

1245

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LEAPING.

Shew before the Judge of the Supra
Court of Law for Albemarle County
the 7th day of October 1823 in the
48th year of the Commonwealth

Be it remembered that heretofore to wit at
a Supra Court of Law held for said County
the 6th day of October 1823 The Grand Jury
of and for the body of said County found an
Indictment The Commonwealth against
Hudson Spruce for Murder - A True bill
which Indictment is in these words to wit,

"Virginia Supra Court of Law for Albemarle
Albemarle County Se."

The Jurors of the Commonwealth of and for
the body of the County of Albemarle upon their
oath present that Hudson Spruce late of the
County aforesaid Labourer not having the
fear of god before his eyes, but being moved
and seduced by the suggestion of the devil
on the fifth day of August in the year eighteen
hundred and twenty two at the County aforesaid
and within the jurisdiction of this Court
with force and arms in and upon one

Susan Spruce spinster in the peace of God and the Commonwealth then and there being feloniously, willfully and of his malice aforethought did make an assault; And that he the said Hudson Spruce with a certain knife of the value of ten Cents, which he the said Hudson Spruce in his right hand then and there had and held the said Susan Spruce in and upon the left side of the belly between the short ribs of her the said Susan Spruce, then and there feloniously, willfully and of his malice aforethought did strike and thrust giving to the said Susan Spruce then and there with the knife aforesaid in and upon the aforesaid left side of the belly between the short ribs of her the said Susan Spruce one mortal wound of the breadth of three inches and of the depth of six inches, of which said mortal wound the said Susan Spruce from the said fifth day of August in the year aforesaid untill the sixth day of the same month of August in the year aforesaid in the County

aforesaid did languish and languishing did live, on which said sixth day of August in the year aforesaid the said Susan Spruce in the family aforesaid, of the said mortal wound died; And so the Jurors aforesaid upon their oath aforesaid do say that the said Hudson Spruce the said Susan Spruce in manner and form aforesaid, feloniously, willfully and of his malice aforethought did kill and murder against the peace and dignity of the Commonwealth.

And the Jurors aforesaid upon their oath aforesaid do further present that the said Hudson Spruce late of the County aforesaid Labourer on the 5th day of August 1822 at the County aforesaid and within the Jurisdiction of this Court with force and arms in and upon the said Susan Spruce spinster in the peace of God and the Commonwealth, made an assault; and that he the said Hudson Spruce with a certain large stick of no value which he the said Hudson Spruce in his right hand then and there had and held her the said Susan Spruce in and upon the head of her the said Susan Spruce then and there

feloniously, wilfully and of his malice aforethought did strike and beat, then and there giving to her the said Susan by then and there so striking and beating of her the said Susan Spruce with the stick aforesaid in and upon the left side of the head of her the said Susan one mortal bruise of which said mortal bruise she the said Susan from the fifth day of August in the year aforesaid until the sixth day of August in the year aforesaid in the County aforesaid did languish and languishing did live: on which said sixth day of August in the year aforesaid the said Susan Spruce in the County aforesaid of the said mortal bruise died: And so the Jurors aforesaid upon their oath aforesaid do say that the said Hudson Spruce the said Susan Spruce in the manner and by the means last aforesaid feloniously, wilfully and of his malice aforethought did kill and murder, and the said Susan Spruce so feloniously, wilfully and maliciously murdered by the said

Hudson Spruce, he the said Hudson into a cliff of rocks there situate there secretly did put, cast and consume with fire to conceal and hide the said Susan Spruce so murdered against the peace and dignity of the Commonwealth.
 Endorsed thus "A True bill
 Ch. Cocks Freeman"

At a Supreme Court of Law held for Albemarle County the 7th day of October 1823

Hudson Spruce late of the County of Albemarle labourer who stands indicted of murder was led to the bar in custody of the Sheriff of this County and being thereof arraigned, offered to the Court a plea in the following words to wit "Guilty to Spruce - Indictment for Murder - and the said Hudson Spruce in his proper person come, and defends the said felony and murder and whatever else he ought to defend, and for plea saith that he the said Hudson Spruce ought not now to be charged with the murder aforesaid of the said Susan Spruce mentioned in the Indictment aforesaid, because he saith, that by law when any person not being a slave

6 shall be charged before a Justice of the peace with any treason, murder felony or other crime or offence whatever against the Commonwealth, if in the opinion of such justice such offence ought to be enquired into in the Courts of this Commonwealth such justice shall take the recognizance of all material witnesses to appear before the Court of his County or Corporation to give evidence against the offender and immediately by his warrant shall commit the person so charged to the County or Corporation Jail and Magistrate shall issue his warrant to the sheriff of the County or sergeant of the Corporation requiring him to summon at least eight if so many there be of the Justices of the County or Corporation to meet at their Court-house on a certain day not less than five nor more than ten days after the date thereof to hold a Court for the examination of the fact which Court consisting of five members at least shall consider whether as the case may appear to them, the prisoner may be discharged

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from further prosecution or may be tried in the County or Corporation or in the superior Court of law; And the said Hudson Spruce further saith that he the said Hudson Spruce being a free white person and not a slave heretofore to wit on the day of _____ in the County of Albemarle was committed to the Jail of said County by the name and description of Hudson Spruce by William Woods one of the justices of the peace for said County; and the said Hudson Spruce further saith that on the day of _____ he was brought from said jail and set to the bar of a Court convened at the Courthouse of said County for the examination of him the said Hudson Spruce, when and where he the said Hudson Spruce was remanded to the Jail of said County and his examination continued on behalf of the Commonwealth for reasons appearing to the said Court in course for said County being the day of _____ the said Hudson Spruce further saith that at the Court so adjourned to be held on the day of _____ for the examination

of him the said Hudson spruce he the said Hudson spruce was again set to the bar of the said Court in Custody of the Sheriff of the County aforesaid, and was then and there charged with the murder aforesaid Whereupon sundry witnesses were sworn and Whereupon it was the opinion of the said Court that the said Hudson spruce was guilty of the murder aforesaid, and thereupon remanded to the superior Court of Law for said County as appear by the record of said Court;

And the said Hudson spruce further saith that by the Law of the Land before any one not being a slave can be examined before a Court for any Capital or Criminal prosecution he hath a right to demand the cause and nature of his accusation, that all warrants for convening a Court for the examination of a free person charged with any treason murder or felony should by Law contain with convenient certainty the specific offence with which the accused shall be charged that without such specification the said

