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Commonwealth

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Geo. R. McGary

1 P. H. Dovel

2 George Baker

3 J. A. Fately

4 W. C. Long

5 Frank Rolston

6 J. Frank Sander

7 Thomas Rush

8 John E. Biedler

9 John R. Dutton

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11 John W. Hansley

12 Frank Ritchie



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©

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~~Chas. D. Hausberger~~

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~~L. L. Gook~~

L. Frank Ritchie.

~~Herbert Patterson.~~

1.

The court instructs the jury that to sustain the charge of an attempt to commit rape, there must be evidence of force, or of an intention on the part of the offender to use force in the perpetration of the offense, if it should become necessary to overcome the will of his victim. And even if the jury believe that the prisoner approached the prosecutrix with a desire to have sexual intercourse with the prosecutrix, yet if the the jury believe that the prisoner did not ~~not~~ intend to use force to gratify his desire, only persuasion, they must find the prisoner not guilty

Hirston's Case 97Va. 756

2.

The court further instructs the jury that the guilt of the prisoner is not to be inferred because the facts are consistent with his guilt but they must be inconsistent with his innocence.

Hairston's Case 97 Va. 756

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The courts instructs the jury that in order to find the prisoner guilty of an attempt to commit rape there must be present the intent and a direct ineffectual act towards its commission.

Glover's Cae 86 Va. 382.

4.

The court instructs the jury that to sustain the charge of an attempt to commit rape, there must be evidence of force, or of an intention on the part of the offender to use force in the perpetration of the offense. If it should become necessary to overcome the will of his victim, and even if the jury believe that the prisoner approached the prosecutrix with a desire to have sexual intercourse with the prosecutrix, yet if the jury believe that the prisoner did not intend to use force to gratify his desire, only persuasion; they must find the prisoner not guilty.

Hirston's Case 97 Va. 758

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Glover's Case 88 Va. 382.

4.

The court instructs the jury that all the attendant circumstances must be carefully and closely scrutinized ; that in determining the guilt of the prisoner , they ~~must~~ ^{may} consider the character and condition of the prosecutrix ; that acts on the part of the prisoner which would be ample to show that it was the attempt and purpose to commit this crime , if done in reference to a female of good and virtuous character , would be wholly insufficient to establish guilt if they were acts done to a female of dissolute character or easy virtue .

5.

The court further instructs the jury that all the surrounding circumstances must be inquired into and if they believe that the prisoner did not intend to attempt to ravish the prosecutrix against her will , but that ~~##~~ the prisoner simply intended to work on the passions of the prosecutrix and to overcome her virtue and that the prisoner desisted when he found her more unyielding when than he had expected and he might have accomplished his purpose if he desired to use force , they must find the prisoner not guilty of an attempt to commit rape .

6.

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

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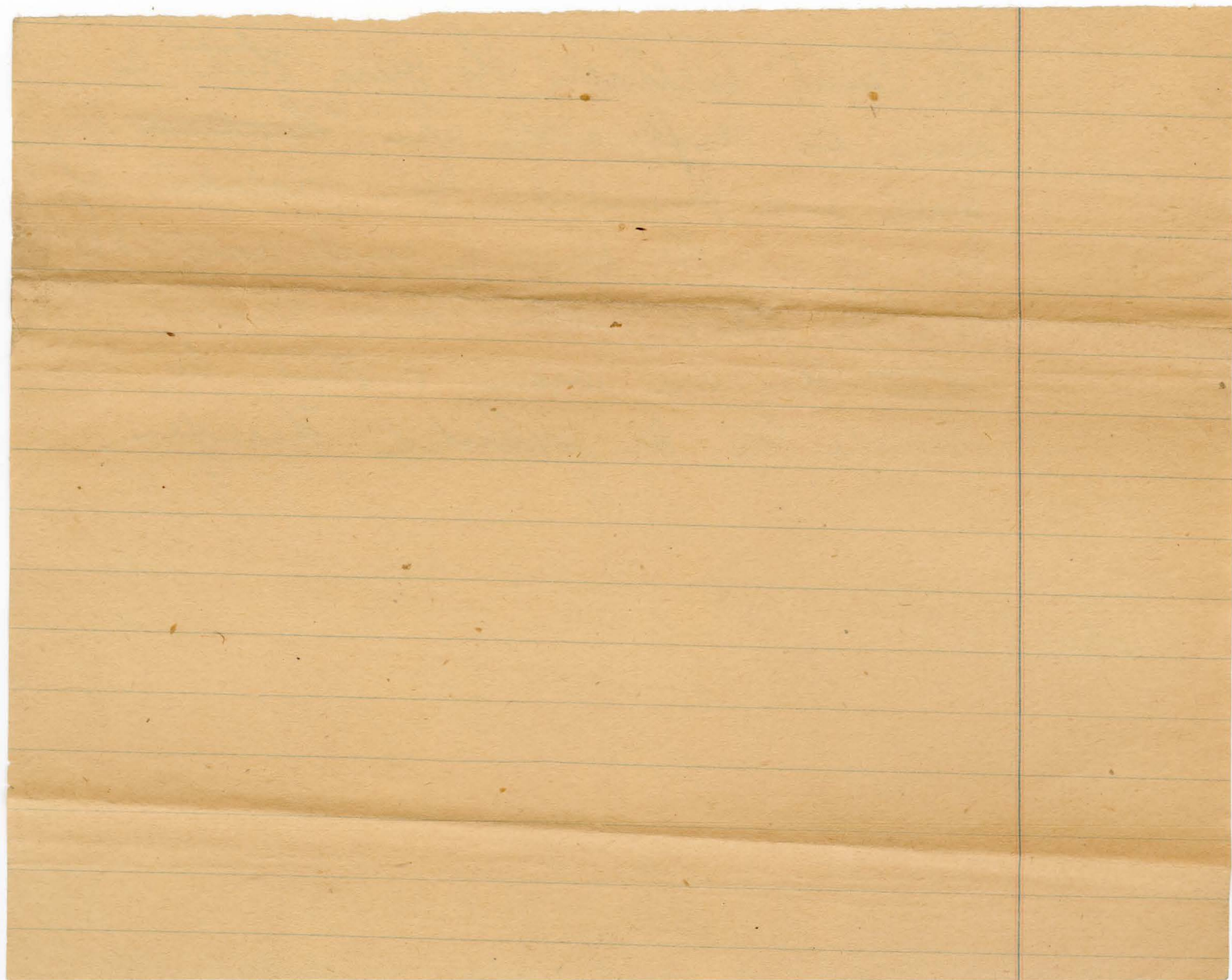
If you find the prisoner not-guilty- you will say so and no more.

