4872

Commonwealth of Virginia)
vs.) Upon an INDICTMENT of the Grand Jury for
MARY LUCY CARPENTER) felonious arson

1935, May Term: -

1935, Nov. 25-26. - Tried by Jury - not guilty.

4872

For Monday, November 25, 1935

The writ for a felony venire issued by the Clerk of this Court on the 18th day of November, 1935, directed to the Sheriff of this County, commanding him to summon twenty-two (22) persons from a list of twenty-six (26) named in said writ, was returned by the Sheriff of said County, with return thereon endorsed showing that he had summoned twenty-five of the persons named in said writ, and is received and filed; and thereupon the Clerk filed with the Court a certificate signed by Dr. F. M. Brooks, a practicing physician of this County, showing that J. E. Staub, one of the veniremen so summoned as aforesaid, is ill and under his professional care and unable to attend Court, and the said Staub is now excused by the Court for his failure to attend as a veniremen at this term of the Court.

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Commonwealth of Virginia) Upon an INDICTMENT of the Grand Jury
: for ~~felony~~ (Indictment re-
versus) turned on May 24, 1935).
:
L. LOUISE CARPENTER)

This day came the Commonwealth, by its Attorney, and the said L. Louise Carpenter in person and by counsel, and thereupon the accused filed her motion in writing to quash the writ of venire facias issued in this case, said motion being in the words and figures following, to-wit:

(Here copy written motion, on yellow tablet paper, marked No. 1).

which motion was made ~~ent~~ of the presence and hearing of the jury, of counsel and the Court having heard argument upon said motion, and having consulted the report of the United States Census, 1930, overruled the said motion, to which action of the Court in overruling said motion the said L. Louise Carpenter, by counsel, duly excepted, upon the grounds stated in writing in said motion and on the further ground that she is deprived of her rights under the Fourteenth Amendment to the Constitution of the United States, and denied the right to be tried by members of her own race because she is a Negro, and deprived of the equal protection of the laws, and by members of her own sex, women being now qualified voters under the law of

Virginia, and otherwise entitled to act as jurors, defendant being a woman in distress with a large family of small children, other women similarly situated could better appreciate her condition than men"; and thereupon the said L. Louise Carpenter was arraigned upon the said indictment, and pleaded not guilty thereto, and thereupon came a jury of twenty (20) veniremen, to-wit, (here insert names - full list), andtook their seats in the jury box, and were sworn and examined on their voir dire and found to be competent and qualified jurors according to the Statute, and from said list of twenty the names of (here insert names stricken off) were stricken off in the mode prescribed by law by the Attorney for the Commonwealth and the Attorneys for the accused alternately striking off a name, and the said (name eight stricken off) were directed to leave the jury box, which they did, and the remaining twelve veniremen, to-wit, (here insert names NOT stricken off), constituted the jury for the trial of this case, who, being duly selected, summoned, formed, empanelled and sworn in the mode prescribed by law, and having received their charge from the Court, ~~and having~~ heard the opening statements of counsel in the case and all of the evidence in chief offered by the Commonwealth, the Commonwealth having rested its case in chief. And thereupon counsel for the accused moved the Court to strike out all of the evidence offered by the Commonwealth, on the ground that the same was insufficient to support a verdict of guilty in this case should the jury return such a verdict, which motion was argued by counsel, and the Court having considered of its decision thereon, granted the said motion and struck all the evidence of the Commonwealth, and advised the jury that all such evidence had been stricken, and directed the jury to retire to its room and consider of its verdict herein, which the jury did, and after a while returned into open Court and in the presence of the accused rendered and returned the following verdict, to-wit:

"We, the jury, find the defendant not guilty.

(SIGNED) H. W. WALKER, Foreman."

Upon consideration whereof it is adjudged and ordered by the Court that the said L. ~~Lucy~~ Louise Carpenter be discharged from custody so far as this indictment is concerned, and that the other indictment pending against said L. Louise Carpenter, charging felonious arson, is now continued generally to the next term of this Court, and the said L. Louise Carpenter is released from custody, so far as this last mentioned indictment is concerned, on the recognizance of bail heretofore executed by her, with A. T. Shirley as her surety.