Court for examination cannot legally proceed to enquire into or examine any case or pass upon the rights or liberty of any citizen, that the said warrant issued by the said William Woods as a Justice of the peace for the County aforesaid to convene the said Court on the 21st day of October for the examination of him the said Hudson spruce contains no offence or description of offence against the laws of this Commonwealth for which he the said Hudson spruce was bound to answer before the said Court which said warrant is now here shown to the Court and is in these words and figures following to wit "Albemarle County Court - To the Sheriff of said County Whereas Hudson spruce, late of the County aforesaid labourer was ^{this day} committed to the Jail of this County by my warrant, It appearing to me that the following offence wherewith he stands charged ought to be examined into by the County Court: Therefore on behalf of the Commonwealth I require you that you summon the Justice,

of your said County to meet at the Courthouse on the 21st day of the present month (October) then and there to hold a Court for the examination of the fact with which the said Hudson Spruce stands charged, and for such other purposes, Concerning the premises as is by law directed and required, and that you have then there this warrant - Given under my hand and Seal this 14th day of October 1822 - W^m Woods" That therefore the said examining Court erred in proceeding to the trial of him the said Hudson Spruce without the specification in warrant aforesaid of some positive and particular species of offence or crime had been set forth and charged against him the said Hudson Spruce and could not have examined into the murder aforesaid without the same had been on the face of the said warrant plainly and with convenient certainty set forth and alleged against him the said Hudson Spruce. Wherefore since he the said Hudson Spruce was previous to the meeting

of the examining Court aforesaid deprived of a notice or knowledge of the kind or species of offence for which he then stood committed to Jail, and with which he was to have been, and was afterwards charged before the said examining Court he prays the Judgment of the Court there, if he the said Hudson Spruce should now be charged with the aforesaid murder."

To the admission of which plea the attorney prosecuting for the Commonwealth objected, Whereupon on argument the Court refused to admit the plea aforesaid, to which opinion of the Court the Prisoner by his Council offered a bill of exceptions in these words to wit "Com^{ts} in S^{pruce} - An Indictment of murder, Be it remembered that upon the arraignment of the prisoner in the prosecution the said prisoner by his Council offered the following plea to the Indictment to wit "Com^{ts} in S^{pruce} - an Indictment of murder, And the said Hudson Spruce in his proper person comes and defends t^o the admission of which plea the attorney for the Commonwealth objected, which objection was sustained

by the court, to which opinion of the Court the prisoner excepts and prays his exceptions may be signed & sealed."

Whereupon the prisoner pleaded not guilty to the Indictment offered and for his trial put himself upon the Country. Whereupon the prisoner by his Council filed other bills of exceptions which follow in these words "Be it remembered that upon the trial of this Cause, Abraham Miant a Juror stated that he had heard the subject of the trial spoken of frequently in the Country, that he cannot now say whether those persons from whom he has heard relations of the evidence were present at the examining Court or not; but upon such relation which he believed to be true, he has formed a pretty substantial opinion and expressed the same more than once, that he now thinks notwithstanding the formation and expression of such opinion he could as a Juror do justice to the prisoner,

that he was not at the called Court, nor had he heard the evidence in the Cause nor conversed with any of the witnesses, that the opinion which he had taken up and frequently expressed was formed on rumour in the Country, that he felt no prejudice, but was open to conviction — The Court overruled the objection for Cause to this Juror, to which opinion the Council for the prisoner excepts and prays his exceptions may be sealed &c."

John Torrell was called on as a Juror and challenged for Cause who stated that he had not heard any ^{of the} evidence in the Case, but that he heard a person who was at the called Court detail a part of the evidence viz: the evidence of Patsy Wood who was said to be the principal Witness in the prosecution and who also stated that there were several witnesses who seemed to corroborate her statement, that he had stated, that if these things were true that he believed the prisoner guilty, but that the prisoner was a stranger to the Jury, that he

resided at least thirteen miles from him that he felt no prejudice on his mind against him, that he was open to conviction and ready to do the prisoner justice, and if the facts did not turn out as they had been represented to him, to change his opinion. Upon this statement made by the Juror the Court overruled the challenge for favour and put the Prisoner to his preemptory challenge, which he exercised by rejecting the Juror, no juror having been previously elected or challenged. Promptly to the opinion of the Court in this case the prisoner excepts and prays that his exceptions may be signed sealed &c. which is done accordingly.

Michael Wallace a Venieman examined on oath said he had heard a person detail the evidence who had heard it from a person present at the Court, that from this evidence he felt a bias against the prisoner upon his mind, but that this prejudice arose from the nature of the charge and would be equally felt against any other person charged with a similar offence.

that if elected he would endeavour to give the prisoner a fair and impartial trial but did not know whether the impression he had taken up might not have some influence upon his mind - the Venieman was excepted to for cause, but the exception overruled by the Court to which opinion the Prisoner Council excepts and prays his exceptions may be signed &c. which is done accordingly.

Whereupon came a Jury consisting of Thomas Jackson William Ballard, James Douglass Henry Ward John Wood Esq. M. Wiley Dickerson Thomas Ellis John Wood Jr. Richard Matchett Phillips Smith William Hopkins and Gabriel Manupin who being elected tried and sworn the truth of and upon the premises to speak, and having heard a part of the evidence were thereupon adjourned until tomorrow morning 10 O'clock.

Wednesday 8th October 1823 - On the motion of the attorney for the Commonwealth and for reasons appearing to the Court it is ordered to be certified and made a part of the record in this case that a Jury was elected by

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the prisoner for his trial in this case without waiving all his preliminary challenges, and that none of the Jurors challenged for cause by the prisoner when the objections were overruled by the Court, were sworn upon the Jury, they having been preliminarily challenged by the prisoner.

Whereupon the prisoner was again led to the bar in custody of the Sheriff of this County, and thereupon the Jury impaneled and sworn on yesterday appeared agreeable to adjournment, and having heard the evidence as well on behalf of the Commonwealth as the prisoner at the bar were thereupon adjourned until tomorrow morning 10 O'clock.

Thursday 9th October 1823 - The prisoner was again led to the bar in custody of the Sheriff of this County, thereupon the Jury appeared agreeable to adjournment and having heard the argument in part were thereupon adjourned until tomorrow morning 10 O'clock.

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Friday 10th October 1823. The prisoner was again led to the bar in custody of the Sheriff of this County, thereupon the Jury impaneled and sworn in this case appeared agreeable to adjournment - Whereupon on argument of Council the Jurors upon their oath do say that the said Hudson Spruce is guilty of murder in the first degree as in the indictment against him is charged, thereupon the said Hudson Spruce is remanded to Jail.

