

4

**CAPIAS.**

No. ....

THE STATE

vs.

*Adolphus Henry*

BAIL FIXED IN THIS CASE IN OPEN COURT AT

\$ *350.00*

By

*John D. Leigh*

Judge Presiding.

Attest:

*J. W. McEnroe*

Clerk.

Baldwin Times Print.

*Executed May 30 1883  
by Arresting Officer named  
Deputy Sheriff  
in Jail*

*W. R. Smith  
Sheriff*

The State of Alabama, }  
BALDWIN COUNTY.

To any Sheriff of the State of Alabama:

An indictment having been found against

Adolph Hutz at the  
Spring Term, 1923, of the Circuit Court of Baldwin County, for the offense of

Peruision of Steel  
you are, therefore, commanded forthwith to arrest the said defendant and commit him to Jail, unless  
he give Bail to answer said indictment, and that you return this Writ according to law.

Dated this 30th day of May 1923.

D. M. Rice  
Clerk of the Circuit Court of Baldwin County.

The State of Alabama, }  
BALDWIN COUNTY.

We, \_\_\_\_\_, as principal and  
the other undersigned as sureties, agree to pay the State of Alabama \_\_\_\_\_ Dollars,  
unless the said \_\_\_\_\_ appears at the  
\_\_\_\_\_ Term of the Circuit Court of Baldwin County, and from Term to Term thereafter until  
discharged by law, to answer a criminal prosecution for the offense of \_\_\_\_\_

In signing the above Bond. we and each of us hereby waive all legal rights of exemptions allowed us by the  
Constitution and Laws of Alabama.

Witness our hands and seals, this \_\_\_\_\_ day of \_\_\_\_\_ 191\_\_\_\_\_

\_\_\_\_\_  
[L. S.]  
\_\_\_\_\_  
[L. S.]  
\_\_\_\_\_  
[L. S.]  
\_\_\_\_\_  
[L. S.]  
\_\_\_\_\_  
[L. S.]

Taken and approved \_\_\_\_\_ day of \_\_\_\_\_ 191\_\_\_\_\_

\_\_\_\_\_  
Sheriff of Baldwin County.

No. 70

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

CIRCUIT COURT,

Term, 192

THE STATE  
vs.

Adolph Seitz

INDICTMENT

Possession of Still

No

Prosecutor.

WITNESSES:

B. O. Wiggins,

W. R. Stuart,

Willie Ramefeld

RECORDED

Baldwin Times Print—Bay Minette.

Grand Jury No. 19

A TRUE BILL

Foreman Grand Jury.

Filed in open Court and in the presence of the  
Grand Jury on the 30th day of

May, 1923.

Clerk.

Presented in open Court to the Presiding Judge  
by the Foreman of the Grand Jury, in the presence

of 17 other Grand Jurors.

Clerk.

Bail fixed at  
\$350.00

This May 30/1923  
John D. Leigh  
Judge

We the jury find the  
Defendant Guilty as  
charged in the indictment

6/4/23

J. J. Pittman  
Foreman

Witness the hand and seal of the Clerk of the Court at Bay Minette.

Recorder of the Circuit Court

**The State of Alabama, }**  
**Baldwin County.**

CIRCUIT COURT, Spring TERM, 192 3

The Grand Jury of said County charge that before the finding of this Indictment

Adolph Seitz, did manufacture, sell, give away or have in possession a still, apparatus, appliance, or other device or substitute therefor, to be used for the purpose of manufacturing prohibited liquors or beverages, contrary to law,

against the peace and dignity of the State of Alabama.

L. S. Bizzup  
Solicitor of the Twenty-first Judicial Circuit.

Executed by arresting  
Defendants and placing  
them in jail  
May 26/23

W.R. Smith  
Sheriff

19  
No. 400

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

JUSTICE'S COURT OF

R.M. Kearney

THE STATE  
vs.

Adolph Sirtz

WARRANT AND AFFIDAVIT.

WITNESSES FOR STATE

W.R. Smith

D. O. Higgins

BALDWIN TIMES PRINT. BAY MINETTE, ALA.

WARRANT AND AFFIDAVIT. Printed by the Baldwin Times, Bay Minette, Ala.

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

Before me, *O. M. Hearin MPT & aff* a Justice of the Peace in and  
for said County, personally appeared *W. R. Stuart*

who being duly sworn, deposes and says, on oath, that in said County on or about *May 1923*  
one *Adolph Sauter* has in his possession  
a make his Central a store for making a  
distilling apparatus a alcohol liquors

against the peace and dignity of the State of Alabama.

Sworn to and subscribed before me this

*26<sup>th</sup>* day of *May* A. D., 19*23*

*O. M. Hearin MPT & aff* J. P.

*W. R. Stuart Sheriff*

THE STATE OF ALABAMA,  
BALDWIN COUNTY.

TO ANY LAWFUL OFFICER OF SAID COUNTY, GREETING:-

YOU ARE HEREBY COMMANDED TO ARREST

*Adolph Sauter*

and bring *him* before *O. M. Hearin MPT & aff* to answer  
the State of Alabama on a charge of

*distilling*

and have you then and there this writ with your return thereon

Witness my hand this *26<sup>th</sup>* day of *May* A. D., 19*23*

*O. M. Hearin MPT & aff* J. P.

*Original*

CIRCUIT COURT  
BALDWIN COUNTY, ALA.

*State of Ala.*

VS. } CITATION IN APPEAL

*Robert H. Lee*

Issued 3 day of Oct 1923

BALDWIN TIMES PRINT. DAY NINETE.

*Serve Copy on  
L. S. Birge  
Morrowville*

I have executed the within by  
handing a copy of the same to  
L. S. Birge, Solicitor of 21st Judicial  
Circuit of Alabama.

This 5th day of Oct, 1923-

*J. L. Birge*  
Sheriff, Morrow County  
Alabama.

The State of Alabama, }  
Baldwin County—Circuit Court.