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Also for 11/25/35

Commonwealth of Virginia) Upon an INDICTMENT of the Grand Jury
: for felonious arson. (Indictment re-
versus) turned May 24th, 1935).
:
MARY LUCY CARPENTER)

This day came the Commonwealth, by its Attorney, and the said Mary Lucy Carpenter, in person and by counsel, and thereupon counsel for the accused moved the Court to quash the venire facias for the felony venire now present and in attendance upon this term of the Court on the ground that the jury was improperly selected and selected from an improper jury list, on the ground that there are only twelve colored people or Negroes and no women on the jury list of 300 from which the jury is drawn, although the defendant is a Negro woman, and on the ground that the Negro population of Fairfax County is at least one-fifth (1/5th) of the entire population of said County, and 1/8th of the population of the District in which the defendant resides and the crime is charged to have been committed, and 1/5th of the population are women, and there are practically no Negroes and no women on the list of jurors in the jury box from which the panel is drawn, being only about four

per cent (4%) of Negroes and no women on the jury list, although the jury list is required to be taken from each District by Section 5988 Va. Code in accordance with percentage of population, and Negroes and women have been for years systematically excluded from having their names in any or any fair representation in the jury box; and that the strikes allowed by law to the Commonwealth are sufficient to, as a general rule, purge the jury of all women and usually all Negroes, women and Negroes being discriminated against because they are women and Negroes, which motion was argued by counsel for defendant and by the Attorney for the Commonwealth, and the Court, having considered of its decision on said motion, overruled the same, to which action of the Court in overruling said motion the defendant, by counsel, duly excepted upon the grounds heretofore stated in said motion, and on the further (here copy from order in L. Louise Carpenter case, beginning on page 1, at fifth line from the bottom, with "ground that she is deprived, * * * etc. and ending with quotation mark in line four of page 2); and thereupon the said Mary Lucy Carpenter was arraigned upon the said indictment, and pleaded not guilty thereto, and thereupon came a jury of twenty (20) veniremen, to-wit, (here insert 20 names from list) and took their seats in the jury box, and were sworn and examined on their voir dire, and found to be competent and qualified jurors according to Statute, and from said list of twenty the names of (here inset names stricken off) were stricken off in the mode prescribed by law by the Attorney for the Commonwealth and the Attorneys for the accused alternately striking off a name, and the said (here inset names stricken off) were directed to leave the jury box, which they did, and the remaining twelve veniremen, to-wit, (here insert names NOT stricken off) constituted the jury for the trial of this case, who, being duly selected, summoned, formed, empanelled and sworn in the mode prescribed by law, and having received their charge from the Court, heard the opening statements of counsel in the case on be-

half of the Commonwealth and of the accused, partially heard and the evidence in chief in behalf of the Commonwealth, ~~the Commonwealth having rested its case in chief. And thereupon~~ counsel for the accused moved the Court to strike out all of the evidence offered for the Commonwealth, on the ground that the same was insufficient to support a verdict of guilty in this case should the jury return such a verdict, and that the only thing which the evidence proved, giving the same its strongest construction against the accused, was that the accused had burned the dwelling house of said L. Louise Carpenter at the latter's specific written instructions, and that all the witnesses for the Commonwealth had testified that the accused, in their opinion, did not burn the house because of any malice toward said L. Louise Carpenter, and that no evidence had been introduced to prove that accused knew that there was any lien resting upon said property or any fire insurance thereon, and that if she burned the house at the request of the owner, and without knowledge of liens against the same or fire insurance thereon, she had the same right to do so as the owner would have, and that, therefore, the evidence did not prove the commission of a crime under the law by the accused, which motion was arguedby counsel for the accused and by the Attorney for the Commonwealth, and the Court, having considered of its decision on said motion, granted the same and struck out all of the evidence of the Commonwealth in this case, and advised the jury that all such evidence had been stricken, and directed the jury to retire to its room and consider of its verdict, which the jury did, and after a while returned into open Court and in the presence of the accused rendered and returned the following verdict, to-wit:

"The verdict of Jury is Not Guilty.

(SIGNED) H. W. WALKER, Foreman."

Upon consideration whereof it is adjudged and ordered by the Court that the said Mary Lucy Carpenter be and she now is discharged from custody.

See Insert

Insert for line 2 of page 5, at asterisk:

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and being unable to get through with the case, are adjourned over until tomorrow, Tuesday, November 26th, 1935, at 10 o'clock, A.M., to which time this case is now continued, the prisoner being released from custody without bail for her appearance again before this Court at that time.

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(For Tuesday, November 26, 1935)

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Repeat style of case.