At a Superior Court of Law continued and held for said County the 17th day of October 1823

The Prisoner was again led to the bar in custody of the Sheriff of this County & thereupon it being demanded of him if any thing for himself he had or could say why the Court here should not now proceed to pronounce judgment against him according to law; and nothing being offered or alleged in delay of Judgment - Therefore it is ordered by the Court that the said Hudson Spruce be taken hence to the Jail of Albemarle County there to remain until the 16th day of January next, when the said Hudson Spruce is to

to taken hence to the place of public execution by the sheriff of Albemarle County, where and where the said Hudson Spruice is to be hanged by the neck untill he be dead which act the said sheriff of Albemarle County is hereby directed and required to perform,

In the clerk's office of said Court the 8th day of December 1823. A Record from the General Court was filed in the above case, which is in these words to wit

"Virginia In the General Court Novemb 25th 1823
Hudson Spruice Plaintiff
against
The Commonwealth Defendant
to a Judgment rendered
against the Plaintiff
by the Superior Court of Law for Albemarle County on the 17th day of October 1823 for murder in the first degree.

This day came as well the attorney General as the Plaintiff by his attorney and the Attorney General agrees to dispence

with the execution and return of the said writ, and to receive the transcript of the record Certified by the Clerk of the said Superior Court, Upon inspection whereof the writ of Error had been awarded as if it had been duly Certified by the Judge on the return of the writ. And he further agreed to receive the error set forth in the Plaintiff's petition instead of a formal assignment of error, and thereto he pleaded that there is no error in the said record of proceedings and judgment of the said Superior Court of law, and this he is ready to verify &c. to which the Plaintiff replied that there is error in the said record in manner and form as in his assignment he hath set forth, and this he prays may be enquired of by the court and the attorney General likewise. And thereupon the transcript of the record of the Judgment and proceedings aforesaid being seen and inspected, and due consideration had thereof, It seems to the Court here that there is no error in the Judgment rendered by the said Superior

Court overruling the prisoners said plea in abatement, but that there is error in this that the said Superior Court of law for Albemarle County refused to sustain the prisoners challenge to Abraham Meant for cause. - Wherefore it is considered by the Court that the said judgment be reversed and annulled, and that the case be remanded to the said superior Court for a new trial to be had therein. - Copy Tute. J. Drew C. B.

At another day to wit At a Superior Court of law held for said County the 10th day of May 1824

On the motion of the prisoner by his council and for reasons appearing to the Court this prosecution is continued untill the first day of the next term, the prisoner being set to the bar in custody of the Jailor.

And now at this day to wit. At a Superior Court of law held for said County the 11th day of October 1824

The Prisoner was again led to the bar

in custody of the Jailor of this County, and it appearing to the satisfaction of this Court from the number of challenges both peremptory and for cause made by the prisoner, that an impartial and legally qualified Jury cannot be had from the County of Albemarle where the offence is charged to have been committed for the trial of the said Hudson Spruce; It is therefore ordered by the Court that the venue in this case be changed to the superior Court of Law for the County of Rockingham; that being the most convenient Court in an adjoining Circuit, where in the opinion of the Court the Commonwealth and the prisoner can have a fair and impartial trial. - The Court being further of opinion that the offence with which the said Hudson Spruce is charged is not bailable. - It is ordered that the said prisoner be remanded to Jail untill his removal to the Jail of Rockingham County.

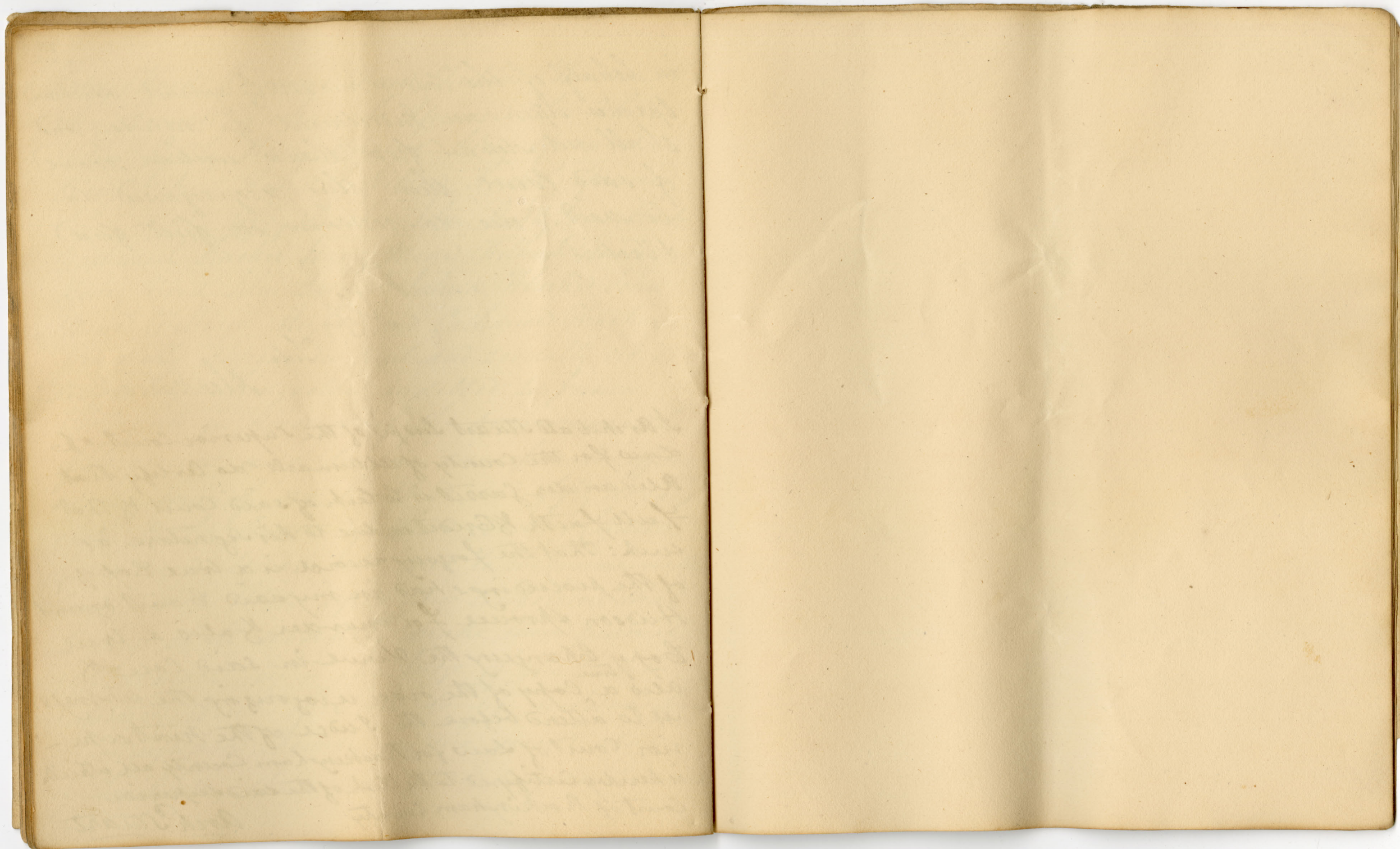
Patsy Wood Benjamin Wood, Tullitt Woodson s.
 John Baniell Zachariah Spruce John Wheeler
 James Dudley Henry Spruce Dickey Spruce
 Dickey Gibson Randal Gibson Rachel Spruce
 Abby Thacker John Dudley James Hunt
 Nathaniel Thacker Isaac Mone William Newcom
 Henry Wood John Spruce Joshua Wheeler John
 Mone William Hughes and Catharine Thacker
 personally appear in Court and severally ac-
 knowlege themselves indebted to James
 Pleasants Jr Governor of the Commonwealth
 of Virginia and to his successors in office
 in the sum of one hundred and fifty dollars
 each to be levied of their goods & chattels
 lands and tenements and to the Commonwealth
 rendered - Yet upon this condition that
 if they shall severally make their personal
 appearance before the Judge of the next
 Superior Court of Law to be holden for
 Rockingham County, on the second day
 of the term, then and there to give evidence

