

COMMONWEALTH OF VIRGINIA,

COUNTY OF ROCKINGHAM, to-wit:

In the Circuit Court of said County:

The grand jurors in and for the body of said County of Rockingham and now attending said Court at its February term, 1929, upon their oaths do present that Fred Hawse, who was heretofore on the 18th day of March, 1924, convicted of violating the Prohibition laws of the Commonwealth of Virginia in the Circuit Court of said Rockingham County, and who then and there was sentenced to serve a period of two and one-half years in the penitentiary, did, within one year next prior to the finding of this indictment, in the said county of Rockingham, unlawfully and feloniously transport about one gallon of ardent spirits, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of Isaac Wean, Jerry Wean, Mrs. Jerry Wean, and ~~Claude Wean~~, witnesses sworn in Court and sent before the grand jury to give evidence.

[Handwritten signatures and notes at the bottom of the page, including "H. H. H." and "H. H. H."]

Mr the Jury should be advised Fred
Hawse not guilty as charged in the
indictment

W. H. Harrison
"

Second offense
Unlawful transportation

Commonwealth
v) Indictment
Fred Hawse

Felony
February term, 1929

A True Bill:

T. T. Howalter
Foreman

D. W. Earman
Commonwealth's Attorney

In the Circuit Court of said County:

COUNTY OF ROCKINGHAM, to-wit:

COMMONWEALTH OF VIRGINIA,

COMMONWEALTH

v

FRED HAWSE

If you find the accused, Fred Hawse, not guilty, you will say so and no more.

If you find him guilty as charged in the indictment, then you will say so and ascertain his punishment at confinement in the penitentiary for a period of not less than one year nor more than five years, or, in your discretion, by confinement in jail for a period of not less than six months nor more than twelve months, and by a fine not exceeding five hundred dollars.

Commonwealth

v

Fred Hawse

Charge to the Jury

The Court instructs the jury that the law presumes every person charged with ~~a~~ crime to be innocent until the Commonwealth has established his guilt by evidence so strong, so clear, and so conclusive, that there is left in the minds of the jury no reasonable doubt as to his guilt. This presumption is an abiding presumption, and goes with the accused through the entire case and applies at every stage thereof until repelled by proof. And in this connection the jury is instructed ~~it~~ is never sufficient that the accused, upon speculative theory or conjecture, may be guilty; or that by the preponderance of the testimony his guilt is more probable than his innocence; for until his guilt has been proved beyond all reasonable doubt in the precise and narrow terms in the indictment, the presumption of innocence still applies and they must acquit him.

Draper v. Com. 132 Va. 665

The Court instructs the jury that every fact necessary to constitute the offense charged must be proven beyond a reasonable doubt, and that if there is a reasonable doubt as to any such fact, they shall acquit; that the result of the evidence must be to exclude every reasonable hypothesis of innocence, and be consistent only with the guilt of the ~~accused~~; that the jury is not at liberty to guess and where a fact is equally susceptible of two interpretations, one of which is consistent with the innocence of the accused; they cannot arbitrarily adopt that interpretation which incriminates him.

Jarrell v. Com. 132 Va. 571.

*The the jury of Commonwealth ~~do not~~ find
the Prisoner had ~~not~~ ^{not} guilty
H. H. H.*

The Court instructs the jury that the law presumes every person charged with a crime to be innocent until the Commonwealth has established his guilt by evidence so strong, so clear, and so conclusive, that there is left in the minds of the jury no reasonable doubt as to his guilt. This presumption is a ruling presumption, and goes with the accused through the entire case and applies at every stage thereof until relieved by proof. And in this connection the jury is instructed it is never sufficient that the accused, upon speculative theory or conjecture, may be guilty; or that by the preponderance of the testimony his guilt is more probable than his innocence; for until his guilt has been proved beyond all reasonable doubt in the precise and narrow terms in the indictment, the presumption of innocence still applies and they must acquit him.

The Court instructs the jury that every fact necessary to constitute the offense charged must be proven beyond a reasonable doubt, and that if there is a reasonable doubt as to any such fact, they shall acquit; that the result of the evidence must be to exclude every reasonable hypothesis of innocence, and be consistent only with the guilt of the accused; that the jury is not at liberty to guess and where a fact is equally susceptible of two interpretations, one of which is consistent with the innocence of the accused, they cannot arbitrarily select that interpretation which incriminates him.

Getteli v. Com. 122 Va. 271.

The Jury of Commonwealth vs. Getteli
The Verdict is Guilty
W. H. [Signature]

The Court instructs the jury that the credibility of the witnesses is a question exclusively for the jury, and the law is that, where a number of witnesses testify, directly opposite to each other, the jury is not bound to regard the weight of evidence as equally balanced. The jury has the right to determine, from the appearance of the witnesses on the stand, their manner of testifying, and their apparent candor and fairness, their apparent intelligence or lack of intelligence, and from all other surrounding circumstances appearing on the trial, which witnesses are more worthy of credit, and to give credit accordingly.

Horton Case. 99 Va. 855

The Court instructs the jury that the credibility of the witnesses is a question exclusively for the jury, and the law is that, where a number of witnesses testify, directly opposite to each other, the jury is not bound to regard the weight of evidence as equally balanced. The jury has the right to determine, from the appearance of the witnesses on the stand, their manner of testifying, and their apparent candor and fairness, their apparent intelligence or lack of intelligence, and from all other surrounding circumstances appearing on the trial, which witnesses are more worthy of credit, and to give credit accordingly.