To the Sheriff of the State of Alabama—Greeting:

Whereas, at a Term of the Circuit Court of Baldwin County, held on the  
~~eighth Monday after~~ 7th Monday in May 1925, 191

in a certain cause in said Court wherein State of Alabama,  
Plaintiff, and Adolph Seitz,

Defendant, a judgment was rendered against  
said Adolph Seitz,

to reverse which Judgment the said Adolph Seitz,

has on this day applied for and obtained from this office an APPEAL, returnable to the  
Present Court of Appeals Term of our ~~Supreme~~ Court of the State of Alabama, to be held

at Montgomery, on the 1st day of Monday Oct 1925. ~~next~~

~~and the necessary bond having been given by the said:~~

with  
sureties,

Now, You are Hereby Commanded, without delay, to cite the said

I.S. Biggs, Solicitor for 21st Judicial Circuit  
~~or for the State of Alabama,~~ attorney, to appear at the

present Term of our said Supreme Court, to defend against the  
said Appeal, if he think proper.

WITNESS, T. W. Richerson, Clerk of the Circuit Court of said County,

this 3rd day of October A. D. 1925

Attest:

T. W. Richerson Clerk.



The State of Alabama, }  
Baldwin County.

By virtue of the within Execution, I have levied

Received in Office  
June 9th. 1923. Return  
July 11th 1923 No  
property of Dept  
found in Baldwin  
County Ala.  
W R Stearns  
Pluriff

FI FA. No. 01

Case No. 70

THE STATE OF ALABAMA,  
Baldwin County.

CIRCUIT COURT

THE STATE

Vs.

*Adolph W. Stearns*

Issued June 9th 1923, 1923

Fee Book ..... Page .....

Execution Docket ..... Page .....

FI. FA. STATE

Defendant's Attorney.

Filed in office of Clerk Circuit Court,

....., 192.....

....., Clerk.

Received in office.

....., 192.....

....., Sheriff.

CLERK'S FEES	at	AMOUNT	SHERIFF'S FEES	at	AMOUNT
Taking Affidavit .....	50		Arrest .....	2.00	4 00
Issuing ...../..... Capias .....	50	50	Bond .....	1.00	
.....			Guarding Prisoner .....	2.00	2 00
.....			Serving ...../..... Subpoenas .....	50	2 00
Docketing .....	10	10	Serving..... Notices .....	50	
Issuing ...../..... Subpoenas .....	25	1 50	Executing Search Warrant, Day....	1.00	2 00
.....			Executing Search Warrant, Night..	2.00	2 00
.....			<i>Reserve 300 mileage</i> 986		12 80
..... Continuance by Defendant-	25		Summoning Jury in Capital Case or Special Criminal Court .....	5.00	
.....			Fees in County Court .....		1 00
Order of removal and incidents...	1.00		<i>Conveying</i>		
.....					24 80
.....			RECAPITULATION.		
Taking..... Recognizances .....	50		Fine .....		—
Discharge of Bail .....	50		Clerk's Fees .....		6 55-
Entry of..... Forfeiture vs. De- fendant .....	50		Sheriff's Fees .....		24 60
Final Judgment of Forfeiture vs. Defendant .....	50		Solicitor's Fee .....		36 00
Entry of..... Forfeiture vs. Witness and Jurors .....	25		Justice's Fee .....		1 50
Trial .....	50	50	Constable's Fee .....		50
Judgment .....	25	25	Witness Fees in Circuit Court .....		7 80
Final Judgment of Sentence.....	25	25	Witness Fees in County Court .....		
Issuing ...../..... Execution .....	50	50	County Court Judge's Fees .....		
Issuing..... Sci. Fas and copies....	70		Removal Bill .....		
Transcrip and Certificate.....Folios	15		Stenographer .....	5.00	5 00
Final Record .....	15	2 70	Trial tax .....	3.00	3 00
Record of Supreme Court ...Folios	15		Board ..... Days at ...../.....		21 00
Certifying same .....	25				
Recording Indictment .....	25	25			
Clerk's fees in County Court.....					
Total Clerk's Fees .....		6 55-	Total Fees and Fines .....		139 00

STATE OF ALABAMA, BALDWIN COUNTY.

To any Sheriff of the State of Alabama—GREETING:

You are hereby commanded that of the goods and chattels, lands and tenements of .....

*Adolphus Bailey*

you cause to be made the sum of .....

Dollars and ..... Cents, which the State of Alabama, for the use of Baldwin

County, hath recovered against *Adolphus Bailey*

..... on the *8th* day of

*June* 192*3*, by the judgment of our Circuit Court, held for the County of

Baldwin, besides *Prize Money 70 1.00*

cost of prosecution; and have the same to render to the said State for the use aforesaid; and make return of this writ, and the execution thereof, according to law.

Witness my hand, this *9th* day of *June* 192*3*

*W. H. Harrison*, Clerk.

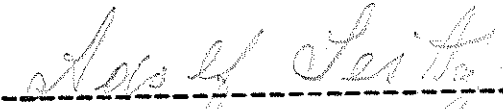
Filed June 18/923  
T. W. H. H. H.  
Clark

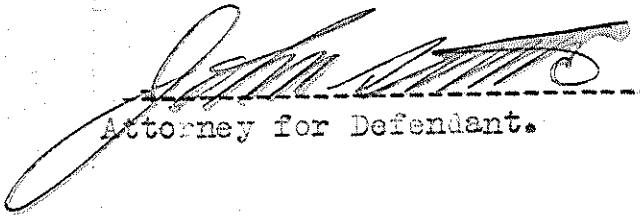
State of Alabama,  
Baldwin County.

State of Alabama vs Adolph Seitz. (Indictment for Possession  
of Still.

Now comes the Defendant Adolph Seitz, in his own  
proper person and by Hon. John Stelk, his attorney, and  
~~withdraws his prayer for~~ appeal to the Court of Appeals of  
Alabama, and consents to be taken to the place of confinement  
designated by the Court at once.

June 19<sup>th</sup>, 1923.

  
Defendant.

  
Attorney for Defendant.

