yes, sir.

Q You mean that you were treating this in a jocular manner?

A Yes, sir.

Q You mean Mr. Dillard did not want of you any moonshine liquor?

A Yes, sir: I knew he was joking me.

Q You were treating this in a jocular manner?

A Yes, sir.

Q And you told him he could get plenty of it for $50 a Gallon?

A Yes, sir.

Q Now, Doctor, as you rode along the bike did you converse with Mr. Dillard about things generally, and did he converse with you?

A Yes, sir. I remembered my position and I did not feel so much like talking.

Q You mean that you did not talk much, but you did talk?

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A Yes, sir: I knew he was joking me.

Q You mean that you were treating this in a jocular manner?

A Yes, sir.

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Q Now, Doctor, as you rode along the bike did you converse with Mr. Dillard about things generally, and did he converse with you?

A Yes, sir. I remembered my position and I did not feel so much like talking.

Q You mean that you did not talk much, but you did talk?

A Yes, sir: I did talk.

Q You remember, of course, about the incident: it is clear in your mind?

A Yes, sir.

Q Now, when you got up to where your car was on the bike, what happened?

A They stopped out there of course to search my car for stolen spirits and it seemed that they could not get at the pack and, the place where

I carry accessories, they couldn't get that open. Mr. Dillard asked me if I would open it, which I did. I went and did that unassisted; I opened it and got back in the car.

Q You say you got out and did that without assistance?

A Yes, sir.

Q Did they get out first and try to open the back end of your car?

A Yes, sir; and searched the other part of it.

Q Then did they come and ask you to open it?

A Yes, sir. They asked me to come and open it.

Q When you got out of the sheriff's car and went over to your car about what space did you have to walk over?

A The car was sitting on that side of the road, practically across the road.

Q Did they have to assist you in any way to get across the road at all?

A No, sir.

Q Did they take hold of you in any way at all?

A No, sir.

Q How did you open the back part of your car?

A There is a screw there to be unscrewed and a key to unlock it. You have to unscrew this screw and lay the tire back that way (indicating) and unlock the bar and raise it up.

Q And you did that for them?

A Yes, sir.

Q And you got back into their car unassisted?

A Yes, sir.

Q Now, then, where did you go to next?

A They brought me to Harrisonburg to the sheriff's office.

I certy accessories, they couldn't get that open. Mr. Dillard asked me if I would open it, which I did. I went and did that unassisted: I opened it and got pack in the car.

Q You saw nor got out and did that without assistance?

A Yes, sir.

Q Then did you get out first and try to open the pack and of your car?

A Yes, sir: and searched the upper part of it.

Q Then did they come and ask you to open it?

A Yes, sir. They asked me to come and open it.

Q When you got out of the specimen's car and went over to your car about what space did you have to walk over?

A They brought me to Hartsburg to the specimen's office.

Q Now, then, where did you go to next?

A Yes, sir.

Q And you got pack into their car unassisted?

A Yes, sir.

Q Did they have to assist you in any way to get across the road at all?

A No, sir.

Q Did they take hold of you in any way at all?

A No, sir.

Q How did you open the pack part of your car?

A There is a screw that to be unscrewed and a key of mulock (indicating) and mulock the pat and turns it up.

Q And you did that for them?

A Yes, sir.

Q You got out first and try to open the pack and of your car?

Q Have you any idea about what time it was when you got here to Harrisonburg?

A Must have been about half-past six. I did not look at my watch. Somewhere along there.

Q Where did you stop when you got here?

A At the courthouse, near the corner.

Q You mean near Fletcher's drugstore?

A Yes, sir.

Q Did they have to assist you out of the car then?

A No, sir.

Q Did you walk over here into the sheriff's office?

A Yes, sir.

Q Outside of the courtroom door here, unassisted?

A Yes, sir. I came in and used the toilet and went back out to the sheriff's office.

Q How long did you remain in the sheriff's office, then?

A Probably three-quarters of an hour. I did not pay much attention. I did not look at my watch. I staid there a right smart while.

Q Were you waiting for Mr. Earman, the prosecuting attorney, to come?

A Yes, sir.

Q After Mr. Earman came what did you do?

A The sheriff told me that I should go along with Mr. Wine.

Q Did you go along with Mr. Wine?

A Yes, sir.

Q To the county jail?

A Yes, sir.

Q Which was some little distance from the courthouse here?

Q Which was some little distance from the courthouse here?

A Yes, sir.

Q Contrary to the courtroom door here, unassisted?

A Yes, sir. I came in and used the toilet and went back out to the sheriff's office.

Q How long did you remain in the sheriff's office, then?

A Properly three-quarters of an hour. I did not pay much attention. I did not look at my watch. I stayed there a tight small while.

Q Were you waiting for Mr. Eastman, the prosecuting attorney, to come?

A Yes, sir.

Q After Mr. Eastman came what did you do?

A The sheriff told me that I should go along with Mr. Milne.

Q Did you go along with Mr. Milne?

A Yes, sir.

Q To the county jail?

A Yes, sir.

Q Now then, Mr. Eastman's chairs?

A At the courthouse, near the corner.

Q Where did you stop when you got here?

A Just have been about half-past six. I did not look at my watch. Somewhere along there.

Q Have you any idea about what time it was when you got here to Hartleschurch?

Q Did Mr. Wine have to assist you in going to the county jail or did you walk over there of your own strength and volition.

A Yes, sir; yes, sir.

Q When you went up the steps -- You were treated to a room on the second floor, I believe, were you not?

A Yes, sir.

Q There are very steep steps going from the first floor to the second floor?

A Yes, sir.

Q Did you go up these steps unassisted?

A Yes, sir.

Q Mr. Wine says that you offered some resistance when going in the cell at the jail?

A I did not offer any resistance. I made some remark about what a horrible place it was, what a very bad place it was, but I did not offer any resistance whatever.

Q Had you ever been in jail before?

A No, sir.

Q And thoughts of going to jail appalled you?

A Yes, sir.

Q Now, Doctor, how long did you remain in the jail before Dr. Hawthorn came around there?

A Something like an hour and a quarter or an hour and a half.

Q Where were you taken then? Where did you go?

A I was turned loose, then, and I went to the Kavanaugh and registered.

Q I want to ask you, was Mr. Bertram, the bail-commissioner, with Dr. Hawthorn?

A He was; yes, sir.

Q Did Mr. Milne have occasion to assist you in going to the county jail in the cell at the jail?

A I did not notice any resistance. I made some remark about what a pretty place it was, what a very bad place it was. But I did not notice any resistance whatever.

Q Had you ever been in jail before?

A No, sir.

Q And throughout to going of jail imprisonment you?

A Yes, sir.

Q Now, Doctor, how long did you remain in the jail before Dr. Hampton came around there?

A Something like an hour and a half or an hour and a half and a half.

Q Where were you taken then? Where did you go?

A I was turned loose, then, and I went of the Kensington and Lehigh.

Q I want to ask you, was Mr. Bertram, the jail-commissioner, with Dr. Hampton?

A He was; yes, sir.

Q Had you ever been in jail before?

A No, sir.

Q And throughout to going of jail imprisonment you?

A Yes, sir.

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A I was turned loose, then, and I went of the Kensington and Lehigh.

Q I want to ask you, was Mr. Bertram, the jail-commissioner, with Dr. Hampton?

A He was; yes, sir.

Q Did you go up there upon the second floor?

A Yes, sir.

Q Where are very steep steps going from the first floor to the second floor?

A Yes, sir.

Q Did you go up there upon those steps unassisted?

A Yes, sir.

Q Mr. Milne said that you objected some resistance when going in the cell at the jail?

A I did not notice any resistance. I made some remark about what a pretty place it was, what a very bad place it was. But I did not notice any resistance whatever.

Q Had you ever been in jail before?

A No, sir.

Q And throughout to going of jail imprisonment you?

A Yes, sir.

Q Now, Doctor, how long did you remain in the jail before Dr. Hampton came around there?

A Something like an hour and a half or an hour and a half.

Q Where were you taken then? Where did you go?

A I was turned loose, then, and I went of the Kensington and Lehigh.

Q I want to ask you, was Mr. Bertram, the jail-commissioner, with Dr. Hampton?

A He was; yes, sir.

Q Did you enter into a recognizance or bail bond along with Dr. Hawthorn?

A Yes, sir.

Q Do you recall the amount of the bail bond?

A Four hundred and fifty dollars.

Q Did you understand fully the nature of what you were doing?

A Yes, sir.

Q Did Mr. Bertram take the bail bond there in the jail?

A No, sir; on the outside -- in the jail but on the outside of the cage.

Q Now, Dr. Hawthorn became your surety, I believe?

A Yes, sir.

Q After the bail bond had been given where did you go?

A I went with Dr. Hawthorn to the Kavanaugh and went in and registered and took a room that night.

Q Did you come down those steps at the jail by yourself or did Dr. Hawthorn have to aid you?

A No, I came by myself.

Q Did you walk to the Kavanaugh Hotel by yourself?

A No, sir; I went out and got in Dr. Hawthorn's car and came up to the Kavanaugh; and I got out of the car, walked in the Kavanaugh and registered and went upstairs.

Q Unassisted?

A Yes, sir; and came down afterwards. I came out of the hotel afterwards.

Q The next morning?

A No; that night.

Q Did you enter into a recognizance to bail bond stone with Dr. Hampton?

A Yes, sir.

Q Do you recall the amount of the bail bond?

A Four hundred and fifty dollars.

Q Did you understand fully the nature of what you were doing?

A Yes, sir.

Q Did Mr. Bertram take the bail bond there in the jail?

A No, sir; on the outside -- in the jail yard on the outside of the cage.

Q Now, Dr. Hampton became your surety, I believe?

A Yes, sir.

Q After the bail bond had been given where did you go?

A I went with Dr. Hampton to the courthouse and went in and looked and took a room that night.

Q Did you come down those steps at the jail to your left or right Dr. Hampton came out of his door?

A No. I came by myself.

Q Did you walk to the courthouse hotel by yourself?

A No. sir: I went out and got in Dr. Hampton's car and came up to the courthouse: and I got out to the car, walked in the courthouse and registered and went upstairs.

Q Unassisted?

A Yes, sir: and came down stairs. I came out to the hotel

CROSS-EXAMINATION BY MR. EARMAN:

X Doctor, what time did you leave home the evening of November 5th?

A I left between half-past four and five.

X I understood you to say that you took a drink before you left home?

A Yes, sir.

X Did you take that drink out of this bottle?

A No, sir.

X You did not?

A No, sir.

X Did you drink any liquor at all out of this bottle?

A No, sir.

X When you left home how much whiskey did you have in it?

A Not quite half full, less than half-full. Probably, an ounce less.

X Was this the same brand of liquor that you drank before leaving home?

A Yes, sir.

X You say it is?

A Yes, sir.

X You got it out of the same vessel, did you?

A Yes, sir.

X There is no question, then, that it contained more than one-half of one per cent. of alcohol?

A No, sir.

THE COURT: What kind of liquor do you call it. That is as white as water?

WITNESS: Yes, sir.

CROSS-EXAMINATION BY MR. ARMAN:

X Doctor, what time did you leave home the evening of November 8th?