The Court instructs the jury that upon the trial of a criminal case by a jury the law contemplates the concurrence of twelve minds in the conclusion of guilt before a conviction can be had. Each individual juror must be satisfied beyond a reasonable doubt of the defendant's guilt before he can, under his oath, consent to a verdict of guilty. Each juror should feel the responsibility resting upon him as a member of the jury, and should realize that his own mind must be convinced beyond a reasonable doubt of defendant's guilt before he can consent to a verdict of guilty, Therefore, if any individual member of the jury, after having duly considered all the evidence in this case and after consultation with his fellow jurors, should entertain such reasonable doubt of defendant's guilt as is set forth in other instructions in this case, it is his duty not to surrender his own convictions simply because the balance of the jury entertained different convictions.

The Court instructs the jury that upon the trial of a criminal case by a jury the law contemplates the concurrence of twelve minds in the conclusion of guilt before a conviction can be had. Each individual juror must be satisfied beyond a reasonable doubt of the defendant's guilt before he can, under his oath, consent to a verdict of guilty. Each juror should feel the responsibility resting upon him as a member of the jury, and should realize that his own mind must be convinced beyond a reasonable doubt of defendant's guilt before he can consent to a verdict of guilty. Therefore, if any individual member of the jury, after having duly considered all the evidence in this case and after consultation with his fellow jurors, should entertain such reasonable doubt of defendant's guilt as is set forth in other instructions in this case, it is his duty not to surrender his own convictions simply because the balance of the jury entertained different convictions.

The Court instructs the jury that upon the trial of this case, if a reasonable doubt of any fact necessary to establish the guilt of the accused as charged in the indictment be raised by the evidence, or lack of evidence, such doubt is decisive, and the jury must acquit the accused since the verdict of "not guilty" means no more than that the guilt of the accused has not been established in the precise, specific and narrow form prescribed by law.

McCue Case Ins. 18

The Court instructs the jury that upon the trial of this case, if a reasonable doubt of any fact necessary to establish the guilt of the accused is created in the mind of the jury by the evidence, or lack of evidence, such doubt is a relative, and the jury must acquit the accused since the verdict of "not guilty" means no more than that the guilt of the accused has not been established in the precise, specific and narrow form prescribed by law.

Commonwealth of Virginia,
Rockingham County, To-Wit:

BE IT REMEMBERED, that on the 20th day of May, 1929,
Fred Hauwe, principal and B. F. Carver
surety, who justified to his sufficiency, came before me, Shepley L. Devier
Bail Commissioner, of the said County of Rockingham,

(J. P. or Bail Commissioner)

and acknowledged themselves to be indebted to the Commonwealth of Virginia each in the sum of
Five Hundred ~~no~~ 100 Dollars, (\$ 500.00),
to be levied of their respective goods and chattels, lands and tenements, for the use of the Common-
wealth of Virginia rendered, and they each severally waived their homestead exemption to their re-
cognizance; yet upon this condition:

That if the said Fred Hauwe shall personally appear before
the Circuit Court of Rockingham County, at the Courthouse of said County, on the 1st day of the
June Term thereof, being the 17th day of June,
1929, and at such other time or times to which the proceedings may be continued or further
heard, and before any court or judge hereafter having or holding any proceedings in connection with
the said charge, and then and there answer the Commonwealth of Virginia concerning a certain
misdemeanor whereof the said Fred Hauwe stands
charged, and be bound under said recognizance until the charge is finally disposed of or until it is
declared void by order of a competent court, then the above recognizance shall be null and void; other-
wise to remain in full force and effect.

IN WITNESS WHEREOF, I hereunto affix my signature this 20th day of May,
1929.

Shepley L. Devier
(J. P. or BAIL COMMISSIONER)

Cm 95 - Frank House

- | | | | |
|----|-----------------------------|---|---|
| 1 | Paul Layman | ✓ | x |
| 2 | H.V. Phillips | ✓ | x |
| | S.H. Ardes | | |
| | Mannie Flinders | | |
| | H.S. Koss | | |
| | S.L. Kessel | | |
| 3 | J.T. Acker | ✓ | |
| | Harry D. Hartman | | |
| | W.C. Scherer | | |
| 4 | H.K. Hawkins | ✓ | |
| 5 | L.M. Foley | ✓ | |
| | Joseph Blum | | |
| 6 | Geo. W. Garter | ✓ | |
| 7 | Frank Brannum | ✓ | |
| 8 | Roy L. Koppman | ✓ | x |
| | John Blum | | |
| 9 | J.A. Coram | ✓ | |
| 10 | L.A. Grey | ✓ | |
| 11 | H.H. Hiehl | ✓ | |
| 12 | J.L. Caldwell | ✓ | |
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In the Circuit Court of Rockingham County,

.....Term 190.....,

.....this day presented in Court an account against the Court
of Rockingham for the sum of \$....., for Service.....
.....
.....

which being sworn to, was examined and approved by the Court, and ordered to be certified to the Treasurer of
this county for payment.

.....Clerk.

Paul Layman
H.V. Phillips
J.T. Ackee
H.N. Hawkins
E.M. Foley
Geo. W. Foster
Frank Braumner
Roy L. Leppman
J.A. Krause
L.A. Wiley
H.H. Hinkle
J.L. Caldwell

June Term 1929 #578

COMMONWEALTH

VS. Felony (Pro.) 2nd

FRED HAWSE

Capias

Not guilty



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