Be it remembered that on the 30th day of May, A. D. 1923, at a regular term of the twenty first Judicial Circuit Court held at Bay Minette in the County of Baldwin and State of Alabama, the Foreman of the Grand Jury of said County for said term, in the presence of seven teen other of said grand jurors, theretofore duly empaneled, sworn and acting according to law, presented in open court to the presiding Judge thereof, a true bill in words and figures as follows, to-wit:-

The State of Alabama  
Baldwin County.

Circuit Court, Spring Term, 1923.

The Grand Jury of said County charge that before the finding of this Indictment Adolph Seitz, did manufacture, sell, give away or have in possession a still, apparatus, appliance or other device or substitute therefor to be used for the purpose of manufacturing prohibited liquors or beverages, contrary to law, against the peace and dignity of the State of Alabama.. (Signed) L. S. Biggs, Solicitor of the Twenty first Judicial Circuit.

Entered thereon at the time was the following:- The State of Alabama, Baldwin County, Circuit Court, Term, 192 The State vs. Adolph Seitz. Indictment. Possession of Still. No Prosecutor. Witnesses. B. O. Wiggins. W. R. Stuart. Willie Ramoel. etc

Said true bill was signed by J. E. Gaston, as Foreman of the Grand Jury and then and there filed in open court in the presence of the Grand Jury by the Clerk of the Court and the bail was fixed by the presiding Judge at three hundred and fifty dollars.

That thereafter on the 4th day of June, the following proceedings took place in open court in the case of The State of Alabama vs. Adolph Seitz. John Stelk, appearing for the defendant addressed the court in substance as follows:-

"May it please your Honor. I appear in behalf of the defendant. He has been in jail since May 26th. The title to his property is somewhat involved so that its present value cannot be well ascertained. I am saying this because he has not the ready cash money with which to retain counsel. If I knew how the title to his property stood and I was safe I would advance him sufficient so that he could retain counsel. Although I am admitted to the bar of Alabama I have not practised law in this state and am not familiar with the procedure. Where a man's liberty is at stake I do not care to experiment. He may suffer because of my ignorance. The defendant has been a resident and tax payer of Baldwin County for 18 years and I feel that he ought to be accorded every consideration and allowed to prepare his defense. I move the court to continue his case until the next term of court so that he can obtain sufficient money wherewith to employ counsel and prepare himself for trial. THE COURT:- Can he furnish bail. MR. STELK. I offer to sign his bond and will secure another surety in a day or so. THE COURT. That will not do. Can <sup>he</sup> you give bail. ~~this minute~~? The law forces me to try all jail cases when they come up and not continue them. If the defendant cannot give bail right away he must go to trial. MR. STELK. Will your honor appoint some one to conduct his defense? THE COURT:- That I can only do in homicide cases. We have no law providing for the appointment of lawyers in other cases. MR. STELK. But your honor, the defendant faces a penitentiary sentence if he is found guilty, he surely will not be forced to trial without being properly defended. THE SOLICITOR. He has had since May 26th to get ready. MR. STELK. But he has been securely locked up in jail with his folks over 35 miles

see that his rights are protected. MR. STELK. If the court will bear with my ignorance of the procedure which obtains in this court and assist me in preserving the rights of the defendant I will undertake to defend this defendant. THE COURT:- We will get along alright. Are you familiar with our method of selecting a jury? MR. STELK. No your honor. A member of the bar, however *has* kindly volunteered to acquaint me with the method. THE COURT. I shall pass the case until you are ready to select the jury. MR. STELK. I submit that the method of empaneling the trial jurors is unfair. Take the case at bar. The defendant nor do I know any one of the ~~gallix~~ gentlemen shown on this list. Here I am presented with a list containing 39 names and must strike. We do see the prospective juror nor do we have an opportunity to ask him any questions as to his interest or qualifications to sit in this particular case. We must blindly and haphazardly stab at each particular juror in the dark. THE COURT. That is and has been the practice here for some time. We will now proceed. The state has one strike and you have two strikes. MR. STELK. The defendant objects to this method of empaneling the jury. THE COURT. The objection is overruled. MR. STELK. The defendant excepts. THE CLERK. WHAT is the plea of the defendant in this case. MR. STELK. He pleads not guilty. THE COURT. Have you a list of the jurors? MR. STELK. I received one this moment. THE COURT. We will now proceed. Thereupon the state struck one number and the defendant struck two numbers and finally twelve unstruck jurors names were left on the list. These names were then called and the persons represented thereby took their seats in the jury box. *The jurors were* ~~they were then~~ *qualified to try this case before the striking was* ~~interpreted by the court as to whether they were interested in the~~ *commenced,* ~~at bar.~~

Thereupon the jurors were sworn to try the issues and a true verdict to render according to the law and evidence. Thereupon the following evidence was presented on behalf of the parties, to wit:-

IN THE CIRCUIT COURT OF BALDWIN COUNTY ALABAMA.

SPRING TERM, 1923.

THE STATE

vs.

ADOLPH SEITZ.

INDICTMENT FOR DISTILLING:

Tried before the Hon. John D. Leigh, Judge Presiding:

A P P E A R A N C E S :

FOR THE STATE:

HON. L. S. BIGGS, Solicitor,  
HON. HUBERT HALL, Deputy Solicitor.

FOR THE DEFENDANT:

JUDGE JOHN STELK.

TRANSCRIPT OF THE EVIDENCE:

B. O. WIGGINS, a witness for the State, having been first duly and legally sworn to speak the truth, the whole truth and nothing but the truth, doth depose and say:

DIRECT EXAMINATION, by Mr. Biggs?

Q. This is Mr. B. O. Wiggins? A. Yes, sir.

JUDGE STELK: I ask that the witnesses be out under the rule.

THE COURT: They are all under the rule except the officers of the court who are exempt from the rule.



- Q. Do you know the defendant Adolph Seitz? A. I do. ~~X~~  
Q. Did you have occasion to go to his premises? A. Yes, sir.  
Q. What did you locate there in the way of a still or anything of that character? A. We found a complete still there.