A I left between half-past four and five.

X I understood you to say that you took a drink before you left home?

A Yes, sir.

X Did you take that drink out of this bottle?

A No, sir.

X You did not?

A No, sir.

X Did you drink any liquor at all out of this bottle?

A No, sir.

X Then it is no question, then, that it contained more than one-half of one per cent. of alcohol?

A No, sir.

THE COURT: What kind of liquor do you call it. What is as white as water?

WITNESS: Yes, sir.

THE COURT: Do you call that "Moonshine"?

WITNESS: I do not know whether they call that "Moonshine" or not. I never heard "Moonshine defined.

X Now, did you have this bottle in your grip when you left home?

A Yes, sir.

X You also had the mirror that you spoke of awhile ago in your grip when you left home?

A Yes, sir.

X Now, exactly when did you take the bottle out of your handbag and put it in your pocket?

A When I left my car to go down in the truck. When I turned back to go to Mt.Jackson, I felt that bottle hit against the mirror, and jostle. When I first put it in, I put it on one side and they had gotten together and I heard that, and I took it out and put it in my pocket.

X And you kept it in your pocket from that time on until you were apprehended by the sheriff?

A Yes, sir.

X When did you first discover, Doctor, that there was something wrong with the steering apparatus of your car?

A Sometime in the afternoon. I made some trips in it that afternoon and I found that there was something getting tight about it, something that prevented it from turning easily occasionally. That is the reason I asked the garage man if he could fix it quickly so I could come up here, and he said he could not because he could not find just what it was and did not think it would hurt it to run it up here.

X He thought you could run it from Mt.Jackson to Harrisonburg in safety?

THE COURT: Do you call that "Moonshine"?

WITNESS: I do not know whether that call that "Moonshine" or not. I never heard "Moonshine" defined.

X Now, did you have that bottle in your hand when you left the house?

A Yes, sir.

X You also had the mixture that you spoke of awhile ago in your hand when you left home?

A Yes, sir.

X And you kept it in your pocket from that time on until you were apprehended by the sheriff?

A Yes, sir.

X When did you first discover, Doctor, that there was some-thing wrong with the specimen of your cat?

A Somewhere in the afternoon. I made some fight in it that afternoon and I found that there was something keeping right about it, something that prevented it from turning easily occasionally. That is the reason I asked the Sergeant man if he could fix it quickly so I could come up here, and he said he could not because he could not find least where it was and did not think it would hurt it to let him look at it. Mr. Jackson of Hartsonburg

X He thought you could turn it from Mr. Jackson to Hartsonburg if up here.

A Yes, sir.

X Now, exactly when did you take the bottle out of your hand-pad and put it in your pocket?

A When I left my car to go down in the church. When I started back I put it on one side and then got it out and put it in my pocket.

X And you kept it in your pocket from that time on until you were apprehended by the sheriff?

A Yes, sir.

X Now, did you have that bottle in your hand when you left home?

A Some time in the afternoon. I made some fight in it that afternoon and I found that there was something keeping right about it, something that prevented it from turning easily occasionally. That is the reason I asked the Sergeant man if he could fix it quickly so I could come up here, and he said he could not because he could not find least where it was and did not think it would hurt it to let him look at it up here.

X He thought you could turn it from Mr. Jackson to Hartsonburg if up here.

A Yes, sir.

X You thought so, too?

A I took his word for it.

X And you had no trouble at all until you met this big bus on this side of New Market?

A Yes, sir.

X Mr. DeWitt's car was right much damaged or demolished, was it not?

A I never saw it. I never saw it afterwards.

X There was a warrant trial growing out of that wreck was there not?

A Yes, sir.

X And you were fined for reckless driving?

A Yes, sir.

X I understand you to say that you never stopped but continued on up the pike, and that you had no further trouble at all until you met this truck?

A Yes, sir; I had trouble right along with the steering. Every once in awhile it would go over to one side of the road or the other, and I would have to turn it back quick in order to get back in the road.

X You stated that there was ample space between the truck and the edge of the road for you to pass?

A Yes, sir.

X Under ordinary conditions?

A Yes, sir; but what caused me to make a quick turn was the little culvert.

X How many fluid ounces are there in a pint?

A Sixteen.

X This is a 16 ounce bottle?

A Yes, sir.

X You thought so, too?

A I took his word for it.

X And you had no trouble at all until you met this girl and this side of new Mexico?

A Yes, sir.

X Mr. Demitt's car was right much damaged or demolished, was it not?

A I never saw it. I never saw it afterwards.

X There was a western trial Bronking out of that Wreck was there not?

A Yes, sir.

X How many little cones are there in a pint?

A Sixteen.

X This is a 16 ounce bottle?

A Yes, sir.

X And you were timed for recklessness driving?

A Yes, sir.

X I understand you to say that you never stopped but continued on up the hike, and that you had no trouble at all until you met this truck?

A Yes, sir! I had trouble right along with the speeding. Every once in awhile it would go over to one side of the road or the other, and I would have to turn it back during in order to get back in the road.

X You stated that there was ample space between the truck and the edge of the road for you to pass?

A Yes, sir.

X Under ordinary conditions?

A Yes, sir! but when caused me to make a dirtch turn was the little contrary.

X How many little cones are there in a pint?

A Sixteen.

X This is a 16 ounce bottle?

A Yes, sir.

X There is something like six ounces of liquor in the bottle now?

A Yes, sir.

X And you were, Doctor, somewhat under the influence of liquor?

A I had had a drink; yes, sir; but I knew what I was doing. I could run a car then as well as I ever could.

X You felt the liquor?

A I knew I drank it.

MR. OTT: I did not hear that answer.

WITNESS: I knew I drank it. I wasn't intoxicated.

Witness told to stand aside.

A witness for the defense.

A. T. HAWTHORN, ~~sworn,~~ examined by Mr. Ott, testified:

Q You are Dr. A. T. Hawthorn, I believe?

A Yes, sir.

Q You are a general practitioner of medicine here in this city?

A Yes, sir.

Q I believe you came here from Washington?

A Yes, sir.

Q And have been here about two years or a year and a half?

A About sixteen months.

Q Your office used to be directly opposite the north side of the courthouse and is now over Fletcher's Drugstore?

A Yes, sir.

Q Dr. Hawthorn, did you see Dr. S. S. Snarr on the night of November 5th?

A I can't tell you what night it was;I saw him the night he

A. T. HAMILTON, ~~sworn~~, examined by Mr. Off, testified:

Q You are Dr. A. T. Hamilton, I believe?

A Yes, sir.

Q You are a General Practitioner of medicine here in this city?

A Yes, sir.

Q I believe you came here from Washington?

A Yes, sir.

Q And have been here about two years or a year and a half?

A About sixteen months.

Q Your office used to be directly opposite the north side of the courthouse and is now over Ellefsen's Drugstore?

A Yes, sir.

Q Dr. Hamilton, did you see Dr. S. S. Smart on the night of November 8th?

A I can't tell you what night it was; I saw him the night he

died. I saw him one night; I don't know what night it was.

Q You said you had a drink: Yes, sir; but I knew what I was doing. I

A I had had a drink; Yes, sir; but I knew what I was doing. I could run a car then as well as I ever could.

X You felt the liquor?

A I knew I drank it.

MR. OFF: I did not hear that answer.

WITNESS: I knew I drank it. I mean, I intoxicated.

Witness told to speak louder.

Stricken for the reason.

A. T. HAMILTON, ~~sworn~~, examined by Mr. Off, testified:

Q You are Dr. A. T. Hamilton, I believe?

A Yes, sir.

Q You are a General Practitioner of medicine here in this city?

A Yes, sir.

Q I believe you came here from Washington?

A Yes, sir.

Q And have been here about two years or a year and a half?

A About sixteen months.

Q Your office used to be directly opposite the north side of the courthouse and is now over Ellefsen's Drugstore?

A Yes, sir.

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died. I saw him one night; I don't know what night it was.

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A Yes, sir.

X And you were, doctor, somewhat under the influence of liquor?

A Yes, sir.

X Had had a drink: Yes, sir; but I knew what I was doing. I could run a car then as well as I ever could.

X You felt the liquor?

A I knew I drank it.

MR. OFF: I did not hear that answer.

WITNESS: I knew I drank it. I mean, I intoxicated.

Witness told to speak louder.

was brought up here after his trouble. Just the date I do not know.

Q Did you assist in getting bail when he had a little trouble in November last?

A I did.

Q How did you find out that Dr. Snarr was in jail?

A I was away from my office at the time and Mr. Sam Fletcher, from Fletcher's Drugstore, called me up on the 'phone and asked would it be possible to come to his store immediately; I told him I could not come unless it was very important; that I had a social engagement that I would have to break; and he said it was important, and I said I would come and I did so.

Q You found out from Mr. Sam Fletcher that Dr. Snarr was in jail?

A Yes, sir.

Q When you found that out what did you do?

A I asked Mr. Fletcher what was the procedure to get him out; I did not know anything about it; and he said the best thing to do was to go down to the jail and see what could be done; so that was the first thing I did.

Q You went to the jail and there found out that you would have to go before the bail commissioner?

A Yes, sir.

Q Do you know what time it was?

A When Mr. Fletcher called me up it was twenty minutes past eight. I looked at my watch. I was fixing to go to the picture show.

Q And you came to the drugstore --

A Immediately.

Q Where did you find Mr. Bertram?

A I found him at the News-Record office. That was a little later; I talked to Mr. Earman over the 'phone first, and then I

was brought up here after this trouble. That the date I do not know.

Q Did you assist in getting bail when he had a little trouble in November last?

A I did.

Q How did you find out that Dr. Smart was in jail?

A I was away from my office at the time and Mr. Sam Ltefcher, from Ltefcher's Drugstore, called me up on the 'phone and asked would it be possible to come to his store immediately: I told him I could not come unless it was very important: that I had a social engagement that I would have to break: and he said it was important. And I said I would come and I did so.

Q You found out from Mr. Sam Ltefcher that Dr. Smart was in jail?

A I went to my office at the time and Mr. Sam Ltefcher, called me up on the 'phone and asked me if I could go before the bail commissioner?

Q You went to the jail and there found out that you would have to go home to the jail and see what could be done: so that was the first thing I did.

Q When you found that out what did you do?

A I asked Mr. Ltefcher what was the procedure to get him out: I did not know anything about it: and he said the best thing to do was to go down to the jail and see what could be done.

Q Then you bind him to keep the peace?

A Immediately.

Q Where did you find Mr. Ltefcher?

A I found him at the News-Record office. That was a little after: I talked to Mr. Samuel over the 'phone first, and then I

went to the News-Record office and saw Mr. Bertram.

Q Did you take Mr. Bertram around to the jail then?

A Yes, sir; a little later I took him around to the jail.

Q Do you recall what time it was when you two got to the jail?

A I did not look at my watch at that time, but all the time that was consumed, I imagine, was 40 or 45 minutes from the time I first found out Dr. Snarr was there until I came around to the jail.

Q That would put you around something like 9 o'clock?