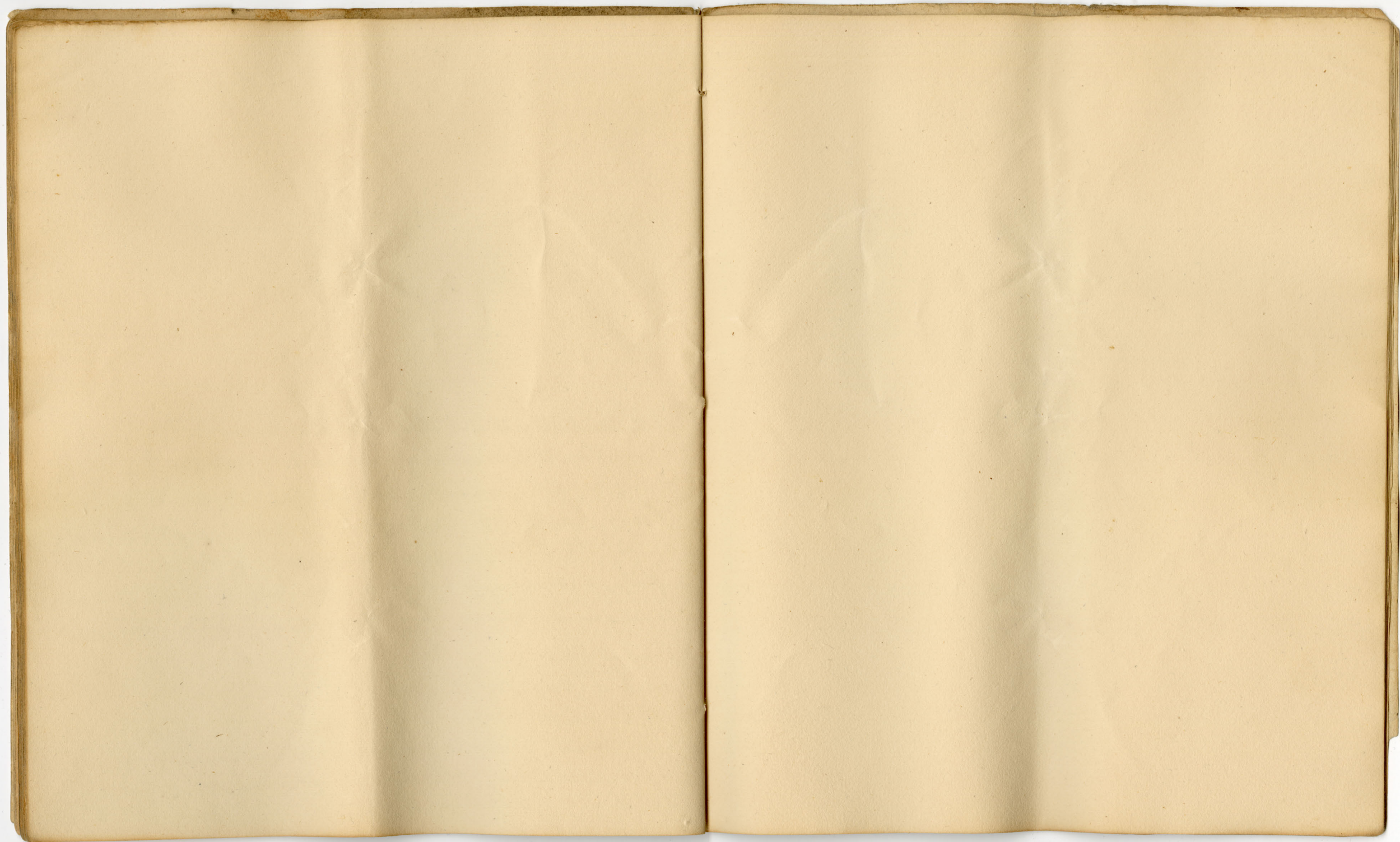
in behalf of the Commonwealth against Hudson
 Spruce upon an indictment for murder and
 shall not depart from thence without leave
 of said Court, then this recognizance to
 be void, else to remain in full force
 & Virtue.

