

✓ W. E. Landes

✓ J. Walter Liskay

✓ G. F. Sanger

✓ J. F. Wampler

✓ ~~Thomas D. Heatside~~

✓ W. H. Lohr

~~✓ B. F. Gentry~~

✓ R. O. Swann

✓ W. W. Stute

✓ ~~B. T. White~~

✓ ~~J. M. Roddiffe~~

✓ B. B. Miller

✓ M. W. Long

✓ ~~J. M. Pender~~

✓ ~~David F. Heatside~~

✓ Haynes B. Benson



Jan 17/81

Commonwealth

^{215.} } Jury
Commonwealth

~~Received of the Clerk of the Circuit Court
of Rockingham County, the original
papers in the above case.~~

- 1 W. C. Landon 7
- 2 S. Walter Lister 8
- 3 G. F. Sanger
- 4 J. W. Warrington 10
- 5 Abraham D. Heath 5
- 6 Wm. H. ~~Chen~~ 12
- 7 R. O. Swank 9
- 8 W. W. Steele 11
- 9 B. J. White —
- 10 B. B. Miller 10
- 11 M. W. Long —
- 12 Langdon B. Bunker



credits

He

be dismissed unless it is retained on the docket for some purpose.

... this was a General

of the hands of Mr. Sipe, as Receiver.

far as we know and the case should

Yours very truly,

Walter Watson

EDM-CCS

Lander	3.70
Lisley	3.30
Saunders	3.50
Wampler	4.00
Matwale	3.50
Lohr	4.00
Swans	3.90
White	3.50
Lang	4.00
Burner	4.00
Steele	3.15
Miller	4.00
	<u>44.55</u>

Lander	4.20	370
Loring	3.80	330
Norople	4.50	400
Hearner	4.00	350
Lohr	4.50	400
Swoon	4.40	390
Stute	3.65-	315
White	4.00	350
Vick	4.50	400
Long	4.50	400
Burns	4.50	400
Sarge	4.00	400
		<u>350.50</u>
		48.50

COMMONWEALTH OF VIRGINIA,
ROCKINGHAM COUNTY,

TO-WIT:

To D F Reunion, a Constable of said County:

WHEREAS, A J Lokey & Isaac Lokey of the said county, has this day made complaint and information on oath before me, Geo A Huff a Justice of the said county, that

Carson Fitzwallter of the said county, on the 22 day of May 1900, in the said county, did

Unlawfully Commit Rape on Rebecca Lokey on the said day as was stated by the above named Person A J Lokey & Isaac Lokey

These are therefore, in the name of the Commonwealth of Virginia, to command you forthwith to apprehend and bring before me, or some other Justice of the said County, the body of the said Carson

Fitzwallter to answer the said complaint, and to be farther dealt with according to law. And you are required to summon the same witnesses

to appear and give evidence in behalf of the Commonwealth, on the examination touching the said offence.

Given under my hand and seal this 23^d day of May, in the year 1900

J. P. [SEAL.]

FILED
JUN 18 1910
D. H. LEE MARTZ,
CLERK

Commonwealth

vs.

Arrest Warrant.

Conor Fitzgallen

Executed the within warrant by
arresting and delivering the body

of

before

a justice of Rockingham County and
by summoning the within named wit-

nesses in person, this

day of 190

Constable of Rockingham County

Conor Fitzgallen fine for drunkenness
\$1.00 fine. a judge's cost -
for a profit of P

COMMONWEALTH OF VIRGINIA,
ROCKINGHAM COUNTY,

TO-WIT:

To T. H. Fausler, a Constable of said County:

WHEREAS, Frank Knapp of the said county, has this day made complaint and information on oath before me, Geo A. Niff a Justice of the said county, that

Carson Fitzwater of the said county, on the 13th day of September 1900, in the said county, did

Commit Rape on Lizzie Knapp — by taking
hold of the said Lizzie Knapp and forcing her down
on a chair in the house of the said Frank Knapp

These are therefore, in the name of the Commonwealth of Virginia, to command you forthwith to apprehend and bring before me, or some other Justice of the said County, the body of the said Carson

Fitzwater to answer the said complaint, and to be farther dealt with according to law. And you are required to summon

Geo. Stroop, Wm. Stroop, G. H. O'Rourke
Dr. H. A. Vaughan, Casper Pines, Bertie Holmes
to appear and give evidence in behalf of the Commonwealth, on the examination touching the said offence.