A Yes, sir. I know that I went to the Kavanaugh Hotel with Dr. Snarr and then went back to the place from which I was first called, and it was then a few minutes after nine o'clock; just what time I did not notice.

Q A little after nine o'clock?

A Yes, sir.

Q You have known Dr. Snarr for a year or more?

A Yes, sir; fifteen months; since I have come here I met him.

Q You sometimes were called in consultation with him?

A We have worked together at the hospital; I help him with his patients there.

Q Would you say you are well-acquainted with him?

A I would; yes, sir.

Q I want you to tell the jury whether or not when you went around to the jail to bail Doctor Snarr out he was in an intoxicated condition?

A I would not say that he was in an intoxicated condition. You could tell easily that he had had a drink; you could smell it, but from his actions and appearances I would not say that he was drunk by any means, what I term a drunken man; at the same time you could tell he had a drink because you could smell it; and it might have been a little more loquacious than at other times. So far

went to the News-Record office and saw Mr. Bertram.

Q Did you take Mr. Bertram around to the Jail then?

A Yes. sir: a little later I took him around to the Jail.

Q Do you recall what time it was when you two got to the Jail?

A I did not look at my watch at that time, but all the time that was consumed, I imagine, was 40 or 45 minutes from the time I first found out Dr. Smart was there until I came around to the Jail.

Q About would that you around something like 6 o'clock?

A Yes. sir. I know that I went to the Kavanaugh Hotel with Dr. Smart and then went back to the place from which I saw first called, and it was then a few minutes after nine o'clock: that what time I did not notice.

Q A little after nine o'clock?

A Yes. sir.

Q You have known Dr. Smart for a year or more?

A Yes. sir: fifteen months: since I have come here I met him.

Q You sometimes were called in consultation with him?

A We have worked together in the hospital: I help him with his patients there.

Q Would you say you are well-acquainted with him?

A I would: yes. sir.

Q I want you to tell the jury whether or not when you went around to the Jail to call Doctor Smart out he saw it an intoxicated condition?

A I would not say that he saw it in an intoxicated condition.

Q You say you were well-acquainted with him: a little before nine o'clock?

A Yes. sir.

Q You have known Dr. Smart for a year or more;

A Yes. sir: fifteen months: since I have come here I met him.

Q You sometimes were called in consultation with him?

A We have worked together in the hospital: I help him with his patients there.

Q Would you say you are well-acquainted with him?

A I would: yes. sir.

Q I want you to tell the jury whether or not when you went around to the Jail to call Doctor Smart out he saw it an intoxicated condition?

A I would not say that he saw it in an intoxicated condition.

Q You say you went around to the Jail and saw Mr. Bertram: a little before nine o'clock: that what time I did not notice.

as his conduct, conversation and the way he walked out of the jail, are concerned, he was not drunk; he walked out of the jail all right.

Q He walked down those steep steps from the second floor of the jail to the first floor?

A He walked down, and I took him to the Kavanaugh Hotel. I did not get out of the car; he got out and said "I will see you in the morning."

Q You had some conversation with him in going from the jail to the Kavanaugh Hotel?

A Yes, sir; we talked about it, and he asked me how I happened to come down there, how I found it out, and he talked generally.

Q Doctor, you spoke of having assisted and worked with Dr. Snarr, and have known him ever since you have been practicing here; is he inclined to be of a nervous temperment?

A I notice that he is more or less shakey in a way; yes, sir. I would say he is high-strung.

Q Did he seem to be nervous when you saw him around at the jail?

A He was somewhat nervous; yes, sir; that is naturally what you would expect after an accident and the other things combined, I would think he was quite nervous.

MR. EARMAN: I do not care to ask any question.

Witness told to stand aside.

T. W. ALLEN, ~~sworn~~ a witness for the defense, examined by Mr. Ott, testified:

Q Where do you live, Mr. Allen?

A Three miles and a half below Mt.Jackson.

Q What is your age and business?

A I am 53 and farmer.

as his conduct, consideration and the way he walked out to the hall. He was not drunk: he walked out to the hall right, sir concerned, he was not drunk: he walked out to the hall in a very straight manner.

Q He walked down those steps steps with the second floor to the first floor to the first floor?

A He walked down, and I took him to the Kensington hotel. I did not go out to the car: he got out and ran to the hall in a big hurry. I will see if I can find out the number of the Kensington hotel.

Q Do you have some conversation with him during his stay in the hotel and the Kensington hotel?

A Yes, sir: we talked about it, and he asked me if I had been there before. I said I had been there many times before to speak to people.

Q Did you have any other conversation with him?

A Yes, sir: we talked about it, and he said he had been there before. I said I had been there many times before, and I told it to him, exactly what I had been doing there.

Q Mr. Dodge: You speak of having been there many times before: when was the last time before that?

A I am 22 and twenty.

Q What is your age and business?

A Three miles and a half below Mt. Jackson.

Q Where do you live, Mr. Allen?

MR. W. ALLEN, ~~one of~~ examined by Mr. Off, testified:

MR. ARMAN: I do not care to ask any question.

Witness told to step aside.

MR. ARMAN: I do not care to ask any question.

Witness told to step aside.

Q Did he seem to be nervous when you was him talking to the hall?

A He was somewhat nervous: yes, sir: that is naturally what you would expect after an accident and the other fellows complained. I would think he was drink nervous.

Q Mr. Dodge: You speak of having been there many times before: when was the last time before that?

A Three miles and a half below Mt. Jackson.

Q What is your age and business?

A I am 22 and twenty.

Q Have you ever held any official position in your county or State?

A Yes, sir; a member of the State Agricultural Board, and a member of the Board of Review and Tax Board of the county.

Q Of Shenandoah County?

A Yes, sir.

Q Are you a director in any of the banks of your county and town?

A Director in the Mt.Jackson National Bank; yes, sir.

Q Do you operate quite largely as a farmer and a stockman?

A I guess so. I have one of the largest farms in the county, I reckon.

Q Mr. Allen, I want to ask you whether or not you know the defendant, Dr. S. S. Snarr, and, how long you have known him?

A I have known him since he moved to Mt.Jackson, which I judge is about 18 months. I think, possibly, last spring a year he came there.

Q Your business takes you over the county and down in the Labanon Church section; as a stockman you go over that part of the county?

A Several times a year; yes, sir.

Q I wish you would tell the jury whether you know Dr. Snarr's general reputation in the community around, and in Mt.Jackson, as a man of truth and veracity?

A Dr. Snarr is considered an excellent physician by every one he has visited in our part of the country. The Labanon people throught a great deal of him. I never have gone down there that they do not inquire about him and say they were sorry to lose him but were glad he had a larger practice. I have seen him every day or two since he has been in Mt.Jackson, but not in a business way.

Q Have you ever held any official position in Yont County or State?

A Yes, sir: a member of the State Agricultural Board, and a member of the Board of Review and Tax Board of the County.

Q Are you a director in any of the banks of Yont County and Tremont?

A Yes, sir.

Q Of Shenandoah County?

A Director in the Mt.Jackson National Bank: Yes, sir.

Q Do you operate quite largely as a farmer and a stockman?

A I guess so. I have one of the largest farms in the County.

Q Mr. Allen, I meant to ask you whether or not you know the defendant, Dr. S. S. Smith, and, now long you have known him?

A I have known him since he moved to Mt.Jackson. Which I think is about 21 months. I think, possibly, just eighty a year or two since he has been in Mt.Jackson, but not in a business way.

Q And you have contact and acquaintance with the people who have seen him and know him?

A I have noticed them. Dr. Snarr has his office opposite our bank and I see them going there. I notice that he has a wonderful practice with the old people of our county. I know some old chronic cancer cases that he has been working on for a year, that never would be able to pay him. I thought it was a kind act on his part to work where he never could expect to get any money from it. Dr. Snarr has some of the best practice in the county.

Q He practices in some of the best families, does he?

A Yes, sir.

Q What is his general reputation for truth and veracity?

A I think, the very best.

Q What is his reputation as a law-abiding citizen in your town and county?

A I am convinced that Dr. Snarr has never been up in our county for anything in the last twenty years; if he had been I would have known it.

Q Did you ever hear of his being engaged in transporting liquor or being a bootlegger?

A No, sir. I know positively that Dr. Snarr would not have done it. I am so confident because I know he would not do anything of that kind. I don't think Dr. Snarr would sell a drop of liquor.

Q Did you ever hear of Dr. Snarr selling a drop of liquor?

A No, sir. Dr. Snarr is a gentleman, so far as I know.

Q And is so regarded among the people of the county and of that community?

A Yes, sir.

MR. EARMAN: Stand aside.

Q And you have contact and sympathy with the people who have seen him and know him?

A I have noticed them. Dr. Smith has his office opposite our bank and I see them going there. I notice that he has a wonderful practice with the old people in our county. I know some old Catholic ladies that he has been working on for a year, that never cannot cases that he has been working on for a year, that never would be able to pay him. I thought it saw a kind sort on his part to work where he never could expect to get any money from it. Dr. Smith has some of the best practice in the county.

Q He practices in some of the best families, does he?

A Yes, sir.

Q What is his general reputation for truth and veracity?

A I am convinced that Dr. Smith has never been up in our town from and county;

Q What is his reputation as a law-abiding citizen in your county for sympathy in the last twenty years: It has been I could have known it.

Q Did you ever hear of his being engaged in transporting liquor to Leland a bootlegger;

A No, sir. I know positively that Dr. Smith would not have done it. I am so confident because I know he would not do sym-

Q Did you ever hear of Dr. Smith selling a glob of liquor to anyone of that kind. I don't think Dr. Smith would sell a glob of liquor.

Q Did you ever hear of Dr. Smith selling a glob of liquor;

A No, sir. Dr. Smith is a gentleman, so far as I know.

Q And is so regarded among the people of the county and of the county to be a respected citizen;

A Yes, sir.

MR. EARNAN: Stand aside.

a witness for the defense

W. R. BOWMAN, ~~sworn,~~ examined by Mr. Ott, testified:

Q Where do you live, Mr. Bowman, and what is your business?

A Mt.Jackson; farmer and stockman.

Q Do you operate quite largely as a farmer?

A Well, not so largely as a farmer. I am more of a cattleman than a farmer.

Q You are a large stockman of Shenandoah County?

A Yes, sir.

Q Mr. Bowman, how long have you known Dr. Snarr, the accused?

A Ever since he moved to Mt.Jackson, two years this coming spring.

Q Now, as a stockman do you get all over the county in buying stock?

A Yes, sir.

Q Do you get down about the Labanon Church neighborhood where Dr. Snarr came from before he came up to Mt.Jackson?

A Yes, sir; I was down there last spring.

Q By the way, did Dr. Snarr come into Mt.Jackson when Dr. Koontz died there?

A Pretty soon afterwards.

Q He took up Dr. Koontz' practice when he came in?

A Yes, sir.

Q I will ask you whether or not you know the general reputation of Dr. Snarr, first, as a man of truth and veracity in Mt.Jackson and the county of Shenandoah?

A I never heard of it being questioned.

Q I am now going to ask you his reputation as a law-abiding citizen there?

A Perfectly all right.

W. H. BOWMAN, ~~sworn~~, examined by Mr. Off, testified:

Q Where do you live, Mr. Bowman, and what is your occupation?