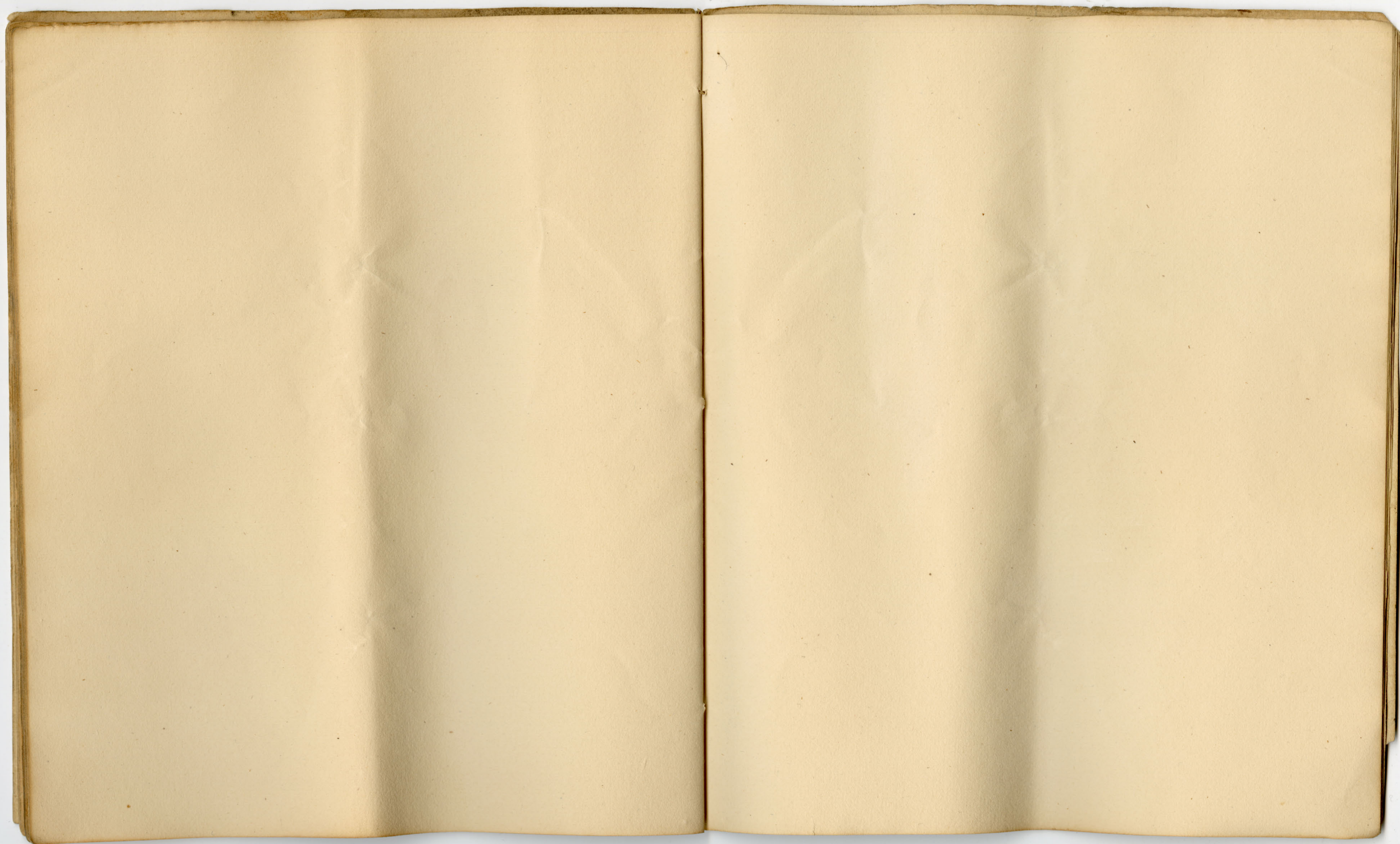
A Copy
 Taken
 Alex Garrett CSC

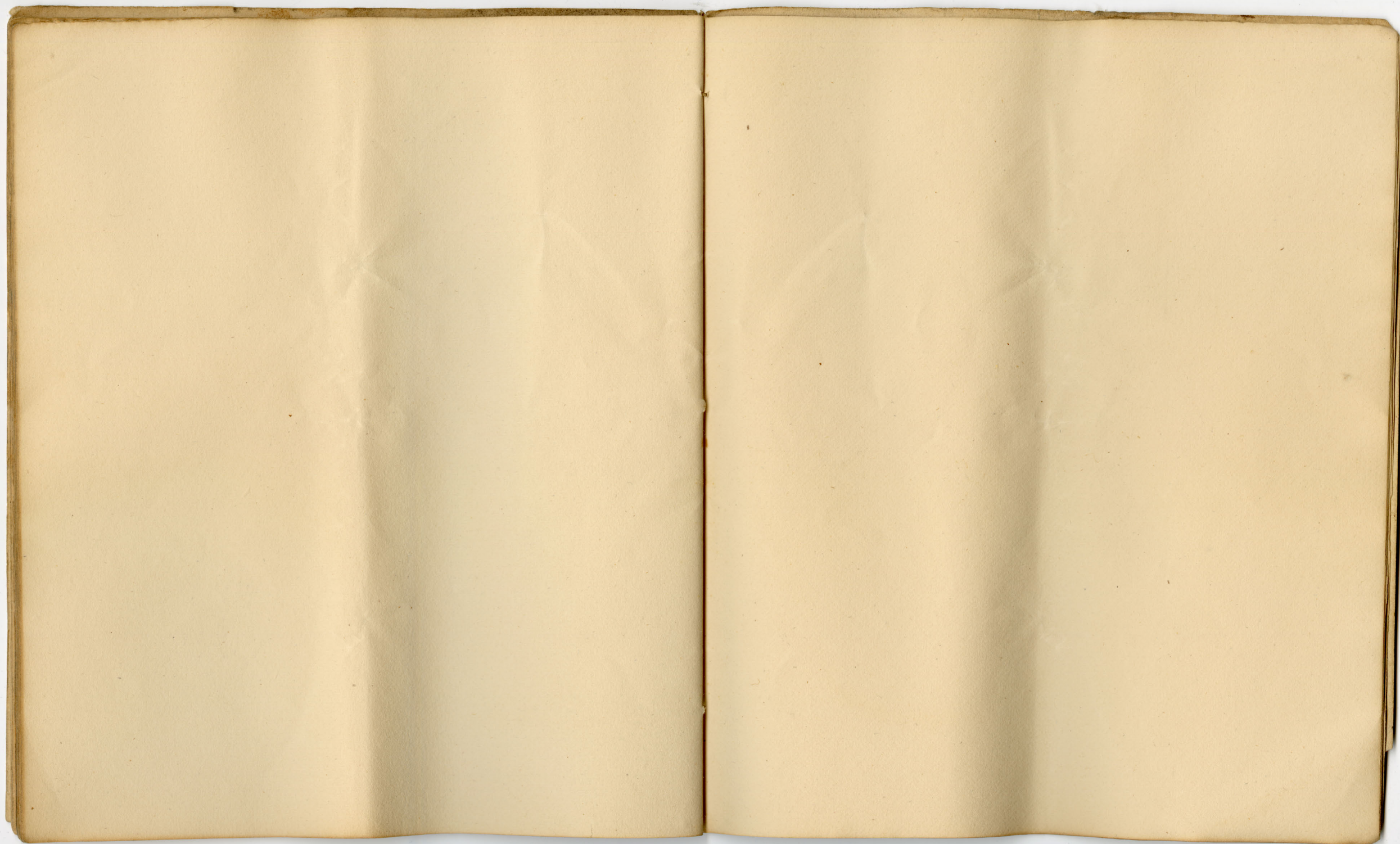
I Archibald Stuart Judge of the Superior Court of
 Law for the County of Albemarle do Certify that
 Alexander Garrett is Clerk of said Court & that
 Full Faith & Credit is due to his signature as
 such: that the foregoing record is a true Copy
 of the proceedings had in my said Court against
 Hudson Spruce for murder & also a true
 Copy ^{true} changing the Venue in said case &
 also a Copy of the order recognizing the Witnesses
 as to attend before the Judge of the next super-
 rior Court of Law for Rockingham County all which
 is hereby Certified to the Clerk of the said Superior
 Court of Rockingham County