JUDGE STELK: I move that he describe what he found there and let the jury say what he found there,

- Q. What did you find there? A. We found a copper still with a cap and a worm and a flake stand.  
Q. A copper can? A. Yes, sir, and cap and worm and what the ~~cap~~ <sup>worm</sup> goes on.  
Q. Where did you find it? A. In his barn.  
Q. What county was that in? A. Baldwin County.  
Q. When did you find it? A. A week or so ago.  
Q. A few weeks ago? A. Yes, sir.  
Q. Who was with you at the time? A. Mr. Stewart.  
Q. Did you find anything else there around that barn? A. We found some kegs and jugs and bottles.  
Q. Where did you find them? A. We found some kegs and jugs in the barn and some in the loft of his smokehouse.  
Q. Did you smell any of those bottles or jugs? A. I did.  
Q. What did they smell like?

JUDGE STELK: I object unless the witness is shown to be qualified to say.

THE COURT: I overrule the objection.

JUDGE STELK: We except.

A. Smelled like alcohol.

Q. What kind? A. Like shinney.

JUDGE STELK: I move that that be stricken out, if the court please, that it smelled like shinney.

THE COURT: I grant your motion.

- Q. I believe you stated that the sheriff was with you? A. Yes, sir.  
Q. Mr. Stewart? A. Yes, sir.

CROSS EXAMINATION, by Judge Stelk:

- Q. Mr. Wiggins, whom was with you at the time? A. Mr. Stewart.  
Q. Just yourself and Mr. Stewart, the sheriff? A. And another fellow. I forget what his name was. a boy we had with us.

- Q. What part of the barn did you go to? A. We just went inside the door and got the still.
- Q. Well, where was the still? A. Sitting to the left of the door
- Q. How far from the door? A. 3 or 4 feet.
- Q. When you came in the door was it in sight so you could see it the moment you came in the door? A. No, sir, we had to dig it up, had some boards over it.
- Q. Who told you it was there?

MR. BIGGS: We object.

THE COURT: I sustain the objection.

- Q. Did the young man with you tell you it was buried there? A. No, sir.
- Q. How did you come to find it under the boards? A. We looked for it.
- Q. Did you look anywhere else? A. No, sir, we had done found it.
- Q. Did you look anywhere else? A. I looked later for the rest of it.
- Q. Did you dig anywhere else around that barn except just that one place? A. Yes, sir.
- Q. How many different places did you dig? A. Three or four or half a dozen.
- Q. What did you dig with? A. Pitch forks.
- Q. Who did the digging, you or the boy? A. I did and he did, too.
- Q. Each of you had a pitch fork? A. Yes, sir.
- Q. What did the sheriff do? A. He was talking to the old lady.
- Q. Was the old lady there at the time? A. Yes, sir.
- Q. Where was Mr. Seitz at that time? A. He was in jail.
- Q. Do you know how long he had been in jail when you went there? A. About a week or two, something like that.
- Q. Before you went down there? A. He had been in jail about a week
- Q. And he was in jail at the time you went there? A. Yes, sir.
- Q. Did the young man point out to you at any time where this still was? A. He didn't.
- Q. How deep down in the ground did you dig? A. I think about that deep. (indicating)
- Q. About 3 feet deep? A. 3 or 3½ feet.
- Q. What was it covered with? A. Some boards lying over it.
- Q. Anything on the boards? A. I didn't see anything.
- Q. Was there any other place where there was anything buried? A. Yes, sir.
- Q. What did you find buried outside of the still? A. The cap.
- Q. Buried with the still? A. Off to one side.
- Q. How far from the still? A. About 8 feet.
- Q. Anything else? A. No, sir, not there.
- Q. Were any of the kegs or bottles buried? A. No, sir.
- Q. Or the ~~jugs~~ jugs? A. No, sir.
- Q. They were all open were they? A. Yes, sir.

- Q. Is there a difference? A. Yes, sir, I can't describe the scent.
- Q. Did you ever study chemistry? A. No, sir.
- Q. Have you been in the habit of drinking alcohol? A. Yes, sir, I have drunk some.
- Q. How long since you drank some?

MR. BIGGS: We object.

THE COURT: I sustain the objection.

JUDGE STELK: We except.

- Q. Have you ever dealt with alcohol? A. Yes, sir.
- Q. In what respect? A. Raiding stills, bringing it in and pouring it out.
- Q. How long has that been going on? A. Four years.
- Q. And during that time you became acquainted with the smell of alcohol? A. I was acquainted with it a while before that, too.
- Q. Can you distinguish between the different smells of different alcohols? A. No, sir.
- Q. Know the difference between grain and wood alcohol? A. No, sir.
- Q. Have you ever smelled wood alcohol? A. No, sir.
- Q. Can you describe--? A. No, sir.
- Q. The difference between ~~mohammam~~ samples of wood and grain alcohol? A. No, sir.
- Q. Now this copper still, from the appearances/could you judge how long that had been buried??? A. No, sir, I couldn't tell. It hadn't been buried very long; I wouldn't say how long because I don't know.
- Q. Could you tell from the appearance of the soil whether it had been buried a good long time? A. No, sir, it hadn't been there a long time.
- Q. It hadn't? A. No, sir.

W. R. STEWART, a witness for the State, having been first duly and legally sworn to speak the truth, the whole truth and nothing but the truth, doth depose and say as follows:

DIRECT EXAMINATION, by Mr. Biggs:

- Q. This Mr. W. R. Stewart? A. Yes, sir.
- Q. Mr. Stewart, what position do you occupy in Baldwin County? A. Sheriff.
- Q. Do you know the defendant here? A. Yes, sir.
- Q. Did you have occasion to raid his place?