A Mr. Jackson: farmer and stockman.

Q Do you operate quite largely as a farmer?

A Well, not so largely as a farmer. I am more of a cattle-man than a farmer.

Q You are a large stockman of Gunnisdale County?

A Yes, sir.

Q Mr. Bowman, how long have you known Dr. Swift, the accused?

A Ever since he moved to Mr. Jackson, two years this coming spring.

Q Now, as a stockman do you keep all over the county in pur-

chasing stock?

A Yes, sir.

Q Do you get down about the Lebanon Church neighborhood where Dr. Swift came from before he came up to Mr. Jackson?

A Yes, sir: I was down there last spring.

Q By the way, did Dr. Swift come into Mr. Jackson when Dr. Koontz died there?

A Pretty soon afterwards.

Q He took up Dr. Koontz, practice when he came in?

A Yes, sir.

Q I will ask you whether or not you know the general reputation of Dr. Swift, first, as a man of truth and veracity in Mr. Jackson and the county of Gunnisdale?

A I never heard of it being questioned.

Q I am now going to ask you his reputation as a law-abiding citizen there?

A Perfectly all right.

Q Did you ever hear of his being accused of being a bootlegger?

A No, sir.

Q Did you ever hear of his selling liquor in any way, shape or form?

A No, sir.

Q How is the Doctor regarded as a gentleman in that community?

A Good; he has a very wide practice as a physician.

Q Does he practice among the leading families in your county and community?

A Yes, sir.

MR. EARMAN: Stand aside.

PAXTON WILLIAMSON, ~~sworn~~, a witness for the defense, examined by Mr. Ott:

Q Mr. Williamson, I believe you are a kinsman of our townsman, Mr. T. L. Williamson?

A Yes, sir; I am his nephew.

Q You are a lawyer by profession, are you?

A Yes, sir.

Q Where are you located in your practice?

A In Mt.Jackson.

Q Are you engaged in other business besides the practice of your profession?

A Yes, sir; I manage my mother's farm.

Q Have you ever held any official position in Shenandoah county or Mt.Jackson?

A No, sir, I have never held any, but I have been a candidate before the people for county clerk and for commonwealth's attorney.

Q You were born and raised in Mt.Jackson, were you not?

A No, sir; I was born in New Market, Shenandoah county.

Q These campaigns for public office have given you a wide

Q Did you ever hear of his being accused of being a poof-
ter?

A No, sir.

Q Did you ever hear of his selling liquor in his own ,you know what,s term.

A Yes, sir: I mean he was a ladies man.

Q Have you ever had his official position in Amendmoch
county or Mr.Jackson?

A No, sir, I have never had his ,you know what,s term.

Q Now is the Doctor regarded as a gentleman in that community?

A Good: he has a very high practice as a physician.

Q Does he practice among the leading families in your county and community?

A Yes, sir.

MR. EVANAN: Strong hate.

PAXTON MILLIAMSON, ~~sworn~~, examined by Mr. Off:

Q Mr. Milliamson, I believe you are a kinsman to our foreman,
Mr. T. L. Milliamson?

A Yes, sir: I am his nephew.

Q You are a lawyer by profession, are you?

A Yes, sir.

Q Where are you located in your practice?

A In Mr.Jackson.

Q Are you engaged in other business besides the practice of your profession?

A Yes, sir: I manage my mother,s farm.

Q Have you ever had his official position in Amendmoch
county or Mr.Jackson?

A No, sir, I have never had his ,you know what,s term and I have been a candidate before the people for county clerk and for commonwealth,s attorney.

Q You were born and raised in Mr.Jackson, were you not?

A No, sir: I was born in New Market, Amendmoch county.

Q Where are the public office you have held since a boy
Mr. T. L. Milliamson?

and broad acquaintance throughout Shenandoah county, have they not?

A Yes, sir; I think I know pretty near every man in Shenandoah county.

Q Have you ever been down in the Labanon Church neighborhood where Dr. Snarr lived before he came to Mt.Jackson?

A Yes, sir; I have.

Q Have you known Dr. Snarr ever since he has been in Mt. Jackson?

A Yes, sir; I have known him ever since he has been in Mt.Jackson.

Q Now, Mr. Williamson, just tell the jury the general reputation, if you know it -- you are a lawyer, and, of course, understand what that means -- of Dr. S. S. Snarr for truth and veracity, in your community and in Shenandoah county generally? Cover the whole county.

A Well, if I may use a broad expression, I would say it is excellent, splendid. I know nothing at all against Dr. Snarr, as far as truth and veracity is concerned.

Q I want to ask you further; what is the character of Dr. Snarr as a law-abiding citizen in your community and in Shenandoah county?

A I never heard anyone question it at all.

Q Is he a physician of large practice there?

A Yes, sir; he is regarded as a splendid physician, not only as a diagnostician but also as a man who can treat with skill. He has a large practice in the very best families.

Q Did you ever hear of Dr. Snarr being a bootlegger or selling whiskey?

A No, sir; I never did in my life.

Q Have you ever heard Dr. Smart refer to Mr.Jackson?

A Yes, sir: I have.

Q Have you known Dr. Smart since he has been in Mt. Jackson?

A Yes, sir: I have known him ever since he has been in this county. Have they not been somewhat antagonistic towards Smart for a long time, and, of course, under the circumstances -- of Dr. S. S. Smart for truth and veracity, and in Shenandoah county generally? Cover the whole county.

A Well, it is as good a word as I can use a word expression, I would say it is excellent, abundant. I know nothing at all against Dr. Smart, as far as truth and veracity is concerned.

Q I want to ask you further: What is the character of Dr. Smart as a law-abiding citizen in your community and in Shenandoah county?

A I never heard anyone question it at all.

Q Is he a physician or large practice there?

A Yes, sir: he is regarded as a abundant physician, not only as a disengagedness but also as a man who can treat with skill. He has a large practice in the very best families.

Q Did you ever hear Dr. Smart defend a poolroom or gambling?

A No, sir: I never did in my life.

THE COURT: Did you ever hear of his operating his car too rapidly, as a fast driver, reckless driver, when under the influence of liquor?

WITNESS: Your Honor, I can't say to my certain knowledge that I ever saw Dr. Snarr --

THE COURT: Did you ever hear of Dr. Snarr operating his car when under the influence of liquor?

MR. OTT: Your Honor, please, with all deference to the Court, I want to object to the questions you have asked. I did not know the charge here was reckless driving, but thought it was for bootlegging. (Objection overruled, exception).

WITNESS: No, sir; I can't say that I have. I want to qualify my statement to this extent; rumor has it that he operated a car under the influence of liquor, but whether he did or not, I do not know.

THE COURT: The question of the Court was, did you ever hear that he did that, ever hear any rumor of that sort?

WITNESS: In this case at the bar I have heard it.

THE COURT: But prior to this occurrence on the pike down there, did you ever hear that he had operated his car while under the influence of liquor?

WITNESS: I don't think I have.

THE COURT: You never heard of it before that time?

WITNESS: No, sir; I don't think I did.

THE COURT: Did you ever hear anybody speak of any other occasion when it was done by him?

WITNESS: That Dr. Snarr operated his car when under the influence of liquor?

THE COURT: Yes, sir. Prior to this case here.

WITNESS: Yes, sir; I have.

Q But you do not know anything about the truth or falsity of that statement?

A No, sir, I do not.

Q You have seen Dr. Snarr frequently in his car?

A Yes, sir; quite frequently.

Q You never saw him when he was operating his car under the influence of liquor, did you?

A No, sir; I did not.

Q And he is going about in his car every day?

A He goes every day; yes, sir. He has a large practice.

THE COURT: Did you ever meet or talk to Mr. Grant operating his car
under the influence of liquor, drunk, as a result of drinking
liquor, or not?

A No, sir: I did not.

Q Did you ever see him when he was operating his car under
the influence of liquor, drunk to a noticeable extent?

A No, sir: I did not.

Q Did you ever see Mr. Grant intoxicated in his car?

A Yes, sir: quite intoxicated.

Q You never saw him when he was operating his car under
the influence of liquor, did you?

A No, sir: I did not.

Q Do you know anything about the finish of Grant's car
to final assessment?

A No, sir, I do not.

Q Do you have seen Mr. Grant intoxicated in his car?

A Yes, sir: quite intoxicated.

Q You never saw him when he was operating his car under
the influence of liquor, did you?

A No, sir: I did not.

Q And he is going about in his car every day?

A He does every day: yes, sir. He has a large practice.

WITNESS: No, sir: I don't think I did.

THE COURT: You never heard of it before that time?

WITNESS: I don't think I have.

THE COURT: Did you ever meet anybody else in your office
occasion when it was done by him?

WITNESS: That Mr. Grant operated his car when under
the influence of liquor?

THE COURT: Yes, sir. Prior to this case here.

WITNESS: Yes, sir: I have.

Q But you do not know anything about the finish of Grant's
finance assessment?

A No, sir: I do not.

Q You have seen Mr. Grant intoxicated in his car?

A Yes, sir: quite intoxicated.

Q You never saw him when he was operating his car under
the influence of liquor, did you?

A No, sir: I can't say that I have. I want to
say positively on assessment of this expense: that was
operated his car under the influence
if that he operated a car when he was intoxicated
to do, or not, I do not
of liquor, but whether he did or not, I do not
know.

THE COURT: The direction of the Court, saw, did you ever
meet that he did that, ever meet any
that sort?

WITNESS: In this case as the car I have heard it.

THE COURT: But Prior to this occurrence on the bike
down there, did you ever meet that he had
operated his car under the influence
of liquor?

WITNESS: No, sir: I don't think I have.

THE COURT: You never heard of it before that time?

WITNESS: Your Honor, I can't say of my certain knowledge
that I ever saw Mr. Grant --

THE COURT: Did you ever meet of Mr. Grant operating his
car when under the influence of liquor?

MR. OTT: Your Honor, please, with all reference of the
Court, I want to object to the question now
asked. I did not know the charge here
raw respects (illegible) but thought it saw to
good-reasonable. (Objection overruled, exception).

Q State whether or not Dr. Snarr is regarded as one of the very best citizens in your community?

A Yes; he is generally loved in his community as a physician.

MR. EARMAN: You say as a physician, how as a man?

A Likewise as a man.

Q What is your age?

A I am 35.

Witness told to stand aside.

a witness for the defense.

CHARLES W. NEWMAN, ~~sworn,~~ examined by Mr. Ott:

Q Mr. Newman, where do you live?

A I live near Mt.Jackson.

Q What is your age?

A I am thirty-four.

Q You are a relative of Judge E. D. Newman of Shenandoah -- Woodstock?

A Distant relation.

Q What is your business?

A Farming.

Q Are you more extensively engaged in farming or stock raising?

A Well, I feed a good many cattle; I don't graze a good many but I finish a good many.

Q You are interested largely in farming operations in Shenaddoah?

A Yes, sir.

Q You say your home is at Mt.Jackson?

A About four miles west of Mt.Jackson.

Q Does your business take you down in the Lebanon Church section of Shenandoah county?

A No, sir; I don't often get around in that section.

Q Where is your area?