If you find the prisoner guilty- of attempting to rape Clara W. Cary in manner & form as charged in the indictment- you will say so and ascertain his punishment- which shall be death or confinement- in the penitentiary not less than three nor more than eighteen years.

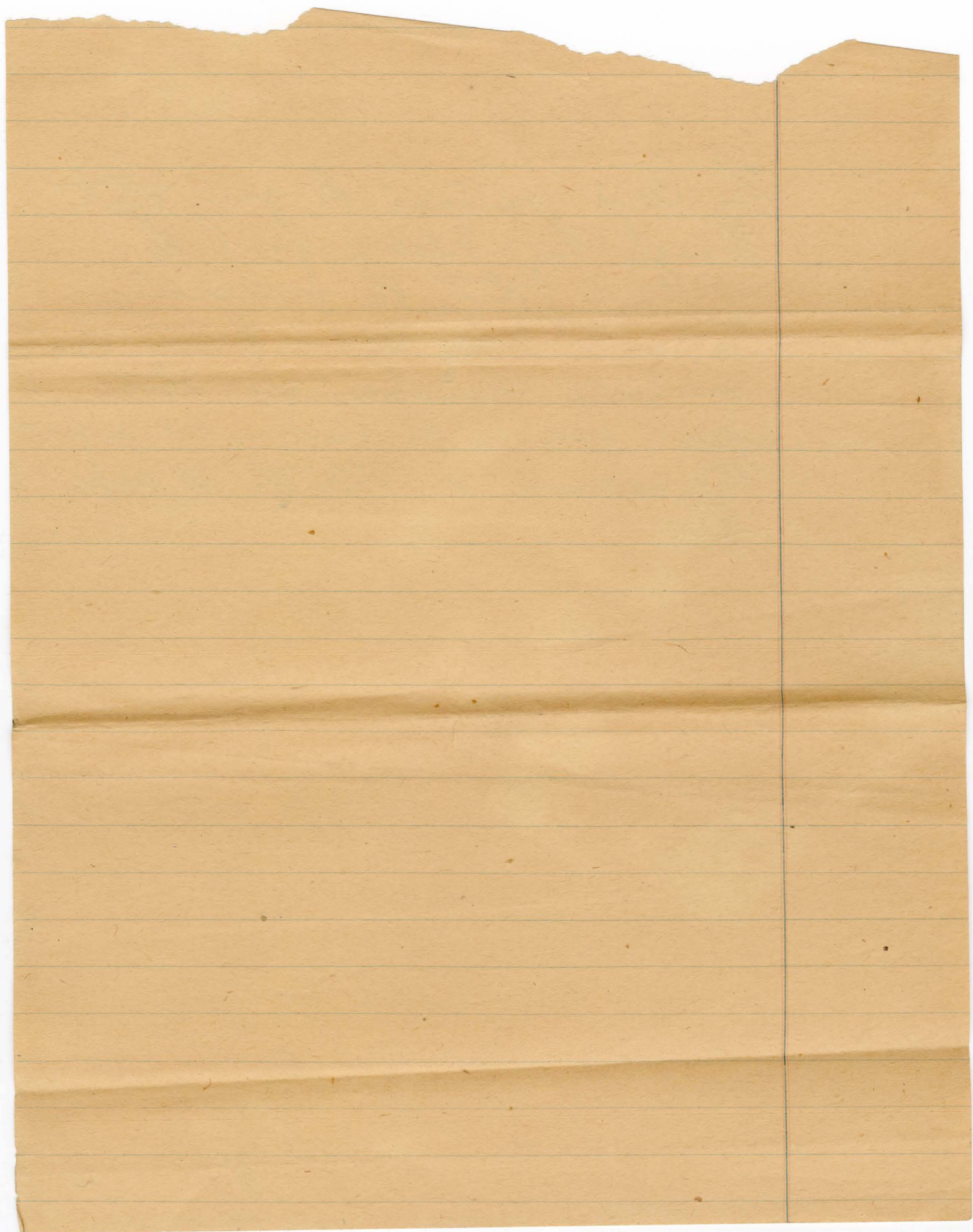
If you find the prisoner not-guilty- of attempt to rape but-guilty- of assault-^{and} battery you will say so and ascertain his punishment- which shall be fine of not less than \$5⁰⁰ or confinement- in jail or both.