JUDGE STELK: We object to the designation of raiding his place

- Q. Did you go to his place? A. Yes, sir.
- Q. Who was with you at the time? A. Wiggins and a young fellow

- and a pipe and a crooked worm about that high.
- Q. A worm about three feet high? A. Yes, sir, about as high as the still and a piece used for a flake stand with a hole in the bottom and one in the top.
- Q. When was that, Mr. Stewart? A. It was the 24th of May.
- Q. Of this year? A. Yes, sir, 1923.
- Q. What count was that in? A. Baldwin County.
- Q. Did the defendant Adolph Seitz live there at that place? A. Yes, sir.
- Q. Where did you find the still in refernce to his house? A. It was in the barn, just about 15 or 20 steps from the house, out in the corner of the yard in his barn.
- Q. Did you find anything else there other than the still in the barn? A. Yes, sir, there was a 5 gal. glass jug and three or four bbls. in the barn.
- Q. Did you smell of the glass jug? A. Yes, sir.
- Q. How did it smell? A. Smelled like shinney or alcohol.
- Q. Did you smell of the bottles there? A. I did of some in the smokehouse; I didn't in the barrels; I did in the bottles in the loft of the smokehouse; there were forty or fifty up there and I smelled some of them.
- Q. What sort of bottles? A. Quart bottles and pint bottles and a few quart fruit jars.
- Q. Did you smell of them? A. Yes, sir, some few of them.
- Q. How did they smell? A. They smelled as if they had had alcohol in them
- Q. What condition was the still in, Mr. Stewart, was it clean? A. Well, no, sir.
- Q. Just describe to the jury the condition of the still? A. It had scum inside of it up about three quarters of the way.
- Q. What did it have around the bottom? A. Had smut on the outside on the bottom
- Q. About how long was it if you know you had had the defendant in jail at the time? A. Yes, sir, he was put it on sunday and this happened on Friday.
- Q. You put him in on Sunday and searched on Friday? A. Yes, sir, the same week.

CROSS EXAMINATION, by Judge Stelk:

- Q. Under the law you are entitled to \$50 compensation for making this search? A. Yes, sir.

MR. BIGGS: We object.

THE COURT: I overrule the objection.

- Q. Heretofore you have collected the \$50? A. Yes, sir.
- Q. And you expect to collect the \$50 in this case if the jury convicts the defendant? A. Yes, sir.

MR. BIGGS: The state rests.

JUDGE STELK: I make a motion to discharge the defendant upon the ground that they have not shown that there was anything in the defendant's possession at the time they made this raid and found this still.

THE COURT: In the opinion of the court there is sufficient evidence to go to the jury; I overrule the motion.

JUDGE STELK: We except.

ADOLPH SEITZ, The defendant having first been duly and legally sworn in his own behalf, testified as follows:

DIRECT EXAMINATION, by Judge Stelk:

- Q. What is your name? A. Adolph Seitz.  
Q. Where do you live Mr. Seitz? A. I live 18 years at Mifflin.  
Q. Was that the same place the sheriff was to get this still or did you live at another place? A. I lived at home.  
Q. You lived there all the time for 18 years? A. Yes, sir.  
Q. How old are you? A. 54.  
Q. Do you know whether or not on May 24th or any other time before that there was a still buried in your barn? A. I have no still in my barn; none on my place.  
Q. Did you know that there was any still there, do you understand?  
A. I got not much English.

JUDGE STELK: Judge, I ask that an interpreter be sworn to interpret for the witness.

THE COURT: I think he can understand.

- Q. Do you know whether or not while you were in jail, before you went to the jail did you know that there was a still or any part of a still buried in your barn or in your barn? A. No.  
Q. The witnesses say they found some kegs and jugs and bottles there, will you tell the jury what those kegs and jugs and bottles were used for if anything? A. I finished every year planting sirup 1000 gallons for myself and other people and used these jugs and bottles for sirup.  
Q. Did you ever have any alcohol or intoxicating beverages in those bottles, any whiskey or anything of that kind in those bottles or jugs or kegs? A. No.  
Q. What do you do over there Mr. Seitz? A. I have been farming.  
Q. All of the time? A. Yes, sir.  
Q. You and your wife there? A. Yes, sir, my wife is sick.  
Q. You have a wife? A. Yes, sir.

JUDGE STELK: I object; the witness wasn't there and he don't know what place was searched.

THE COURT: He heard the sheriff testify.

JUDGE SEITZ: He assumes that he knows where it was.

THE COURT: He is asking him whether or not that was his place that the sheriff testified about if he knows.

JUDGE STELK: If he knows?

THE COURT: HE Certainly knows where his place was.

JUDGE STELK: He might have raided another place; I don't know and he don't know. I object to the suggestion that it was his place or aksing this man if it was his place the sheriff raided.

THE COURT: I sustain the objection.

- Q. Where did you say you lived? A. I don't understand you.
- Q. You don't understand what "live" means- how long have you been in Baldwin County? A. 18 years.
- Q. And you don't understand what "live" means? A. I live to Miff lin on my place.
- Q. You understand it now don't you? A. Yes.
- Q. What? A. I don't got much English.
- Q. You been living in Baldwin County 18 years? A. Yes, sir.
- Q. Been associating with the People of Baldwin County, haven't you? (A. I don't understand you.
- Q. You know what a shinney still is, don't you? A. Yes- shinney still?
- Q. You know what a shinney still is? A. Yes, sir.
- Q. Have you seen that one that the sheriff brought and put in the jail? A. No.
- Q. The one he described on the stand, have you seen that s till? A. No, sir.
- Q. You haven't seen that at all? A. No.
- Q. You have a barn down at your place haven't you? A. No, sir, I have never stilled in my barn, I have no still in my barn.
- Q. You have a barn? A. Yes, sir.
- Q. Got a smoke house, too, haven't you? A. Yes, sir.
- Q. And you have a residence place where you live? A. Yes, sir.
- Q. Where did you have your bottles? A. I used the bottles for sir up.
- Q. Where did you keep them? A. The bottles for the sirup?
- Q. Yes? A. I kept them in the barn.
- Q. Did you keep a big glass jug in the barn, too? A. Yes, sir, I

THE COURT: I overrule the objection.

A. I don't know.

Q. You don't know what shinney is at all? A. No, sir.

Q. You don't know what it is used for? A. No, sir.

Q. You don't know whet er you wash your hands with it or drink it, do you Mr. ~~Seitz~~ Seitz?

JUDGE STELK: We object on the ground that it is an attempt to predjudice the ~~defendant~~ jury against the defendant by the language that counsel uses and his tone of voice.

THE COURT: I overrule the objection.

JUDGE STELK: We except.