A I am finitely-joint.

Q You are a relative of Judge E. D. Newman of Greenbrook -- Woodbrook?

A Distant relation.

Q What is your business?

A Banking.

Q Are you more extensively engaged in banking or stock raising?

A Well, I feed a good many cattle; I don't raise a good many but I finish a good many.

Q You are interested largely in banking operations in Greenbrook?

A Yes, sir.

Q You are a member of Mr. Jackson?

A About four miles west of Mr. Jackson.

Q Does your business take you down in the Lebanon district section of Greenbrook county?

A No, sir; I don't often get around in that section.

-- 22 --

Q State whether or not Dr. Grant is regarded as one of the very best citizens in your community?

A Yes; he is generally loved in his community as a physician.

MR. HANNAN: You say as a physician, now as a man?

A Likewise as a man.

Q What is your age?

A I am 22.

Witness told to answer again.

CHARLES W. NEWMAN, ~~sworn~~, examined by Mr. Off:

Q Mr. Newman, where do you live?

A I live near Mr. Jackson.

Q What is your age?

A I am finity-joint.

Q You are a relative of Judge E. D. Newman of Greenbrook -- Woodbrook?

A Distant relation.

Q What is your business?

A Banking.

Q Are you more extensively engaged in banking or stock raising?

A Well, I feed a good many cattle; I don't raise a good many but I finish a good many.

Q You are interested largely in banking operations in Greenbrook?

A Yes, sir.

Q You say you were your home is at Mr. Jackson?

A About four miles west of Mr. Jackson.

Q Does your business take you down in the Lebanon district section of Greenbrook county?

A No, sir; I don't often get around in that section.

Q Have you known Dr. S. S. Snarr ever since he has been in Mt.Jackson?

A Yes, sir.

Q Tell the jury whether or not you know his general reputation as a man of truth and veracity, and, if so, whether it is good or bad?

A I have never heard anything to the contrary,-- nothing detrimental to him.

Q State whether or not you know his reputation as a law-abiding citizen in that community?

A A-1.

Q How?

A It is A-1.

Q Did you ever hear of his being connected with the transporting of liquor for sale or bootlegging, or anything like that?

A No, sir.

Q Tell the jury what his general reputation is as a citizen; how he is regarded in that community?

A It is the very best, as far as I know, and I guess I would know it if anybody does. I get in there every day and get to see him every day.

THE COURT: How long do you say Dr. Snarr has lived there?

WITNESS: About two years, I guess, Judge; probably a little less

Q You mix around with the people outside of the town of Mt. Jackson, in your business?

A Yes, sir.

Q And that is the way he is regarded wherever he is known, as you go around?

A Yes, sir.

Q Did you ever hear of his having any trouble at all in Shen-

Q Have you known Dr. S. S. Smart very since he has been in Jackson?

A Yes, sir.

Q Tell the jury what his general reputation is as a citizen: how is he regarded in that community?

A It is the very best, as far as I know, and I guess I would see to see what it is anybody does. I get in there every day and get to see him every day.

THE COURT: How long do you use Dr. Smart and lived there?

WITNESS: About two years, I guess, maybe; probably a little less

Q You mean around with the people outside of the town of M.?

Jackson, in your neighborhood?

A Yes, sir.

Q Did you never hear anything of the contrary,-- nothing good or bad?

A I have never heard anything of the contrary,-- nothing detrimental to him.

Q State whether or not you know his reputation as a law-abiding citizen in that community?

A A-1.

Q How?

A It is M-1.

Q Did you ever hear of his being connected with the firm-

ing to illegal or fraudulent, or anything like that?

A No, sir.

Q Tell the jury what his general reputation is as a citizen: how is he regarded in that community?

A It is the very best, as far as I know, and I guess I would see to see what it is anybody does. I get in there every day and get to see him every day.

THE COURT: How long do you use Dr. Smart and lived there?

WITNESS: About two years, I guess, maybe; probably a little less

Q You mean around with the people outside of the town of M.?

Jackson, in your neighborhood?

A Yes, sir.

Q And that is the way he is regarded by everyone in Jack-

andoah county?

A Never have, sir.

CROSS-EXAMINATIONBY MR. EARMAN:

X Have you ever heard of him running an automobile while under the influence of liquor?

MR. OTT: Prior to this occurrence.

MR. EARMAN: Yes; prior to this occurrence.

A Did I ever hear of it?

X Prior to this occurrence?

A I do not recall any particular instance; no, sir.

X Well, have you or not ever heard of him driving a car while under the influence of liquor prior to this affair?

THE COURT: Have you ever heard anybody say that he did?

WITNESS: No, sir; I do not think I ever heard anybody say so.

THE COURT: Did you ever know of it yourself?

WITNESS: Well, just to what extent? What would you call "under the influence of liquor"? I perhaps do not understand the question. Do you mean a man taking a drink?

THE COURT: If you could see that he had anything to drink, to the extent of being under the influence of it.

WITNESS: No, sir; I could not say that I did.

MR. OTT: Just a moment. Does Dr. Snarr practice among the best people of the community of the town and county?

A Yes, sir.

Witness told to stand aside.

andersn county?

A Never heard, sir.

CROSS-EXAMINATION BY MR. EARNAN:

X Have you ever heard of him running an automobile while under the influence of liquor?

MR. OTT: Prior to this occurrence.

MR. EARNAN: Yes: Prior to this occurrence.

A Did I ever hear of it?

X Prior to this occurrence?

A I do not recall any particular instance: no, sir.

X Well, have you or not ever heard of him driving a car while under the influence of liquor prior to this sitting?

THE COURT: Have you ever heard anybody say that he did?

WITNESS: No, sir: I do not think I ever heard anybody say so.

THE COURT: Did you ever know of it yourself?

WITNESS: Well, just to what extent? What would you call "under the influence of liquor"? I perhaps do not understand the question. Do you mean a man taking a drink?

THE COURT: If you could see that he had something to drink, to the extent of being under the influence of it.

WITNESS: No, sir: I could not say that I did.

MR. OTT: Just a moment. Does Dr. Smart practice among the best people of the community of the town and county?

A Yes, sir.

Witness told to stand aside.

a witness for the defense.

GEO. G. SNARR, ~~sworn,~~ examined by Mr. Ott:

Q Dr. Snarr, you are a brother of Dr. S. S. Snarr, the accused?

A Yes, sir.

Q I want to ask you whether or not you had an engagement with your brother, Dr. S. S. Snarr, on November 5, 1920, to go to Danville together?

A Yes, sir; I did.

Q What time were you expecting him to get here that evening?

A About five or five thirty, I just forget the exact time of that train. I waited 15 or 20 minutes past that time to go to get my train at Staunton, which leaves at 7:30, possibly.

Q Your intention was to take him to Staunton and then board a train there for Danville?

A Yes, sir; he was supposed to go with me from here to Staunton and board a train at Staunton. I left word for him to come on. I thought he might have had a wreck, or something, and would come on later on the next train and I would meet him in Charlottesville.

Q Where were you going?

A To my nephew's wedding.

GEO. G. BRAHM, ~~sworn~~, examined by MR. Off:

Q DR. SMITH, you are a profession of DR. S. S. SMITH, the accused?

A Yes, sir.

Q I want to ask you whether or not you had an engagement with Doctor Smith, on November 2, 1850, to go to Dan-ville professionally?

A Yes, sir: I did.

Q When was you expecting him to be there that evening?

A About five or five thirty. I just looked the exact time to be that train. I walked 15 to 20 minutes past that time to go to get up train at Stanton, which leaves at 7:20, hospitably.

Q What time was you expecting him to be at Stanton and then posted a train there for Danville?

A Yes, sir: he was supposed to go with me from here to Stanton and posted a train at Stanton. I left word for him to come on. I thought he might have had a wreck, or something, and would come on later on the next train and I would meet him in Chat-tanooga.

Q Where were you going?

A To my neighbor's, a neighbor.

a witness for the defense.

H. W. BERTRAM, ~~sworn,~~ examined by Mr. Ott, testified:

Q You are Mr. H. W. Bertram, and you are a practicing lawyer at this bar?

A I am.

Q And also Commissioner of Accounts and Bail Commissioner of this Court?

A I am.

Q Were you called on the evening of November 5th to bail Dr. S. S. Snarr?

A I was called on to bail Dr. S. S. Snarr, but I don't remember the date.

Q Do you remember just what time?

A No.

Q Do you remember about what time it was when you went around to the jail to bail him or not?

A I can't recall just the time. I am satisfied it was before 11 o'clock, and I am also satisfied that it was after 9 o'clock, but between those two hours I cannot say the time.

Q You were still down town?

A I was down town. Dr. Hawthorn caught me at the Record Office. I had been someplace else; he had been there before and came for me again.

Q The point I am making is, he did not have to go to your residence to get you; you had not gone home for the evening?

A No.

Q Now, I want you to tell the jury the condition that Dr. S. S. Snarr was in when you took the bond, as you saw it?

A Well, he was in a highly nervous condition. I could tell that. He did not want to be still long enough for me to take the

H. W. BERTRAM, ~~sworn~~ examined by Mr. Off, testified:

Q You are Mr. H. W. Bertram, and you are a practicing lawyer at this bar?

A I am.

Q And also Commissioner of Accounts and Bail Commissioner of this County?

A I am.

Q Were you called on the evening of November 8th to bail Dr. S. S. Smatt?

A I am.

Q Now, I want you to tell the jury the condition that Dr. S. S. Smatt was in when you took the bond, as you saw it?

A Well, he was in a highly nervous condition. I could tell that he did not want to be still long enough for me to take the

bond to the jail to bail him or not?

Q Do you remember about what time it was when you went

A No.

Q Do you remember about what time?

A No.

Q Do you remember that date?

A I was called on to bail Dr. S. S. Smatt, but I don't remember the date.

Q Were you called on the evening of November 8th to bail Dr. S. S. Smatt?

A I am.

Q And also Commissioner of Accounts and Bail Commissioner of this County?

A I am.

Q You are Mr. H. W. Bertram, and you are a practicing lawyer at this bar?

A I am.

Q Do you remember about what time?

A No.

Q Do you remember about what time it was when you went

A I can't recall that the time. I am certained it was before 11 o'clock, and I am also certained that it was after 8 o'clock, but between those two hours I cannot say the time.

Q You were still down town?

A I was down town. Dr. Hamfrom called me at the Record Office. I had been somewhere else; he had been there before and came for me again.

Q The point I am making is, he did not have to go to your residence to get you; you had not gone home for the evening?

A No.

Q Now, I want you to tell the jury the condition that Dr. S. S. Smatt was in when you took the bond, as you saw it?

A Well, he was in a highly nervous condition. I could tell that he did not want to be still long enough for me to take the bond.

bond. I had to call his attention to the fact, at one time, that I was taking his recognizance, or bail, and I asked him to be quiet until I was through. He was in a very highly nervous condition. When I went to the cell he was asleep, or those in the corridor said he was sleeping, and they called him and he got up; he had already undressed and gotten in bed.

Q Would you say that Dr. S. S. Snarr was drunk? Can you say that he was drunk?

A No; I cannot say he was drunk. I don't know that I would be an expert on the question one way or the other.