The Court-instructs the jury that a man is responsible for ~~his~~ his acts and punishable for violation of law if at the time of such acts he knows their nature and quality, ^{and} that they are wrong & that he is liable to be punished therefor.



The Court - instructs the jury that
though they believe from the
evidence that the prosecutrix
Olga W. Cray was a female of
unchaste character yet - that
fact - gave to the prisoner no right -
to assault - or attempt to rape
her



sure the jury find the
Prisoner - at the bar -
guilty of assault and battery
+ give his punishment
at \$50.00 fine + six months
in jail

Jan 10
3 " 4
4 " 2
5 " 4
6 " 6
7 " 1
8 " 1
9 " 1
10 " 5
11 " 3
12 " 5

~~12 3 3~~
4 5

State of Virginia, Rockingham County, to-wit:

^{Circuit}
In the County Court of the said County:

The Jurors of the Commonwealth of Virginia, in and for the body of the County of Rockingham, and now attending the said Court, UPON THEIR OATH PRESENT, that George R. McCray

on the 13th day of March in the year 1897, in the said county, ~~at a certain outhouse called a~~ feloniously did attempt by force and violence and against her will ~~the property of one~~ to ravish and carnally to know her ~~not adjoining to or occupied with the dwelling-house of the said~~ there situated
in the night time of that day, feloniously did break and enter, with intent the goods and chattels of the said Clara McCray a female of the age of fourteen years and more, to wit of the age of 19 years, by then and there ~~in the said outhouse then and there being, feloniously to steal, take and carry away. And~~

grabbing her around her neck, holding his hand over her mouth, choking her, dragging her to an alley, throwing her upon the ground, lifting her clothing and putting his hand under her clothes and keeping her upon her back on the ground ~~of the goods and chattels of the said in the said outhouse then and there being, then and there feloniously did steal, take and carry away,~~

~~against the peace and dignity of the Commonwealth of Virginia. And the Jurors aforesaid, upon their oath aforesaid, do further present, that~~

on the _____ day of _____, in the year 189____, in the said County, a certain outhouse called a _____, the property of one _____ not adjoining to or occupied with the dwelling-house of the said _____ there situated, in the day time of that day feloniously did break and enter, with intent the goods and chattels of the said _____ in the said outhouse then and there being, feloniously to steal, take and carry away. And _____

of the goods and chattels of the said _____ in the said outhouse, then and there being found, then and there feloniously did steal, take and carry away, against the peace and dignity of the Commonwealth of Virginia. And the Jurors aforesaid, upon their oath aforesaid, do further present, that

_____, on the _____ day of _____, in the year 189____, in the said County, a certain outhouse, called a _____, the property of one _____, not adjoining to or occupied with the dwelling house of the said _____, there situated, in the night time of that day feloniously did enter, without breaking the same, with intent the goods and chattels of the said _____

_____ in the said outhouse then and there being, feloniously to steal, take and carry away. And _____ of the goods and chattels of the said _____ in the said outhouse then and there being found, then and there feloniously did steal, take and carry away, against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of _____ witness sworn in Court and sent before the Grand Jury to give evidence.

The jury find the prisoner George R. McLeary, not guilty of attempted rape as charged in the indictment, but guilty of assault & battery upon Maria McLeary, in manner and form as charged in the indictment and ascertain his ^{punishment at a} fine of fifty dollars and confinement in the county jail for the term of six months.

J. E. Biedler, Foreman.

Commence

as
Indictment
for a felony

George R. McLeary

Line Piece

Geo. R. McLeary

Foreman