Q. You don't know whether it is used to wash your hands with or to drink do you? A. No, sir.

Q. You own a home don't you down there in Baldwin County, you own your own home? A. Yes, sir.

Q. You own your barn? A. Yes, sir.

Q. And you own your smoke house that is connected with your place? A. Yes, sir.

Q. And your wife is living there with you on your place? A. Yes, sir.

GUS SEITZ, a witness for the defendant, having been first duly and legally sworn to speak the truth, the whole truth and nothing but the truth, testified as follows:

DIRECT EXAMINATION, by Judge Stelk:

Q. What's your name. A. Gus Seitz.

Q. Where do you live? A. Mifflin.

Q. How far from where your father lives? A. Half a mile.

Q. You are a married man and live with your family? A. Yes, sir.

Q. How long have you lived at Mifflin? A. 18 years.

Q. Do you remember the time that your father was arrested about a week or two ago? A. Yes, sir.

Q. After he was arrested were you at any time over at his place where he lives? A. No, sir.

Q. You never went to see your mother? A. Oh, I see my mother.

Q. Did you ever go into the barn? A. No, sir.

Q. You never went into the barn after your father was arrasted?

A. No, sir, I had nothing in there to do.

Q. Do you know anything about whether your father bought up large quantities of sirup, sugar cane sirup? A. No, I don't.

Q. Did your father make any sirup there? A. Yes, sir.

Q. How much sirup did he make? A. He makes some years six or eight

- Q. You never saw any glass jugs there? A. Yes,
- Q. Did you see any other kind of jugs- how many glass jugs did you see? A. About 75 or 100.
- Q. Glass jugs, what were the size of those glass jugs? A. Some was gallon and some was half gallon and some was quart bottles.
- Q. The largest one was half a gallon size? A. Gallon size.
- Q. That's the largest size? A. Had some two gallon and some three gallon.
- Q. Did he have any larger than three gallons? A. Not that I know
- Q. Did you ever see a 5 gallon glass jug around there? A. No.
- Q. You never saw one - where did he keep his bottles? A. They was lying in the barn and some in the cane mill.
- Q. How many were in the barn if you know? A. I don't know how many were in the barn. There was some in the barn and some down in the cane mill.
- Q. When did you see them? A. I saw them about last year when we made sirup.
- Q. You haven't seen them since last year when you made sirup? A. No, sir.
- Q. You don't know what he did with them? A. No.
- Q. You don't know whether he put shinney in them or not? A. No, sir.
- Q. You don't know whether he put sirup in the jugs or not? A. He put sirup 1918, 19, 20, 21 and 22.
- Q. 1918, 19, 20, 21, and 22? A. Yes, sir.
- Q. All along down the line he put sirup in those jugs? A. Yes, sir.
- Q. Did you notice any glass bottles in his smoke house? He had a smoke house there didn't he? A. Wash house, I believe.
- Q. Did you notice any in there? A. No, sir.
- Q. You didn't notice any in there about 2 or 3 weeks ago, something like that, you know when the sheriff went down there, don't you, about the time? A. Yes, sir.

JUDGE STELK: I object to the form of the question, that the sheriff went down there; that assumes that he was on the place his father occupied and that's a question for the jury.

THE COURT: I sustain the objection.

- Q. You know the sheriff went there and searched your father's farm?

JUDGE STELK: We object.

A. No.

- Q. Do you say that the sheriff didn't search his premises? A. I



THE COURT: I overrule the ~~manifestation~~ objection.

JUDGE STELK: We except.

Q That's your father's barn in connection with his premises, aint it? A. Yes.

Q. Did you ever smell any bottles and jugs there? A. No, sir.

C. L. MILLER, a witness for the defendant, having been first duly and legally sworn to speak the truth, the whole truth and nothing but the truth, doth depose and say as follows:

DIRECT EXAMINATION, by Mr. Stelk:

Q. Where do you live? A. Mifflin.

Q. How long have you lived there? A. Three years but I have been away about 13 months.

Q. You know Mr. Adolph Seitz? A. Yes, sir.

Q. Were you ever at his premises where he lives? A. Yes.

Q. Do you know anything about whether there was any sugar cane sirup cooked there and bottled? A. Yes, sir.

Q. How often have you seen that done? A. The sugar cane sirup was made at my place, the mill belongs to me but Mr. Seitz has been cooking, he has used it all of the time.

Q. What did he put the sirup in when it was done? A. In gallon crocks and little kegs, something like that, I never bothered much about that.

CROSS EXAMINATION, ~~permanently~~ By Mr. Biggs:

Q. You say you don't know so powerful much about it? A. No, sir.

Q. You don't know much about what you mean? A. How much sirup he makes and what he did with it.

Q. You don't know much about what you are testifying about? A. I knew about his sirup is all.

Q. What do you know about his sirup? A. Well, I know it is sweet if you eat it.

Q. What do you know about his sirup? A. I know he used to sell it.

Q. Used to sell it? A. Yes. I bought some myself.

Q. You did? A. Yes, sir.

Q. Well, how much did he make? A. I don't know; I was here a year I guess he made more than a thousand gallons.

Q. What year was that? A. It was three years next November that I was down here the first time.

Q. Is that the last time you noticed his sirup? A. Well, he

THE STATE OF ALABAMA x      Indictment for Distilling.  
                              :       
                              :      In Circuit Court of Baldwin County.  
                              :       
ADOLPH SEITZ                x      Spring Term, 1923.

ORAL CHARGE OF THE COURT:

Gentlemen of the jury, the defendant is charged under an indictment which has been returned into court by the grand jury of your county charging this defendant with having in his possession- this defendant with manufacturing, selling or giving away or having in possession a still, apparatus, appliance or other device or substitute therefor to be used for the purpose of manufacturing prohibited liquors or beverages, contrary to law. Now the fact that an indictment has been returned into court is no evidence of the guilt of the defendant, and the fact that an indictment has been returned against him and the defendant is being tried on the indictment should not militate in any way against him, nor should it have any weight with you when you go into your jury room to determine the guilt or innocence of this defendant. Under the law every defendant is presumed to be guilty until he is proven guilty beyond a reasonable doubt and this presumption of innocence follows the defendant throughout the trial until the State of Alabama has convinced you twelve men that the defendant is guilty of the crime which is charged in the indictment and that must - the proof must be that he is guilty beyond a reasonable doubt.