THE COURT: Did you see any signs of intoxication?

WITNESS: He was under the influence, slightly under the influence, or partially under the influence, of ardent spirits, or his nervous condition was working on him. I could not say that he was drunk.

Q From his appearance you would be unable to tell which it was?

A I would say a man looking at him under the conditions existing there might say that he was under the influence of liquor. His condition might have been attributable to something else. I can say that.

Q You did notice that he was highly wrought up and nervous?

A He was that; there is no question about that.

CROSS-EXAMINATION BY MR. EARMAN:

X I understood you to say that he had the general physical appearance of a man who was under the influence of liquor?

A I say, Yes, going there under the circumstances, I would come to the conclusion that he was somewhat under the influence of liquor, yet his condition might be attributable to something else.

pond. I had to call his attention to the fact, at one time, that I saw Lakins his recognizance, or bail, and I asked him to be kind enough to step out of the cell he was seated, or those in the corridor when I went to the cell he saw Lakins and he got up; he had stretched and yawned in bed.

Q Would you say that Dr. S. S. Smart was drunk? Can you say that he was drunk?

A No! I cannot say he was drunk. I don't know that I would be an expert on the drawing one way or the other.

THE COURT: Did you see any signs of intoxication?

WITNESS: He was under the influence, slightly under the influence, or perfectly under the influence, or his nerves conditions, or his mental capacity, to a degree to which it may have been affected by the condition might be attributable to something else. I

Q From his appearance you would be unable to tell which it was?

A I would say a man looking at him under the conditions extending there might say that he was under the influence of liquor. His condition might have been attributable to something else. I can say that.

Q You did notice that he was slightly strange or has nervous?

A He was that; there is no question about that.

CROSS-EXAMINATION BY MR. MARTAN:

X I understood you to say that he had the General Physical appearance of a man who was under the influence of liquor?

A Yes, say, going there under the circumstances, I would come to the conclusion that he was somewhat under the influence of liquor, yes; his condition might be attributable to something else.

THE COURT: Did you ever see anything like that in a man getting over a state of intoxication?

WITNESS: Well, yes, sir. He might have been getting over a state of intoxication . I would not -- The reason I say I do not know whether it was caused by liquor or not, I did not smell any liquor. I do not know that I was close enough certainly in my condition; I do not smell very well on account of an affection of the Eustachian tube. I did not notice the fumes of any liquor; but I thought then that he was under the influence of liquor, though it may have been something else.

X Did you go down with him, as they went down the steps, or did you leave before Dr. Snarr?

A I think I went down and that they came immediately after; I am not sure about that.

X You did not notice him coming down the steps at all?

A They must have come down; I am sure, now, that I left them right between the jail and the other building there, and that I preceded them down the steps and they came right after me.

X Do you know, as a matter of fact, that he did walk down the steps unassisted?

A I know that he walked down the steps; I know he was not carried down. I did not notice anybody giving him any assistance, or, at least, I do not recall any.

X You three were together; Dr. Hawthorn, Dr. Snarr and yourself?

A Yes, sir.

X Was anybody else with you?

A Mr. Wine, the deputy sheriff. I do not think he came down even, though he may have come down, too. I think he locked the door.

Witness told to stand aside.

THE COURT: Did you ever see anything like that in a man getting over a state of intoxication?

WITNESS: Well, yes, sir. He might have been getting over a state of intoxication. I would not -- The reason I say I do not know whether it was caused by liquor or not, I did not smell any liquor. I do not know that I saw clothes enough certainly in my condition: I do not smell very well on account of an affection of the Eustachian tube. I did not notice the times of any liquor: but I thought then that he saw under the influence of liquor, though it was never something else.

X Did you go down with him, as they went down the steps,

to did you leave before Dr. Smith?

A I think I went down and that they came immediately after: I am not sure about that.

X You did not notice him coming down the steps at all?

A They must have come down. I am sure, now, that I left them

even, though he may have come down, too. I think he locked the door.

Witness told to stand aside.

X Do you know, as a matter of fact, that he did walk down the steps unassisted?

A I know that he walked down the steps: I know he was not carried down. I did not notice anybody giving him any assistance, or, at least, I do not recall any.

X You three were together: Dr. Hamilton, Dr. Smith and Contrelli?

A Yes, sir.

X Was anybody else with you?

A Mr. Wine, the deputy sheriff. I do not think he came down, too. I think he locked the

a witness for the defense.

FREEMAN RINKER, ~~sworn,~~ examined by Mr. Ott, testified:

Q Where do you live, Mr. Rinker?

A Mt. Jackson.

Q How old are you?

A Thirty-two.

Q What official position do you hold in the county of Shenandoah or the town of Mt.Jackson?

A Deputy sheriff for about two years, for something over two years.

Q Any other official position that you have been honored with?

A I have been game warden for four and a half years.

Q Are you engaged in any other business?

A The automobile business to a certain extent.

Q How long have you known Dr. S. S. Snarr?

A I have only known him since he has been there; I suppose something over two years.

Q Your duties as deputy sheriff and as game warden take you over the county of Shenandoah pretty generally, do they not?

A Yes, sir; I have been over the whole of the county, I reckon.

Q You have been in the Lebanon Church neighborhood, I mean, before Dr. S. S. Snarr came to Mt.Jackson?

A Yes, sir.

Q I want you to state to the jury whether you know the general Reputation of Dr. Snarr for truth and veracity?

A It has been the very best wherever I have been.

Q I will ask you what has been his general reputation as a law-abiding citizen in Mt.Jackson and in Shenandoah County?

A He has never been in trouble except this last that I ever heard of, and if he had been I would have known of it, I suppose.

BREEDLAN BINKER, ~~sworn~~, examined by Mr. Off, testified:

Q Where do you live, Mr. Binker?

A Mr. Jackson.

Q How old are you?

A Sixty-two.

Q What official position do you hold in the county of Sheb-
sudsen or the town of Mr. Jackson?

A Deputy sheriff for about two years, for somewhat over two years.

Q Was you engaged in any other business?

A I have been same width for just and a half years.

Q Was your official position that you have been honored with?

A He has never been in trouble except that last that I
jam-packing citizen in Mr. Jackson and in Shenandoah County?

Q I will ask you what has been the general reputation as a
general reputation of Dr. Smart for truth and veracity?

A It has been the very best whatever I have been.

Q Do you know the Lebanon Church neighborhood, I
mean, before Dr. S. S. Smart came to Mr. Jackson?

A Yes, sir.

Q I want you to state to the jury whether you know the
reputation of Dr. Smart for truth and veracity?

A It has been the very best whatever I have been.

Q I will ask you what has been his general reputation as a
law-abiding citizen in Mr. Jackson and in Shenandoah County?

A He has never been in trouble except that last that I
very much doubt, and it he had been I would have known of it, I suppose.

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Q Did you ever hear of him being connected with the selling of liquor in any way, shape or form?

A No.

Q What is his general reputation as a good citizen in that community?

A First class, I would call it.

Q Does he practice among the best families of your town and community?

A Yes, sir; that is the way I understand it.

Q Did you ever hear of him operating an automobile while under the influence of liquor prior to November 5, 1920?

A No, I don't know that I have. In fact, I never pay any attention to what I hear. I have got to see it before I believe it.

Q You say that you do not know that you have; is there any doubt in your mind about it?

A No, there is no doubt about that.

Q You never heard of that then?

A No; that is, take it the way you interpret it, whether being under the influence of it or just a drink or two. I suppose he has had a drink or two when operating his car.

Q Have you ever heard that he operated his car when he had a drink or two?

A No; I never heard that, but he may have had it.

Witness told to stand aside.

Q Did you ever meet Mr. Peter Connerat with the selling
organization in any way, shape or form?

A No.

Q Was his general reputation as a good citizen in that
community?

A First class, I would call it.

Q Does he practice among the best families of your town and
community?

A Yes, sir: that is the way I understand it.

Q Did you ever meet Mr. Peter operating an automobile while
under the influence of liquor prior to November 2, 1929?

A No, I don't know that I have. As fact, I never saw
him drunk. I have got to see it before I believe it.

Q. You say that you do not know that you have: is there any
doubt in your mind about it?

A No, there is no doubt about that.

Q You never meet Mr. Peter in that town?

A No: that is, take it the way you interpret it, nevertheless
being under the influence of it or just a drink or two. I suppose
he has had a drink or two when operating his car.

Q Have you ever meet Mr. Peter operate his car when he had
a drink or two?

A No: I never meet that, but he was drunk had it.

Witness told to step aside.

a witness for the defense,

RIPLEY WALKER, ~~sworn,~~ examined by Mr. Ott, testified:

Q Where do you live, Mr. Walker?

A About a mile and a half north of Mt.Jackson.

Q You are a lawyer by profession and training are you not?

A Yes, sir; at the present time I am running a farm.

Q You did practice in Mt.Jackson?

A I passed the bar and practiced for awhile.

Q You are a son of the late Robert J. Walker?

A Yes, sir.

Q What is your age?

A Twenty-eight.

Q How long have you known Dr. S. S. Snarr, the accused?

A I have known him ever since he came up to Mt.Jackson, I presume about two years ago.

Q Did you know him when he lived at Lebanon Church?

A No, I never knew him until he moved to Mt.Jackson.

Q You are very well-acquainted over Shenandoah county?

A I know a good many people over there; yes, sir.

Q You are very well-acquainted in the Lebanon Church neighborhood?

A Not especially; I have never been to Lebanon Church but once in my life. I know a few people in that neighborhood.

Q Are you well-acquainted with the people in and around Mt. Jackson, people among whom Dr. Snarr practices?

A I think I know everyone there.

Q You know every man, woman and child, do you not?

A Yes, sir; I think so.

Q I want you to tell the jury, if you know, what is the general reputation of Dr. Snarr in the community of Mt.Jackson, for truth and veracity?

A I think, in regard to that, that Dr. Snarr is one of

MYRNA WALKER, ~~sworn~~ examined by Mr. Off, testified:

Q Where do you live, Mr. Walker?

A About a mile and a half north of Mr. Jackson.

Q You are a lawyer by profession and practicing are you not?

A Yes, sir: at the present time I am unmarried a term.

Q You did practice in Mr. Jackson's?

A I passed the bar and practiced for awhile.

Q You are a son of the late Robert L. Walker?

A Yes, sir.

Q Must be your area?

A Twenty-eight.

Q How long have you known Dr. S. S. Smart, the accused?

A I think, in regard to that, that Dr. Smart is one of the oldest friends and respectable

Q Did you know him when he lived at Lebanon Church?

A I have known him ever since he came up to Mr. Jackson, I presume about two years ago.

Q You are a young man, are you married, sir?

A No, I never knew him until he moved to Mr. Jackson.

Q You are very well-educated over Shenandoah county?

A I know a good many people over there: Yes, sir.

Q You are very well-educated in the Lebanon Church neighborhood?

A Not especially: I have never been to Lebanon Church but once in my life. I know a few people in that neighborhood.

Q We've very well-educated with the people in and around Mr. Jackson, people among whom Dr. Smart practices?

A I think I know everyone there.

Q You know every man, woman and child, do you not?