Given under my hand and seal this 20th day of Sept, in the year 1900.

Geo A Niff J. P. [SEAL.]

Commonwealth

vs.

Arrest Warrant.

Carson Fitzwater

Executed the within warrant by
arresting and delivering the body

of Carson Fitzwater

before Geo. A. Neff,
a justice of Rockingham County and
by summoning the within named wit-

nesses in person, this 28

day of September 1910

J. H. Farsler,

Constable of Rockingham County

The Commonwealth
vs. Carson Fitzwater

The above named
Carson Fitzwater was
tried before me at Tim-
berville Plains District
Rockingham County Virginia
on the 27th day of September
1910 and was sent me to
await the action of the
Circuit Court of Rocking-
ham County VA

Given under my hand
and seal this 28th day
of September 1910

Geo A. Neff, J.P.

Magistrate's Cost
Constable's Cost

\$1.00

\$3.50

\$4.50

Before Geo A Nuff, Justice of the Peace of Buckingham County, Virginia.

May 29th

1900

Commonwealth vs As Lokey & Isaac Lokey
vs
Carson Fitzwater.

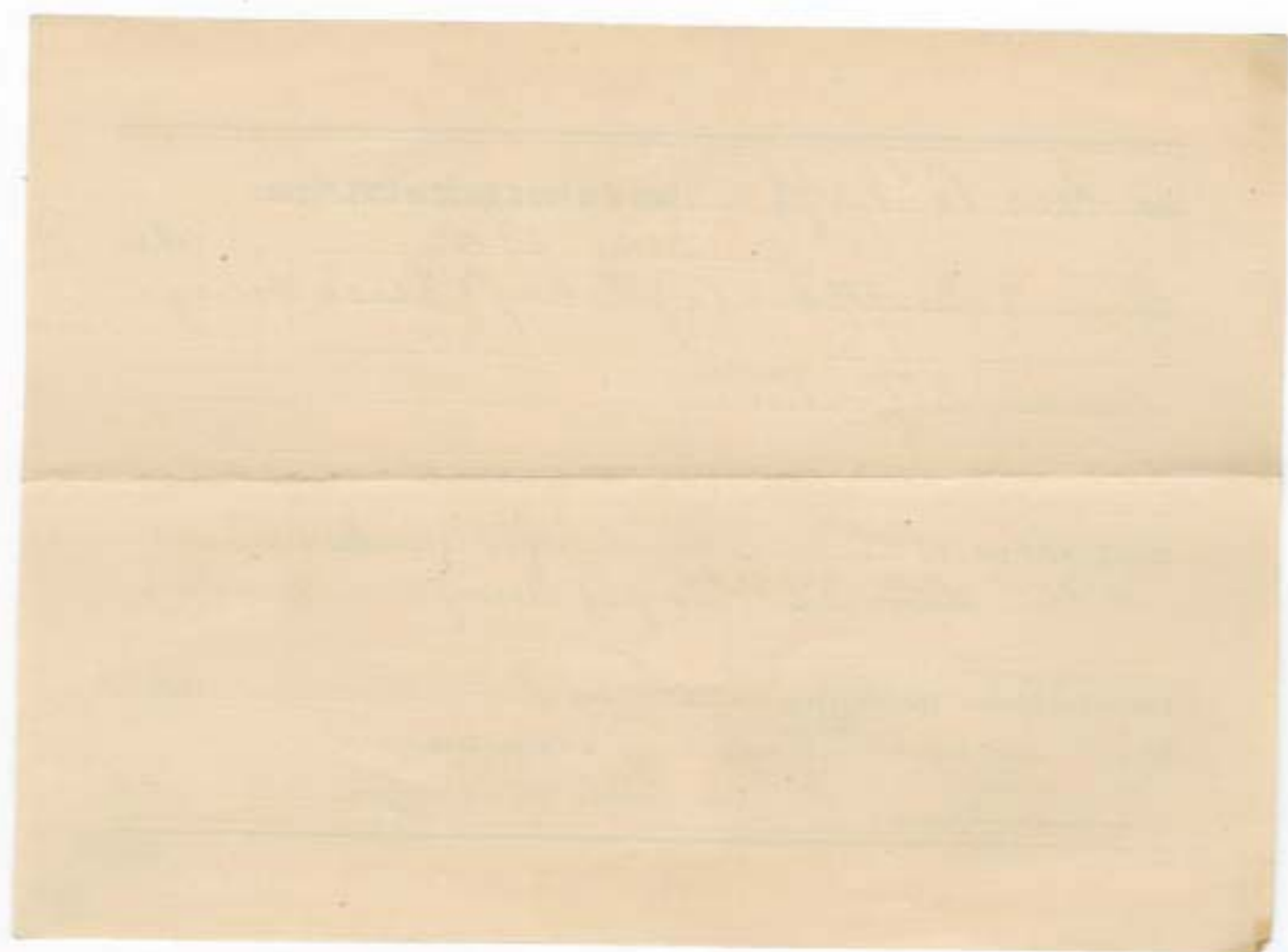
JUDGMENT for \$1.00, fine for misbehavior
on the 22^d day of May - Sunday