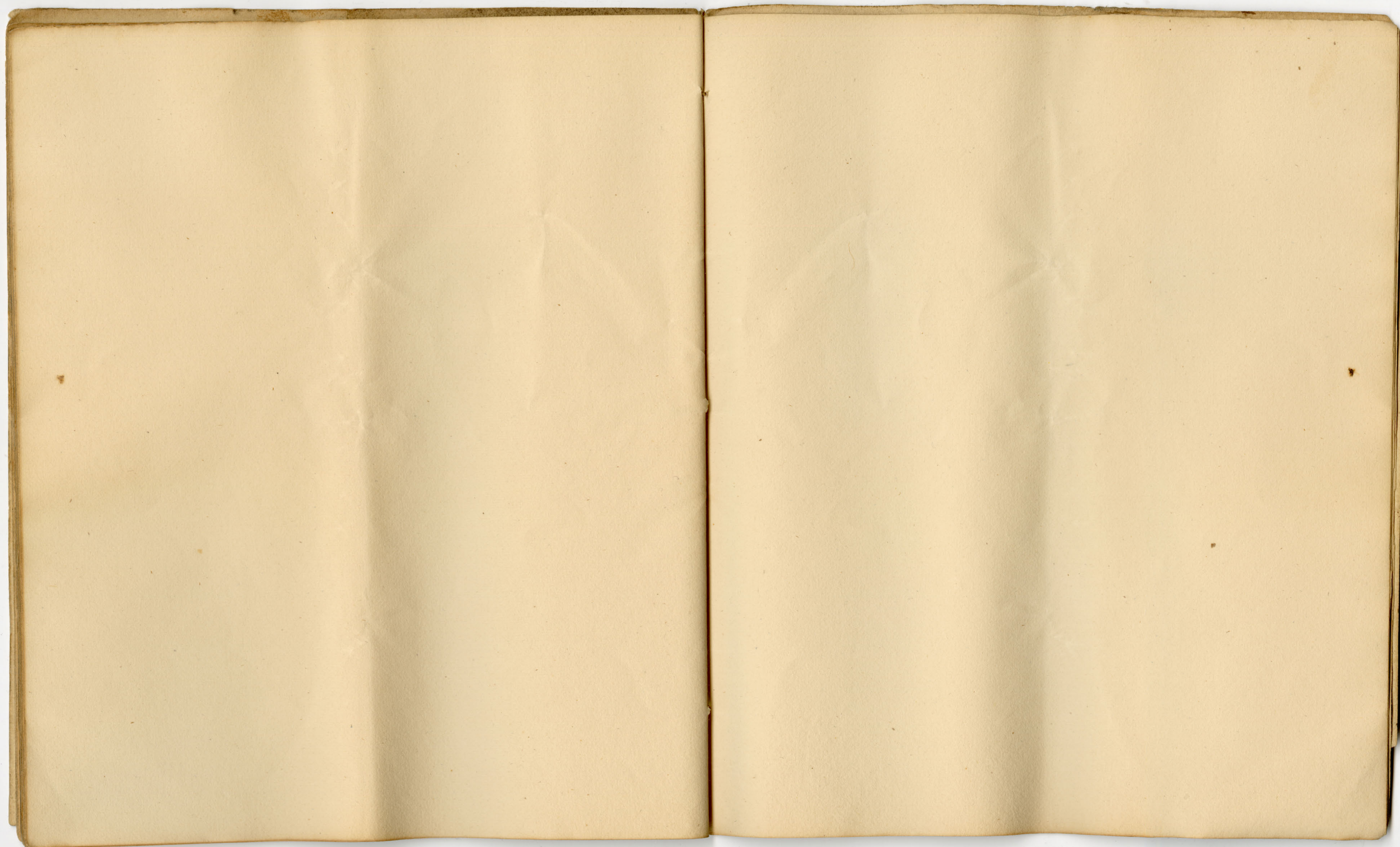
Arch Stuart

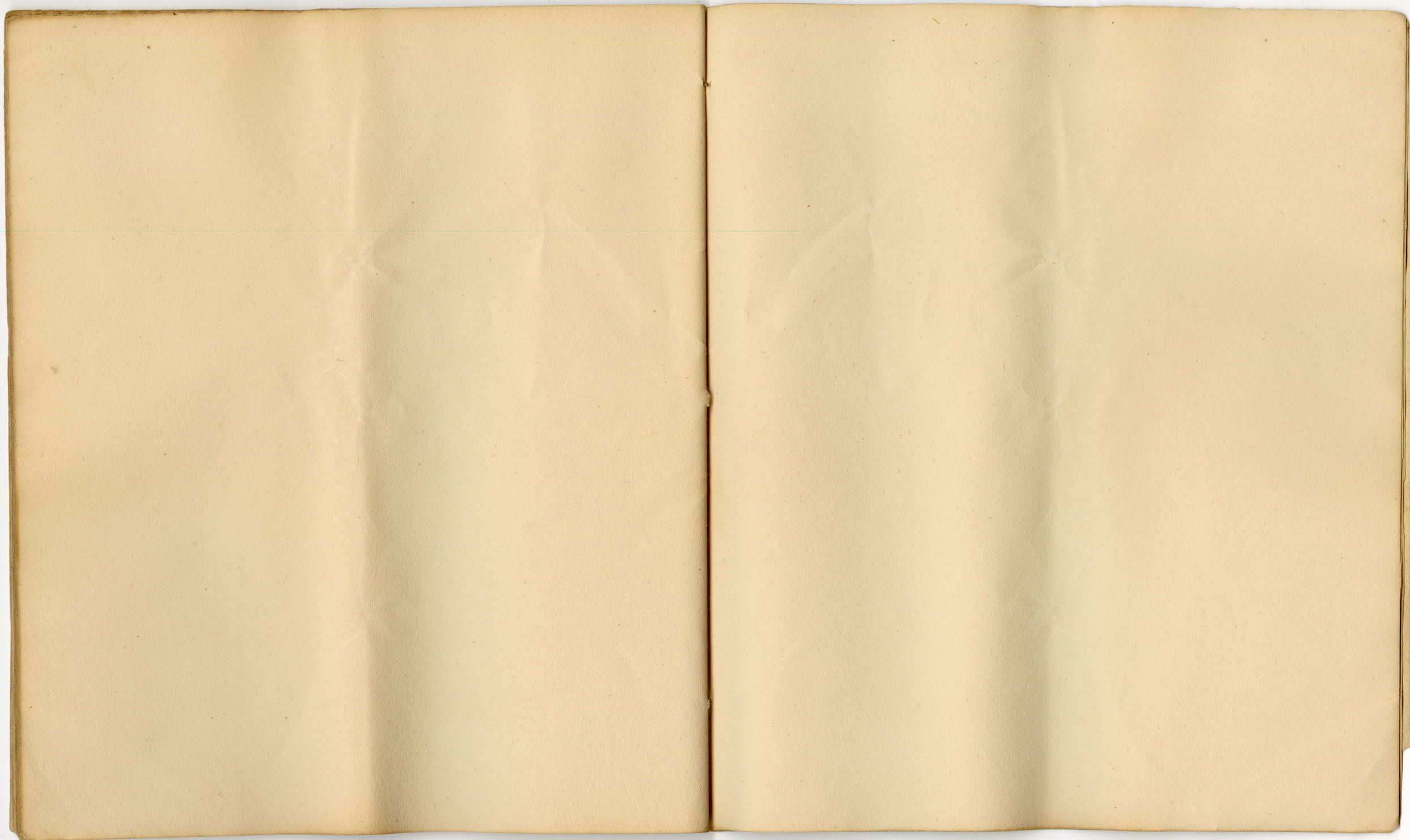


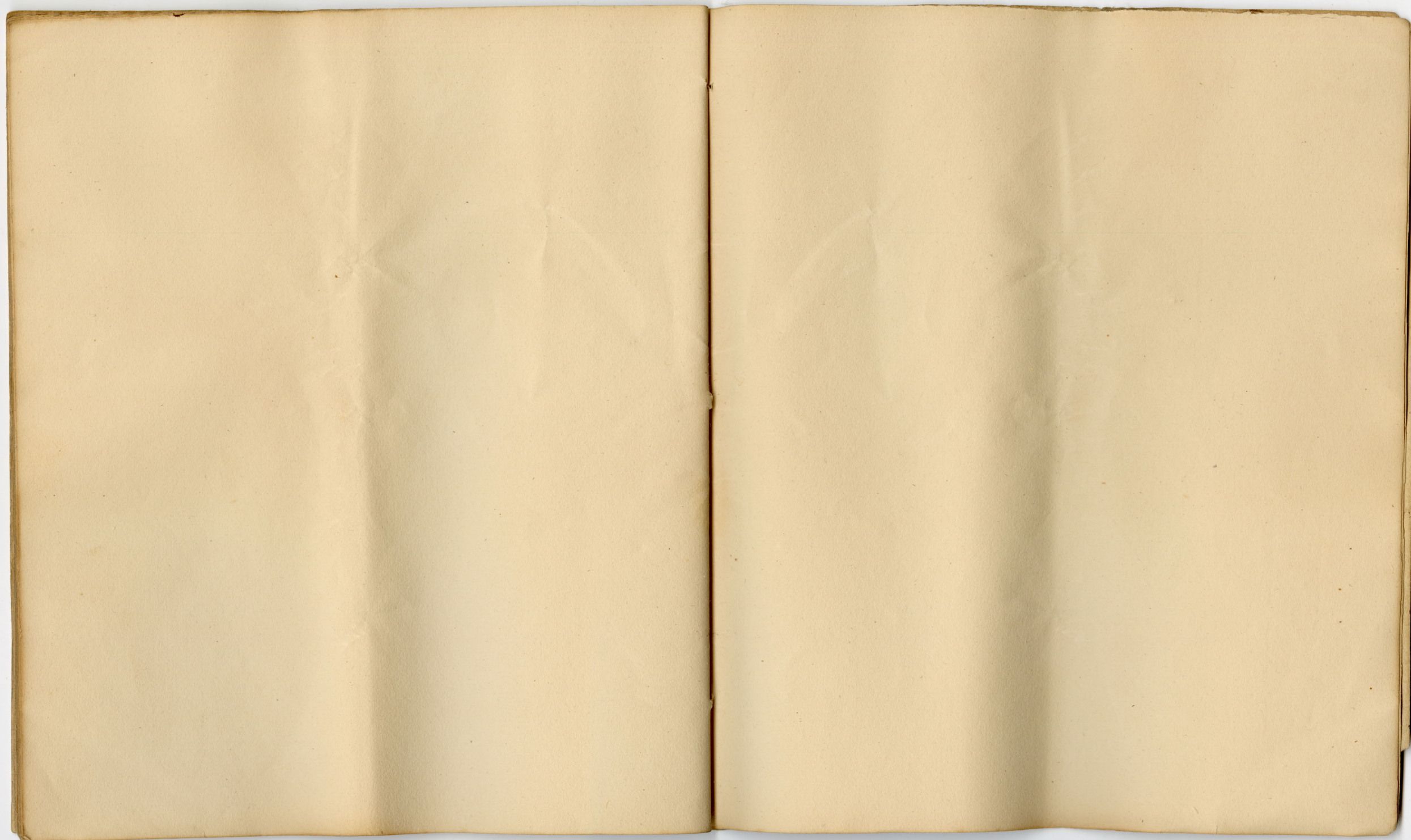




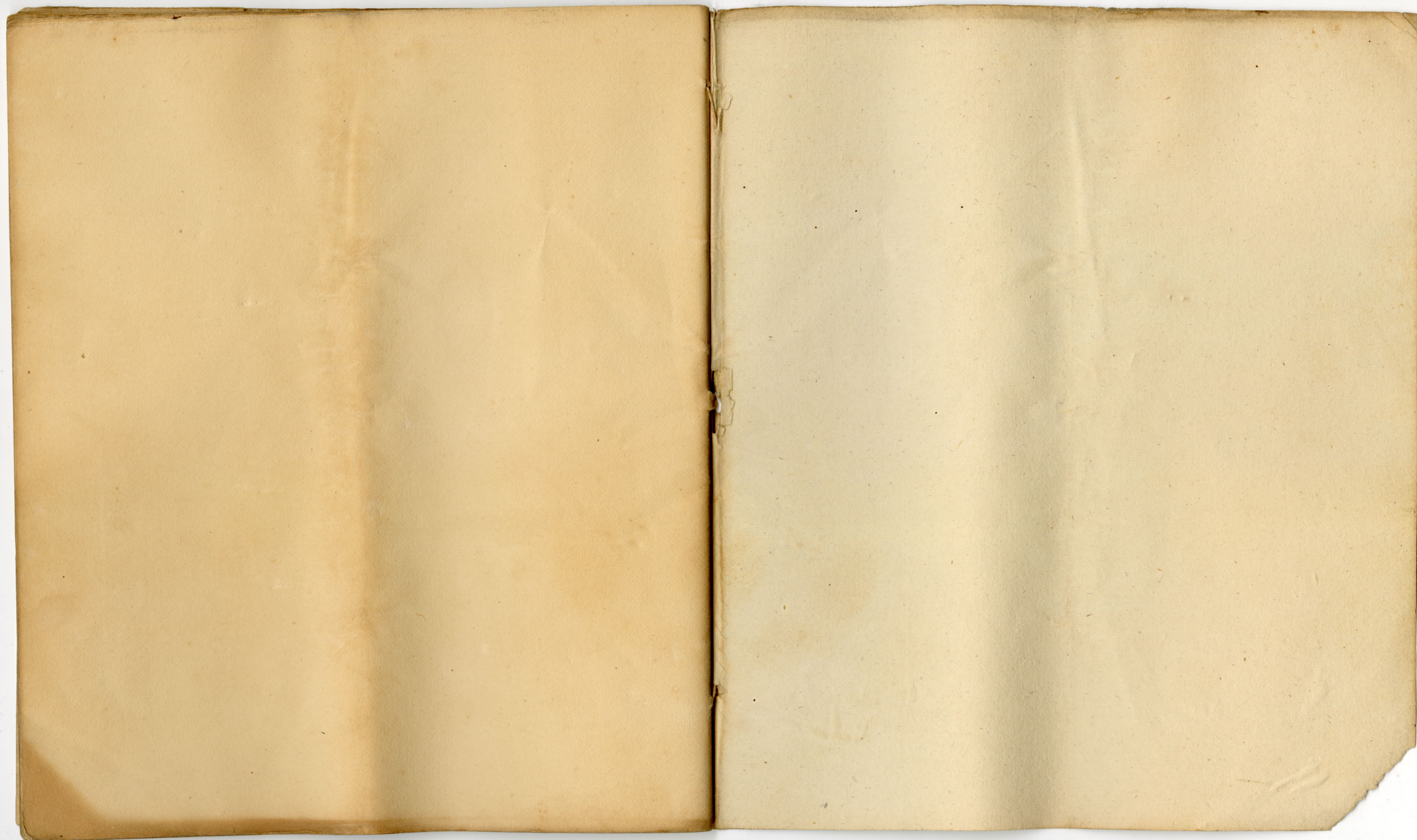












We the Jury find the prisoner
guilty of murder in the first degree

L. H. Sprague

Commonwealth

to Copy Record

Sprague

1824. October Term, Prison.
Convicted of Murder, and to
be hung the 10. Decr 1824—

Whereas an order of the Circuit Court of the County of Albemarle
hath this day been made to change the Venue for the trial of Hudson
Sprouce who stands charged with the Crime of Murder from the said Coun-
ty of Albemarle to the County of Rockingham where a fair &
impartial trial of said Hudson Sprouce may be had: For which
purpose you are hereby commanded & required to have the
body of the said Hudson Sprouce before the Judge of the Superior
Court of Law, ^{for Rockingham County} on the second day of the & succeeding Court to
be holden for the said County of ~~Rockingham~~ & this shall
be your warrant for so doing - In Witness whereof I Arch^d
Stuart Judge of the Superior Court of Albemarle County
have here to subscribed my name this 18th day of Oct^r
in the year 1824

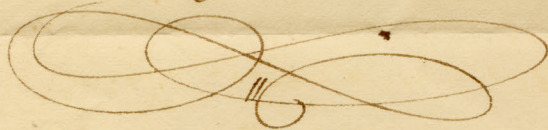
Arch^d. Stuart

To the Sheriff of Albemarle County to Execute

Couth
Sproule ⁵ } Warrick
 } 18

The Commonwealth of Virginia to the Sheriff of Rockingham
County Greeting: We command you, that you cause to come