A You know every man, woman and child, do you not?

Q I mean you to feel the truth, it you know, when that is the general reputation of Dr. Smart in the community of Mr. Jackson, truth and veracity?

A I think, in regard to that, that Dr. Smart is one of

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the best citizens around in our county. I never heard anyone question it at all; everything has been very commendable, very good, the very best, I should say.

Q I understand you to mean from that that his general reputation for truth and veracity is good?

A Yes, sir; absolutely.

Q Now, then, what is his general reputation as a law-abiding citizen in that community?

A That is just as good; he is absolutely all right.

Q Did you ever hear Dr. S. S. Snarr being accused of dealing in liquor, or having any illegal connection with liquor whatever?

A No, absolutely not.

Q Does he practice among the very best families of your town and community?

A Yes, sir; he practices all classes of our people, including the very best.

Q How is he regarded generally as a citizen in your community?

A Well, I should think just as high as any citizen in that community.

MR. EARMAN: Stand aside, Mr. Walker.

a witness for the defense.

FRANK PENNYBAKER, ~~sworn,~~ examined by Mr. Ott, testified:

Q What is your age, Mr. Pennybaker?

A I was 80 years old the 26th of last September.

Q What position do you hold in your county and town?

A Well, I have been connected with the People's Bank, its Vice-president, and with the Shenandoah Valley Loan and Trust Co. I have been loaning money for the Trust Company for the last 12 or 15 years. That is my present business.

Q If I understand you, are you now the vice-president of the People's Bank of Mt. Jackson?

the People's Bank of Mt. Jackson?

Q Do you understand you are now the Vice-President of the People's Bank of Mt. Jackson?

A Yes, sir: we practice all classes of our people, including community?

Q Does the practice among the very poor tenants of your town help the very poor?

A Well, I should think that as much as any citizen in that community?

Q How is he regarded generally as a citizen in your community?

A Well, I have been connected with the People's Bank, the Mt. Off, respectfully:

FRANK PENNYPACKER, examined by Mr. Off, respectfully:

Q What is your age, Mr. Pennypacker?

A I was 28 years old the 26th of last September.

Q What position do you hold in your community and town?

A Well, I have been connected with the People's Bank and Trust Co. Vice-President, and with the Shenandoah Valley Loan and Trust Co. I have been loaning money for the Trust Company for the last 15 or 12 years. That is my present business.

Q Did you ever read Dr. S. S. Smith's paper on business to lessen poverty?

A That is just as good: he is speculating all right.

Q Now, then, what is his General Information as a law-abiding citizen in that community?

A Yes, sir: speculately.

Q Does he practice among the very poor tenants of your town and vicinity as good?

A No, specularly not.

Q Did you ever read Dr. S. S. Smith's paper on the Poor, very good, the question if as all: everything has been very commendable, very good, very good, I should say.

Q I understand you to mean to say that that General Information of your business is good?

A Yes, sir: speculately.

Q Now, then, what is his General Information as a law-abiding citizen in that community?

A Well, I should think just as much as any citizen in that community.

MR. MARTIN: Ground large, Mr. Market.

Q What is your age, Mr. Pennypacker?

A I was 28 years old the 26th of last September.

Q What position do you hold in your town and town?

A Well, I have been connected with the People's Bank, the

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A Yes, sir; we are a State Bank and not a National Bank.

Q What office do you hold with the Loan & Trust Company?

A I am vice-president and loan agent.

Q What is the name of that Trust Company?

A The Shenandoah Loan & Trust Company.

Q Where is there office?

A Woodstock, Va.

Q How many years has it been your duty to look after the loans and to look after the financial operations of that institution?

A About twelve years.

Q Have you ever been mayor of the town of Mt.Jackson?

A Yes, sir.

Q For hom many years?

A For fourteen or fifteen years, I reckon.

Q When was that, Mr. Pennybacker?

A I believe we are elected for two years; I think I had about four terms; and I quit for about 8 years; and then I have been 14 years in the office since.

Q During the late prohibition campaigns you were one of the most ardent supporters of prohibition in Mt.Jackson and in Shenandoah county, were you not?

A Holding the position of mayor made me a very, very dry man. I saw so much drunkenness and so much crime; fences build over to bar-rooms from livery-stables, with doors cut in from the rear, to take the farmers' boys in.

Q I say, you were one of the most ardent advocates of prohibition?

A Yes, sir. I spent money and time for it.

Q You felt that it was a great and good thing?

A I certainly did.

Q How long have you known the accused, Dr. S. S. Snarr?

A Yes, sir: we are a State Bank and not a National Bank.

Q What office do you hold with the Lone & Trust Company?

A I am vice-president and loan agent.

Q What is the name of that Trust Company?

A The Shenandoah Loan & Trust Company.

Q Where is there office?

A Woodstock, Va.

Q How many years has it been your duty to look after the loans and to look after the financial operations of that institution?

A Ever since the organization of the company, I reckon.

Q Not more than two years?

A For instance or little years, I reckon.

Q When was that, Mr. Pennypacker?

A I believe we are elected for two years; I think I had about four years; and I dig for about 8 years; and then I have been in the office since.

Q During the late Prohibition campaign you were one of the most strenuous supporters of Prohibition in Mr. Jackson and in Shenandoah county, were you not?

A Holding the position of mayor made me a very, very busy man. I was so much criminkenness and so much crime: hence built over of part-rooms from liquor-sellers, with doors one and in from the rest, so fake the instrate, pool in.

Q I say, you were one of the most strenuous advocates of Prohibition?

A Yes, sir. I spent money and time for it.

Q You left that it was a great and good thing?

A I certainly did.

Q How long have you known the accused, Dr. S. S. Smith?

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A I have known him ever since our Dr. Koontz died, this March coming will be two years since I have known him. The people of our town, when Dr. Koontz died -- he was a relative of mine -- came to me and asked me to try and find a good doctor. I wrote to your Dr. E. D. Davis, whom I knew very well, and when I came to town here I went to see Dr. Davis, and he assured me that Dr. S. S. Snarr was a first class physician. We had a patient or two that went to Winchester to be operated on by Dr. Boyd, and they tell me -- I met Mr. Whitmore on the street awhile ago, and he told me of the time he went to be operated on by Dr. Boyd; and Dr. Boyd told him, "What do you come to me for? You have the best doctor in the country in that man Snarr, at Mt.Jackson." After that, I made up my mind that I would get Dr. Snarr to come to see my wife. I got the doctor, and he came to see her, and he said, "Mrs. Pennybaker, you are an old lady and it is impossible for me to do you any good without knowing what is the matter with you"; he says, "from the symptoms you tell me, your trouble may be from various causes, and I cannot tell without a thorough examination, and I want to take you down to the Garfield Hospital and let the expert there examine you." And we took her down there.

Q Now, Mr. Pennybacker, without going into all of that; I want to ask you, have you known Dr. Snarr ever since he came to Mt.Jackson?

A Yes, sir.

Q Your business took you over Shenandoah county generally, did it not?

A Yes, sir.

Q Do you know, personally, everybody in the county?

A I don't know everybody, but I know most of the better class of people, I think.

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Q Are you well-acquainted in the Lebanon Church section, where Dr. Snarr came from?

A Not so well; but I am well-acquainted with Strasburg and Woodstock, but not so far back to the mountain.

Q Are you well-acquainted with the people living in and around Mt.Jackson?

A Yes, sir; I know all those gentlemen who have been here; farmers and everybody else, I reckon.

Q Speaking of these gentlemen who have been introduced here as witnesses, Mr. T. W. Allen, Mr. W. R. Bowman, Mr. Chas. W. Newman, Mr. Ripley Walker, Mr. Freeman Rinker, and Paxton Williamson, are they respectable men of your community?

A Yes,sir; they are the very leading farmers, some lawyers, and so on.

Q Are they high-classed citizens, men of integrity and honor?

A Yes, sir.

Q Now, Mr. Pomybaker, state whether or not you know the general reputation of Dr. S. S. Snarr for truth and veracity in his community, and, if so, whether it is good or bad?

A I think it is first class. I never heard anything to the contrary.

Q State whether or not you know his general reputation as a law-abiding citizen?

A Why, it is perfectly good. I don't think I ever saw a better man.

Q How is he regarded among the people of your town and community generally as a citizen?

A With a few exceptions, and I think that is due to jealousy because they are not highly in favor of other doctors and that is human nature -- jealousy is the worst characteristic a man ever inherited -- but aside from that, I do not think there is anybody

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who has anything but the highest opinion of him.

Q Did you ever hear of him being connected with liquor illicitly?

A Never. I had him in my employ for, I think, four or five months, and the man was at my house every day and three and four times a day to see my wife, who suffered awfully; and he was there on all occasions, and I never caught the smell of liquor on him. I never saw anything wrong about him in any way. I regard him as a christian gentleman, and I have good reason for believing it. One reason is, if you will allow me to tell you, in talking with us he frequently quotes the bible; he is a member of the church, and that sort of thing. Two things make me believe that man is as good a christian as ever drew the breath of life; I never saw a man in my life that loved his mother as he does; he is the greatest mother's man I ever saw in my life. He speaks to me frequently of his mother, and would say that he supposes other men have good mothers, but "I believe my mother is the best mother in the world." He frequently goes out in the kitchen and takes off his coat, and when his mother cannot do all the work, he frequently does it for her. She comes to my wife and tells her. That is the man's reputation. He is not made of the material as these tamarack bootleggers; he couldn't do it; and he would just as soon murder his best friend as to violate the law, if he knew it.

MR. EARMAN: You may stand aside, Mr. Pennybacker.

MR. OTT: The defense rests.

MR. EARMAN: THE COMMONWEALTH RESTS.

Teste this the 16th day of February 1921.
T. M. Hass, Judge

MR. EVANS: THE CONSCIENTIOUS MAYOR.

MR. OTT: The defense rests.

MR. EVANS: You may step aside, Mr. Pennypacker.

A witness who was called to testify to little: I never saw a man in a contrition as very much like the proof of little: he is the typical mother's little that loved his mother as he does: he is the typical mother, and I never was in my life. He speaks of me tenderly to his mother, but "I know she will find that he supposes other men have good mothers, and know his mother is the best mother in the world." He tenderly believes my mother is the best mother in the world, and when his mother goes out in the kitchen and takes off his coat, and hangs it up carefully does it for her. She comes command do all the work, he tenderly does it for her. He is so my little man feels her. That is the man's temperation. He is not made of the material as these remarks poorly express: he contain's good to see the material to lead and influence I know. Anotherson lis no doubt he would that as soon mother his head tilted as to do it: and he would just as soon mother his head tilted as to do it: it he knew it.

MR. EVANS: You may step aside, Mr. Pennypacker.

MR. OTT: The defense rests.

MR. EVANS: THE CONSCIENTIOUS MAYOR.

During the trial of this case, the Commonwealth introduced D.H.Welsh and propounded to him this question:

"Q Did Dr. S.S.Snarr run into your truck, or the truck that you were driving, on the Valley turnpike, several miles north of Harrisonburg, on November 5th?

A Yes, sir.

Q Just tell the jury what happened down there on that occasion.