Now the defendant is charged with manufacturing, that he did manufacture, sell, give away or have in possession a still, apparatus, device or substitute therefor to be used for the purpose of manufacturing prohibited liquors or beverages. Now the burden is on the state to prove beyond a reasonable doubt that this defendant had in his possession a still or apparatus, appliance or ~~man~~ device or substitute therefor, so your first consideration is whether or not there was a still, apparatus, appliance, or device or substitute therefor, and if you find that there was such ~~man~~ a still or substitute or device or apparatus then you further find whether or not from the evidence you are convinced beyond a reasonable doubt that this particular still or appliance or apparatus was in the possession of the defendant. Now the law says that the unexplained possession of any part or parts of any still apparatus or appliance or any device or substitute therefor commonly or generally used for or that is suitable to be used in the manufacture of prohibited liquors or beverages shall be prima facie evidence of a violation of that Act. Well, now, that makes out only a prima facie case but before you can convict this defendant you must go beyond the prima facie case by the introduction

beverages. That is the test you have got in this case. If the evidence satisfies you beyond a reasonable doubt that the defendant is guilty as charged in the indictment then it is your duty to convict the defendant and in that instance the form of your verdict would be "We, the jury, find the defendant guilty as charged in the indictment. If after weighing all of the evidence you have a reasonable doubt growing out of any part of the evidence then it is your duty to find the defendant not guilty and in that event the form of your verdict would be "We the jury find the defendant not guilty".

State and defendant announce themselves satisfied with the Court's oral charge.

State of Alabama, Conecuh County.

I HEREBY CERTIFY that the above and foregoing is a true and correct transcript of the evidence and proceedings in the cause therein mentioned.

IN TESTIMONY WHEREOF I have hereunto set my hand on this the 12th day of July, 1923.

A handwritten signature in cursive script, appearing to read "W. D. Sheffield".

Official Court Reporter  
21st Judicial Circuit of Ala.

~~Whereupon counsel argued the case before the jury. In the argument the SOLICITOR said to the jury Sit is men of this type, that are the country for years and years and will not learn to speak our language that you can expect things like this from. MR. STELLER. I object to this state. THE COURT. He may proceed. MR STELLER. Exception.~~

~~Whereupon the court gave to the jury the following oral charge~~

The Court gave byt one oral Charge,  
which was as above just stated.

THE STATE OF ALABAMA x Indictment for Distilling.  
 VS. : In Circuit Court of Baldwin County.  
 ADOLPH SEITZ x Spring Term, 1923.

ORAL CHARGE OF THE COURT:

Gentlemen of the jury, the defendant is charged under an indictment which has been returned into court by the grand jury of your county charging this defendant with having in his possession- this defendant with manufacturing, selling or giving away or having in possession a still, apparatus, appliance or other device or substitute therefor to be used for the purpose of manufacturing prohibited liquors or beverages, contrary to law. Now the fact that an indictment has been returned into court is no evidence of the guilt of the defendant, and the fact that an indictment has been returned against him and the defendant is being tried on the indictment should not militate in any way against him, nor should it have any weight with you when you go into your jury room to determine the guilt or innocence of this defendant. Under the law every defendant is presumed to be guilty until he is proven guilty beyond a reasonable doubt and this presumption of innocence follows the defendant throughout the trial until the State of Alabama has convinced you twelve men that the defendant is guilty of the crime which is charged in the indictment and that must - the proof must be that he is guilty beyond a reasonable doubt.

Now the defendant is charged with manufacturing, that he did manufacture, sell, give away or have in possession a still, apparatus, device or substitute therefor to be used for the purpose of manufacturing prohibited liquors or beverages. Now the burden is on the state to prove beyond a reasonable doubt that this defendant had in his possession a still or apparatus, appliance or ~~device~~ device or substitute therefor, so your first consideration is whether or not there was a still, apparatus, appliance, or device or substitute therefor, and if you find that there was such ~~an~~ a still or substitute or device or apparatus then you further find whether or not from the evidence you are convinced beyond a reasonable doubt that this particular still or appliance or apparatus was in the possession of the defendant. Now the law says that the unexplained possession of any part or parts of any still apparatus ~~appliance~~ appliance or any device or substitute therefor commonly or generally used for or that is suitable to be used in the manufacture of prohibited liquors or beverages shall be prima facie evidence of a violation of that Act. Well, now, that makes out only a prima facie case but before you can convict this defendant you must go beyond the prima facie case by the introduction of the mere still or apparatus or parts of apparatus that if you find the defendant was in possession of, and prove beyond a reasonable doubt because the law is jealous of taking from a citizen of your State his liberty or his life unless it be done through the due process of the law, and that is, in criminal cases, that you must believe beyond a reasonable doubt that the defendant is guilty as charged in the indictment and in this instance it is whether or not that he had in his possession a still, apparatus or appliance or device or substitute therefor and that it was to be used for the purpose of manufacturing any prohibited liquors or

but that policies designed to encourage the growth of small business

Hand Aug 18th 1923  
J. W. McQuinn  
Chgo

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and correct transcript of the ~~entire~~ oral charge of the jury in the case above stated.

IN TESTIMONY WHEREOF I have hereunto set my hand on this  
the 18th day of July, 1933.