before the Judge of our Superior Court of Law, holder for the
said County at the Court house on the ~~Monday next to the~~
~~Tuesday in this month~~ Second day of the next term
which will be on the (18th of this month) two good and
Lawfull men freeholders of your County, every one of whom
is possessor of a Visible estate Real and personal of the Value
of \$300 at the least to. Recognize on their oaths, whether
the ~~referend~~ Thomas Spruce be guilty of the Murder of
which he is accused or not, and have then there the
~~names~~ names of the said freeholders, and this with
Witness Myself J. Gambill Clerk of our said County Court
at the Court house the 15th day of October 1824 and in the
49th Year of the Commonwealth

J. Gambill



Executed on the following freeholders (to wit)

Geo. Cline, Isaac Hardisty, William Sprinkle, Isaac
Shank, Isaac Blosse, William H. Kinn, Thomas Hoars
Daniel Rife, Henry Moyers, Jno. Smith, Geo. W. Hensper
Daniel Leedy Arch. W. Stanton defor
Peaskey Harris as
Joll

Com with
to
Grove
Nemo
facies

To second day of
the Court -

Commonth }
Hudson Spruce } Upon an Indictment for
Murder -

Upon the trial of this case

Patsy Woods was examined as a witness on behalf of the Commonwealth afterwards Tarlton Woodson was called and ^{also} examined as a witness on behalf of the Commonwealth to a question asked by the prosecuting Attorney he answered that he had heard the said Patsy Woods give evidence against the prisoner before the committing magistrate, also before the examining Court, and before the Grand Jury - he was then asked by the prosecuting Attorney whether from his present recollection of her testimony so given, any variance occurred to him in the evidence given by her on the several examinations aforesaid and if so in what such variation consisted - to the answering of which question the prisoner by his Counsel ~~excepted~~ objected, alleging that the ~~answering~~ ^{original} question was improper & that the only evidence which the witness could be permitted ^{to give} on that subject was a detailed statement of the facts deposed to by the said Patsy Woods on her several examinations - but the Court being of opinion that the question asked by the prosecuting Attorney was not improper ^{direct} ~~again~~ the witness to answer the same - At the same observing to the prisoner's counsel that upon a cross examination he would be at

at liberty to require of the witness a detailed
statement of all the facts deposed to by the
said Patsy Woods ~~and~~ upon all or any of
the several examinations aforesaid. To which
opinion of the Court permitting the said
question to be answered the Prisoner by his
counsel excepted and prayed that there
his exceptions might be argued and
settled which is done accordingly

Sam Smith 