MR. OTT: I am making the same objection; objection overruled, exception for defendant.

A Friday evening, a little after dark, I was on my road home and I noticed a car coming up the road, and it ran at a fair rate of speed, and, under the circumstances, he was running pretty rapidly, and he wasn't keeping just to the middle of the road; I was to the right considerable, and about the time he just got close to me he made a pass for me and I cut the truck to the right and he struck the hind end of it, the back part of the bed, and he just went a little bit further, and over a small embankment, and went through the fence; he did not go clear through the fence, but, possibly, half way, and the car was considerably smashed up."

To the foregoing question propounded to D.H.Welsh, a witness for the Commonwealth, upon the direct examination of the Commonwealth, and notwithstanding the defendant's objection allowed by the Court, the defendant excepted.

Teste: this 16th day of February, 1921.

J.R.Haas, Judge.

Counsel for the Defendants excepted.

Peace: adj. at 12½ p.m. to Tuesday, 1st Sept.

During the trial of this case, the Commonwealth introduced W.L.Dillard, the Sheriff of Rockingham County, and propounded to him this question.

"Q Mr. Dillard, just state to the jury what occurred when you arrested Dr. Snarr on that warrant, charging him with reckless driving?

MR. OTT: Question is objected to.

THE COURT: Did you arrest Dr. Snarr?

WITNESS: Yes, sir.

THE COURT: State the circumstances, what happened, what you saw and what you know about it? When was it?

WITNESS: It was on November 5th, 1920.

MR. OTT: It is perfectly possible, your Honor, for the witness to tell about the transportation of this liquor without going back into the details of this accident, he can go into the facts for this case without doing that. I object to his doing that.

THE COURT: I understood you to state to the jury (in opening statement(that there were 4 or 5 ounces of ardent spirits in the possession of Dr. Snarr when he was arrested.

MR. OTT: That is so; yes, sir.

THE COURT: Now, it is perfectly competent to show the jury that Dr. Snarr was intoxicated, at that time, the extent to which he was intoxicated, and what he was doing, in order to place before the jury evidence tending to show that there was more liquor than that quantity at one time in the bottle. That he was drunk, or had been drinking at that time, is evidence tending to shed light on the question of what quantity of liquor he had and what he was doing with it -- whether he was using it lawfully or not. It is a part of the

res gestae. The whole circumstances of the transaction are admissible in evidence.

MR. OTT: The point is saved on the ruling of the Court.

A On the evening of November 5th, I proceeded down the pike with the warrant to arrest Doctor Snarr for running into a traveling man. When I got down below Mr. Cooley's farm, I found a car there wrecked, and, also, a truck; the car had hit the truck.

THE COURT: Whose car was that?

WITNESS: Dr. Snarr's car; his own car."

To the foregoing question propounded to W.L.Dillard, witness for the Commonwealth, upon the direct examination of the Commonwealth, and,notwithstanding defendant's objection, allowed by the Court, the defendant excepted.

Teste: this 16th day of February, 1921.

J.N. Haas, Judge.

The witness, W.L.Dillard, was re-called for further examination by the Commonwealth, and was asked this question:

"Q Do you know whether or not Dr. S.S.Snarr had another automobile wreck that same evening on down the pike further?

MR. OTT: I object to that on the ground that that automobile wreck has nothing to do with the offense charged here.

Objection overruled; exception for accused.

A That is what I had the warrant for his arrest for -- running into a travelling' man's car down the pike, down next to the John Liskey place." He admitted running into the travelling man's car.

To the foregoing question propounded to W.L.Dillard, a witness for the Commonwealth, upon being re-called by the Commonwealth for further direct examination, and, notwithstanding the defendant's

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on the ground of irrelevancy.
objection, allowed by the Court, the defendant excepted.

Teste: this 16th day of February, 1921.

J. H. Haas, Judge.

objection, allowed by the Court, the defendant excepted.

Tests: this 14 day of January 1921.

_____ Judge.

And Paxton Williamson, ~~another~~ one of the witnesses introduced in this case, upon being examined by counsel for the defendant, ~~in his direct examination~~ and after he had be[illegible]ed by counsel for the defense, and after he had left the witness stand, as to defendant's general reputation, as shown in the evidence, and as to whether he had been engaged in bootlegging or selling liquor unlawfully, as shown in the certificate of the evidence, was asked by the Court:

"THE COURT: Did you ever hear of his operating his car too rapidly, as a fast driver, reckless driver, when under the influence of liquor?

WITNESS: Your Honor, I can't say to my certain knowledge that I ever saw Dr. Snarr --

THE COURT: Did you ever hear of Dr. Snarr operating his car when under the influence of liquor?

MR. OTT: Your Honor, please, with all deference to the Court, I want to object to the questions you have asked. I did not know the charge here was reckless driving, but thought it was for bootlegging. (Objection overruled, exception).

WITNESS: No, sir; I can't say that I have. I want to qualify my statement to this extent; rumor has it that he operated a car under the influence of liquor, but whether he did or not, I do not know.

THE COURT: The question of the Court was, did you ever hear that he did that, ever hear any rumor of that sort?

WITNESS: In this case at the bar I have heard it.

THE COURT: But prior to this occurrence on the pike down there, did you ever hear that he had operated his car while under the influence of liquor?

WITNESS: I don't think I have.

THE COURT: You never heard of it before that time?

WITNESS: No, sir; I don't think I did.

THE COURT: Did you ever hear anybody speak of any other occasion when it was done by him?

WITNESS: That Dr. Snarr operated his car when under the influence of liquor?

THE COURT: Yes, sir. Prior to this case here.

WITNESS: Yes, sir; I have."

To the foregoing question propounded to Paxton Williamson, a witness for the defendant, upon examination by the Court, and, notwithstanding defendant's objection, allowed, the defendant excepted.

Teste: this 16th day of February, 1921.

J. N. Haas, Judge.

Upon the conclusion of the evidence for the Commonwealth and for the defendant, the defendant moved the Court to instruct the jury that from the evidence in this case there had been no intentional violation of any provision of the prohibition act of this State but an unintentional or inadvertent violation thereof, and that they could not impose a jail sentence, which said motion the Court overruled, and the defendant excepted.

Teste: this 16th day of February, 1921.

J. N. Haas, Judge.

Upon the consideration of the evidence for the commonwealth and for the defendant, the defendant moved the court to instruct the jury that it from the evidence in this case there had been no intentional violation on the part of the defendant to the provision of the statute and that you could not impose a jail sentence, which also motion the court overruled, but the defendant excepted.

Dated: this _____ day of February, 1891.

_____
Judge.

Commonwealth of Virginia

vs.

Dr. S.S.Snarr.

INSTRUCTION NO._____.

The jury are instructed that if they believe from the evidence that the accused, S.S.Snarr, had on his person, while traveling on the Valley Turnpike, ardent spirits, even though the quantity be only six ounces, then he is guilty of unlawfully transporting liquor, as charged in the indictment.

The foregoing instruction was granted at the request of the Commonwealth and the defendant excepted.

Teste: this 16th day of February, 1921.

J. R. Haas, Judge.

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Commonwealth of Virginia

vs.

Dr. S.S.Smart.

INSTRUCTION NO._____.

The jury are instructed that if they believe from the evidence that the accused, S.S.Smart, had on his person, while travelling on the Valley Turnpike, ardent spirits, even though the quantity be only six ounces, then he is guilty of unlawfully transporting liquor, as charged in the indictment.

The foregoing instruction was granted at the request of the Commonwealth and the defendant excepted.

Test: this 16 day of February, 1921.

_____, Judge.

INSTRUCTION NO._____.

The Court instructs the jury that even though they believe from the evidence that the accused, Dr. S.S.Snarr, had in his overcoat pocket less than one quart of ardent spirits on the road from Harrisonburg to Mount Jackson, on the 5th day of Nov., 1920, yet if they further believe from the evidence that the said accused was not transporting the aforesaid ardent spirits for sale, then the jury must find the accused not guilty.

The foregoing instruction, requested by the defendant, was denied, and the defendant excepted.

Teste: this 16th day of February, 1921.

J. R. Haas, Judge.

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INSTRUCTION NO. _____.

The Court instructs the jury that even though they believe from the evidence that the accused, Dr. S.S.Starr, had in his overcoat pocket less than one quart of ardent spirits on the road from Harrisonburg to Mount Jackson, on the 6th day of Nov., 1920, yet if they further believe from the evidence that the said accused was not transporting the aforesaid ardent spirits for sale, then the jury must find the accused not guilty.

The foregoing instruction, requested by the defendant, was denied, and the defendant excepted.

Teste: this _____ day of February, 1921.

_____, Judge.

INSTRUCTION NO. _____.

The Court instructs the jury that if they believe from the evidence in this case, beyond a reasonable doubt, that the accused, Dr. S.S.Snarr, had in his overcoat pocket less than one quart of ardent spirits when he got out of the truck between Harrisonburg and Mount Jackson in the County of Rockingham, Virginia, on the 5th day of November, 1920, and if they further believe from the evidence that the said accused was carrying these ardent spirits for his own personal use, and not as a means of evading the intent and meaning of the prohibition act of this State, and not to be used contrary to the prohibition act of this State, then the jury must find the accused not guilty.

The foregoing instruction, requested by the defendant, was denied, and the defendant excepted.

Teste: this 16th day of February, 1921.

J.N. Haas, Judge.

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INSTRUCTION NO. _____.

The court instructs the jury that it does believe from the evidence in this case, beyond a reasonable doubt, that the accused, M. S.S.Grant, did in his overcoat pocket lead and one number to wheat shipments at the rate of one to ten and one to ten and a half respectively, in the county of Rockingham, Virginia, on the 6th day of November, 1861, and it does further believe from the evidence that the said accused was carrying these shipments to an enemy of the state, and that the jury must find the accused not guilty.

The jury are further instructed, that if they believe from the evidence that the said accused was carrying these shipments to an enemy of the state, and that the jury must find the accused not guilty.

Given: this _____ day of September, 1861.

_____, Judge.

After the jury had returned into court and rendered its verdict, the defendant moved the Court to set aside the verdict on the ground that the same was contrary to the law and the evidence and to award him a new trial, which motion was overruled by the Court and judgment entered upon said verdict in favor of the Commonwealth, to which action of the Court in overruling said motion and entering said judgment, the defendant excepted.

Sent & this 16th day of February 1921

J. N. Haas Judge

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After the jury returned into court and rendered its verdict, and after the defendant had moved the Court to set aside the verdict on the ground that the same was contrary to the law and the evidence and to award him a new trial, and the Court had overruled the same, ~~the Commonwealth moved the Court to require the defendant to execute bond~~ the Court of its own motion required the defendant to enter into bond, with approved security, in the penalty of ~~not less than~~ Fifteen Hundred Dollars ($1,500.00), conditioned that the said defendant ~~will~~ vowed not violate any provisions of the Prohibition Act of this State for the term of one year, which motion was objected to by the defendant, but the said defendant was ordered to give the said bond, to which action of the Court, in ordering that the said bond be given, the defendant excepted.

Done This 16th Day of February 1921

J. H. Haas Judge

Feb. Term 1922.

S. S. Swan