with legal interest thereon from the _____ day of _____ 1900.
till paid. Also, \$4.50 ^{Pen} costs.

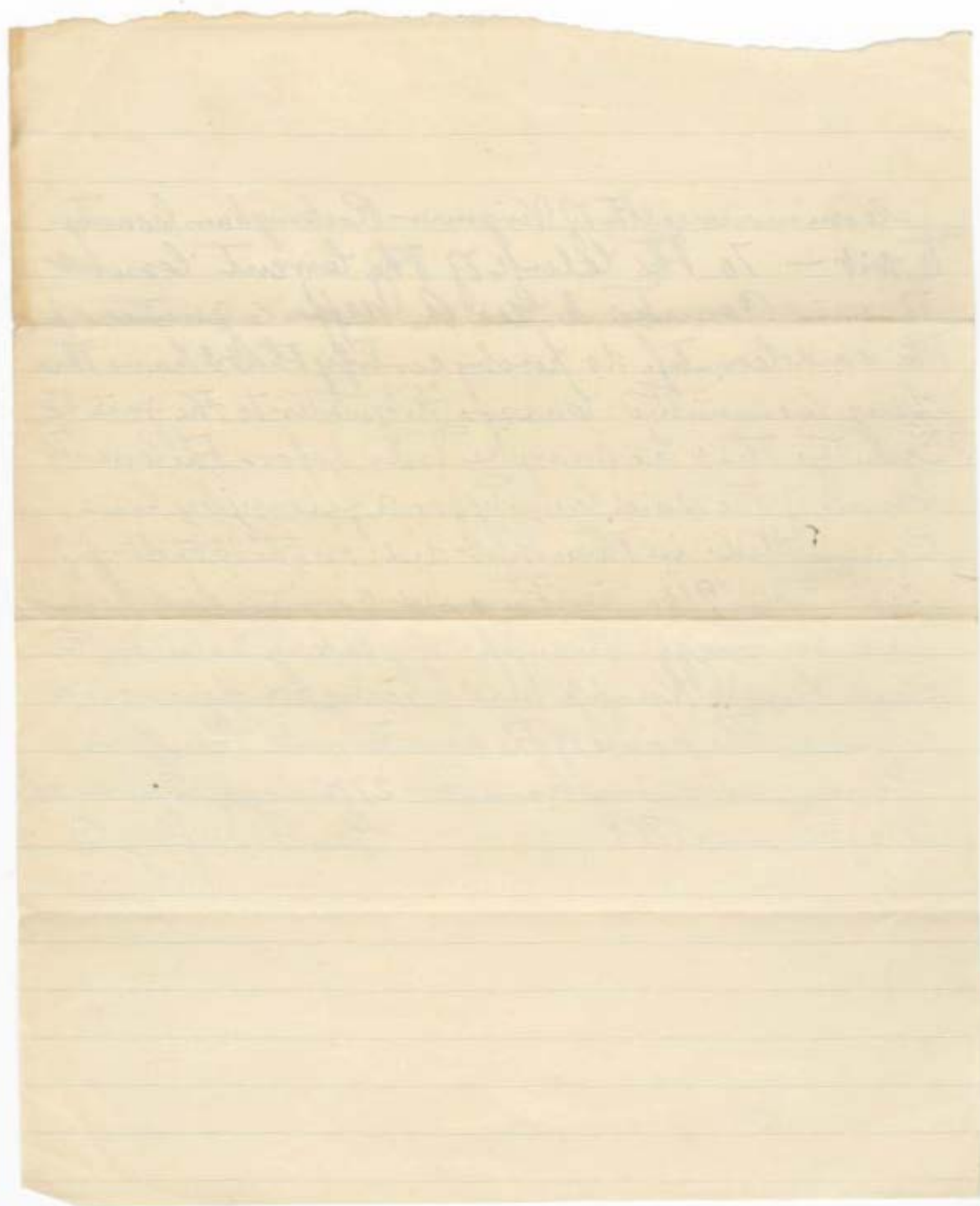
A Copy---Teste:

Geo A. Nuff

J. P.



Commonwealth of Virginia - Rockingham County
to wit - To The Clerk of The Circuit Court
of said County: I, Geo A Huff, a Justice of
the said County, do hereby certify that I have this
day committed Carson Fitzwater to the jail of
said County, that he may be tried before the Circuit
Court of the said County for a felony by him
committed, in this, that did: on the 13th day of
September 1910, in the said County, did commit
Rape on Lizzie Knupp - by taking hold of the
said Lizzie Knupp and forcing her down on a
chair in the house of the said Frank Knupp
Given under my hand this 27th day of September
In the year 1910 Geo A Huff J P



over
the
bill

paid off \$8.70
cash 9.26

paid

9 10.00

3.50

3.90

34.25

44.55

5.00

\$101.20

\$114.96

due left \$12.00

commence

Sept 1st

at the

church

staff

with the

family

fine

Amount in

shown 112.96

111.76

41.00

left due

shown \$5.76

Sheffield
500

Handwritten notes in the top right corner, possibly a date or reference number.

Handwritten notes in the top left corner, possibly a date or reference number.

Handwritten word or phrase in the center-left area.

Handwritten notes in the bottom left corner, possibly a date or reference number.

Handwritten notes in the bottom left corner, possibly a date or reference number.

DR. W. E. FAHRNEY
...DEALER IN...
Drugs and General Merchandise

Timberville, Va.,

Jan. 16 1911

This is to certify that on Dec. 6-10
Mrs. James Lee was suffering from
a severe cold and cough and was
unable to leave his home.

H. E. Fahney M.D.

Dr. W. H. Farnham
Secretary
League and Central Headquarters

Philadelphia, Pa. January 10, 1907

Dear Sir:
I have the honor to acknowledge the receipt of your letter of the 7th inst. in relation to the matter of the proposed amendment to the Constitution of the United States, and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