Official Court Reporter  
1515 10th Street, N.W.  
Washington, D.C. 20004

The defendant then and there offered the following written charge  
namely: *and which were Given or Refused by The  
presiding Judge as shown <sup>\*A\*</sup>, or endorsed on each of  
said charges.*

The court ~~instixxix~~ charges the jury that if they believe the  
evidence - you must find the defendant not guilty. *Refused Leigh Judge*

\*B\*

*Given Leigh Judge*  
The court charges the jury that unless they believe beyond all  
reasonable doubt that the defendant had in his possession the still before  
before he was arrested then you must acquit the defendant and you cannot  
presume that the defendant had the still in his possession at the time he  
he was arrested but this fact must be proven beyond all reasonable doubt

\*C\*

The court charges the jury that if the still was placed in the barn  
of the defendant after the defendant was arrested then you must acquit the  
the defendant. *Given Leigh Judge*

\*D\*

*Refused Leigh Judge*  
The court charges the jury that the sheriff of the county is  
interested in the conviction of defendant and if the defendant is con-  
victed he will receive the sum of fifty dollars to be paid by the de-  
fendant by taxing the same as costs in the case and you shall weigh  
the testimony of the sheriff in the light of this interest.

\*E\*

*Refused Leigh Judge*  
The court charges the jury that in this case there is no evidence  
in this case that the defendant had a still in his possession at the time  
time he was arrested upon the charge and placed in jail and the only  
evidence that the defendant had a still in his possession is the fact  
that the still was found in the barn of the defendant after he was  
arrested and placed in jail and you have no right to presume that the  
defendant had such still in his possession at the time the prosecution  
was begun but this fact must be proven by the evidence to your satis-  
faction beyond all reasonable doubt.

\*F\*



If the jury are in doubt whether the barn of the defendant or some other barn was searched by the sheriff then they should find the defendant not guilty. *Given Leigh Judge*

Whereupon the court endorsed on charges "B" "C" "D" and "F" the word "Given" and upon charges "A" and "E" the word "Refused"

After said given charges had been read to the jury by counsel for the defendant the court, in the absence of the court stenographer, gave an additional oral charge in substance as follows:— THE COURT. Gentlemen of the jury. I desire to also call your attention to the law that you should also consider the interest of the defendant in this case; that he is charged with a crime; that if he is convicted that he will be punished. You must consider that also when you come to weigh the evidence.

Thereupon the jury retired to consider its verdict and after an absence of some two hours returned into court and requested information as to the punishment which would be visited upon the defendant in case he was found guilty. THE COURT. The punishment is imprisonment in the Penitentiary. Thereupon the jury again retired and thereafter brought in the following verdict endorsed on the Indictment. "We the jury find the defendant Guilty as charged in the indictment" (Signed) J. I. Pitman Foreman.

*Sherraffer*  
~~Thereupon~~ the defendant filed his motion for a new trial in ~~XXXX~~ words and figures as follows, to-wit:—

State vs Adolph Seitz.

And now comes the defendant and moves the Court to set aside the verdict of the jury rendered in this ~~above~~ cause and to grant him a new trial and as grounds for said motion the defendant shows the Court the following:

1.

The verdict is contrary to the law in the case.

2.

The verdict is contrary to the weight of the evidence in the case.

3.

The verdict is contrary to the law and the evidence in the case.

4.

The Court erred in not granting the general charge in favor of the defendant; at the close of the evidence offered on behalf of the State.

5.

The Court erred in refusing to give to the Jury charges "A" and "E" requested by the defendant.

6.

The Court erred in not charging the Jury that there was no evidence that the still charged to be the property of the defendant was in his possession at the time of his arrest and incarceration.

7.

The Court erred in not charging the jury that there was no evidence that it was the farm of the defendant that the officers searched and found what they designated as a still and parts.

8.

The Court erred in not protecting the defendant against the prejudicial remarks made by the Solicitor, in the closing argument ridiculing defendant because he had not acquired perfect control of our American language.

Minutes of the Circuit Court of Baldwin County, Alabama,

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The State of Alabama,

Baldwin County.

No. 70.

The State vs Adolph Seitz.

Circuit Court Spring Term, 1923.

Indictment for Possession of

Still.

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On this the 4th, day of June 1923, Comes Hon. L.S.

Biggs, Solicitor, who prosecutes for the State of <sup>wa</sup> also came the Def  
Defendant Adolph Seitz, in his own proper person and by attorney,  
and said defendant being duly arraigned upon said Indictment for  
his plea thereto pleads not guilty, thereupon came a jury of  
good and lawful men to wit: J. I. Pitman and eleven others who  
being duly impaneled, sworn and charged according to law, say, We,  
the jury find find the Defendant guilty as charged in the  
indictment, which upon consideration by the Court it is the  
judgment and sentence of the Court that said Defendant is guilty  
as charged in the indictment as aforesaid and he is remanded  
to Jail for sentence.

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The State vs Adolph Seitz. ( Indictment for Possession of )  
( Still. )

On this the 8th day of June 1923, the Defendant Adolph  
Seitz, being in open Court and being asked by the Court if he had  
anything to say why the sentence of the law should not be pro-  
-nounced upon him says nothing. It is therefore the judgment and  
sentence of the Court that said Adolph Seitz, be imprisoned in the  
Penitentiary of the State of Alabama, for a term of not less than  
one year and one day and not more than one year and two days.

It is further ordered by the Court that the State of Alabama for  
the use of Baldwin County have and recover of the defendant the costs  
of this case for which let execution issue.

The Defendant gives notice of Appeal to Court of Appeals, and this  
sentence is suspended pending the Appeal of Defendant to Court of  
Appeals. Signed at \$250.00 and to be approved by Sheriff

Thereupon the defendant withdrew his prayer for an appeal to the court of appeals and decided to have his cause reviewed on a writ of error.

And now upon this <sup>August</sup> 15<sup>th</sup> day of ~~Sept~~ A. D. 1923, the defendant to me John D. Leigh Judge of 21<sup>st</sup> Judicial Circuit of Alabama Adelph Seitz, presents this his bill of exceptions, within ninety days

after the date of trial and within the time prescribed by law, which contains all the proceedings had in his cause, which said bill of exception

I John D. Leigh Judge of the 21<sup>st</sup> Judicial Circuit of Alabama hereby certify that am the Judge who presided at the trial of the above Cause and the foregoing bill of exceptions is hereby approved by me as being true and correct on this 26<sup>th</sup> day of September 1923, the same being within ninety days after same was presented to me.

John D. Leigh  
Judge of 21<sup>st</sup> Judicial  
Circuit of Alabama  
and Judge presiding at  
trial of said Cause

Judge