This day came again the Commonwealth, by its Attorney, and the accused, Mary Lucy Carpenter, in person and by counsel, and the ~~jury~~ jurors/sworn in this case on yesterday and adjourned over until today appeared agreeably to said adjournment and took their seats in the jury box, to-wit, (here insert names of the twelve), and thereupon heard further evidence in chief offered by the Commonwealth, and the Commonwealth having rested its case in chief, (here pidk up again on page 5, line 3).

Com Vs Mary Lucy Carpenter

11/26/35

1 ~~F X Cousins~~
2 ~~Holmes Stroud~~
3 J. W. Kerns ✓
4 D B Minnick ✓
5 ~~Malcolm Matheson~~
6 ~~Jethro Dove~~
7 Alton A Hampton ✓
8 J. A. Dyer ✓
9 Herbert W Walker ✓
10 ~~I. D. Hunnicutt~~
11 ~~Howard Lowe~~
12 ~~Fred H Leigh~~
13 ~~Benj F Merritt~~
14 R R Millender ✓
15 J. W. Biggers ✓
16 Norman Crouch ✓
17 J. E. Harrison ✓
18 Thos P. Harris ✓
19 Wm H Randall ✓
20 Guss Burke ✓

Quashed

Commonwealth of Virginia,

County of Fairfax, to-wit.

In the Circuit Court for said County.

The grand jurors of the Commonwealth of Virginia, in and for the body of the County of Fairfax, and now attending the said Court, at its May term, 1935, upon their oaths present that Mary Lucy Carpenter, on, to-wit, the 27th day of April, 1935, in the said County, and at about, to-wit, the hour of 1:30 o'clock A. M., in the night time of that day, a certain dwelling house of one L. Louise Carpenter, there situate, feloniously and maliciously did set fire to, burn and destroy and thereby cause said dwelling house to be burned and destroyed, there being no person in said dwelling house at the time, she, the said Mary Lucy Carpenter then and there, in the County and State aforesaid, on the hour, day and year aforesaid, did feloniously and maliciously set fire to, burn and thereby feloniously and maliciously cause said dwelling house to be burned and destroyed, against the peace and dignity of the Commonwealth.

Wilson M. Farr.
Attorney for the Commonwealth.

Witnesses called by the Court,
sworn, and sent to testify
before the grand jury.

Henry Magarity.
V. C. Cockerille.

Teste: This 20th day of May, 1935.

John M. McNalen, Deputy Clerk
of said Court.

Quashed

In the Circuit Court
for Fairfax County, Va.

Commonwealth

vs.

Mary Lucy Carpenter.

Indictment for felonious
arson.

May term, 1935.

True Bill

Ralph C. Ennis

Foreman

Commonwealth of Virginia,

County of Fairfax, to-wit.

In the Circuit Court for said County.

The grand jurors of the Commonwealth of Virginia, in and for the body of the County of Fairfax, and now attending the said Court, at its May term, 1935, upon their oaths present that Mary Lucy Carpenter, on, to-wit, the 27th day of April, 1935, in the said County, and at about, to-wit, the hour of 1:30 o'clock A. M., in the night time of that day, a certain dwelling house of one L. Louise Carpenter, there situate, feloniously and maliciously did set fire to, burn and destroy and thereby cause said dwelling house to be burned and destroyed, there being no person in said dwelling house at the time, she, the said Mary Lucy Carpenter then and there, in the County and State aforesaid, on the hour, day and year aforesaid, did feloniously and maliciously set fire to, burn and thereby feloniously and maliciously cause said dwelling house to be burned and destroyed, against the peace and dignity of the Commonwealth.

Walter W. Farr
Attorney for the Commonwealth.

Witnesses called by the Court,
sworn, and sent to testify
before the grand jury.

Henry Magarity.
V. C. Cockerille.
Walter Farr
Archie Hummer

Teste: This 24th day of May, 1935.

John W. Withers Deputy Clerk
of said Court.

In the Circuit Court
for Fairfax County, Va.

Commonwealth

vs.

Mary Lucy Carpenter.

Indictment for felonious arson.

May term, 1935.

~~Ayes~~ True Bill

Alexander L. White

Foreman.

The order of Jury
Not Guilty

H. W. Walker

Foreman

The court's charge to the jury is as follows:

If they find the prisoner guilty of arson, as charged in the indictment, they shall fix his punishment by confinement in the penitentiary not less than five nor more than twenty years.

4428.

If they find him not guilty they shall say so and no more.