Commonwealth of Virginia, Rockingham
County, to wit: To P. H. Parker
Constable of said County, and to Keeper
of the jail of said County. This we
do command you, the said Constable,
in the of the Commonwealth of Virginia,
forthwith to receive and take into the
custody of the Keeper of the said jail,
together with this warrant, the body of
Carson Fitzwater charged before me,
Geo. A. Heff, a Justice of the said
County on the oath of Frank Stupp
with a felony by him committed, in
this, that the said Carson Fitzwater
on the 13 day of September in the
year 1910, in the said County,
did commit Rape on Lizzie
Stupp by taking hold of the said
Lizzie Stupp and forcing her down
on a chair in the house of the said
Frank Stupp. And you, the
said Keeper, of the said jail, are hereby
by required to receive the said Carson
Fitzwater, into your jail and custody,
that he may be tried for the said offense
by the Circuit Court of the said County,
and him there safely keep until he shall
be discharged by due course of law.
Given under my hand this 27 day of

Admitted to bail in the sum of \$500⁰⁰ with
J. L. Fitzgwater as surety, to appear in Harrison
Va before Circuit Court for Botetown County on
November 21, 1910 at 10 o'clock A. M. it
being the 1st day of November 1910 of
said Court.

Gives under my hand as their Criminals
This 27th day of September 1910

Newbern B.C.

Commonwealth

4

James Fitzgwater

September 1910. 430 A. M. J. L. Fitzgwater

Instruction No. 1.

The court instructs the jury: That the law presumes that the accused is innocent of the offence charged against him in the indictment *until the same is proven beyond all reasonable doubt*, and that this presumption goes with the accused through the entire trial, and applies at every stage of the case until his guilt is established beyond every reasonable doubt.

Instruction No. 2.

The court instructs the jury: That even if they believe that the evidence in this case demonstrates the probability of the guilt of the accused, still if it fails to establish beyond a reasonable doubt the guilt of the accused, then it is their duty to acquit him. For the jury are instructed that mere probabilities are not sufficient to warrant a conviction: Nor is it sufficient that the greater weight or preponderance of the evidence supports the allegations of the indictment: Nor is it sufficient that it is more probable that the accused is guilty than it is that he is innocent. To warrant a conviction of the accused, he must be proved to be guilty so clearly and so conclusively that there is no reasonable theory upon which he can be innocent when all of the evidence of the case is considered together.

~~Hucker's Case, 88 Va. Page 23~~

~~Prather's Case 83 Va. Page 122.~~

~~Anderson's Case, 83 Va. Page 329.~~

Instruction No. 3.

The court instructs the jury: That the burden is upon the Commonwealth, to prove every fact necessary to convict the accused of any offense whatsoever. And if they have any reasonable doubt as to any fact necessary to convict the accused as aforesaid, they are bound to give him the benefit of such doubt and find him not guilty, and the court tells the jury that by a reasonable doubt is meant, "That state of the case, which after the entire comparison and consideration of all the evidence leaves the minds of the jurors in that condition, that

Interrogation No. 1.

The agent interrogates the jury: That the law presumes that the accused is innocent of the offense charged against him in the indictment. It is the duty of the jury to find the accused guilty if the evidence is sufficient to prove beyond a reasonable doubt that he committed the crime charged in the indictment. If the evidence is not sufficient to prove beyond a reasonable doubt that he committed the crime, the jury must find him not guilty.

Interrogation No. 2.

The agent interrogates the jury: That even if they believe that the evidence is sufficient to prove beyond a reasonable doubt that the accused committed the crime charged in the indictment, they must still consider whether the evidence is sufficient to prove beyond a reasonable doubt that the accused is guilty of the offense charged in the indictment. If the evidence is not sufficient to prove beyond a reasonable doubt that the accused is guilty of the offense, the jury must find him not guilty. If the evidence is sufficient to prove beyond a reasonable doubt that the accused is guilty of the offense, the jury must find him guilty. The jury must find the accused guilty if the evidence is sufficient to prove beyond a reasonable doubt that he committed the crime charged in the indictment. If the evidence is not sufficient to prove beyond a reasonable doubt that he committed the crime, the jury must find him not guilty.

Witness's name, page 12.
Witness's name, page 13.
Witness's name, page 14.

Interrogation No. 3.

The agent interrogates the jury: That the burden is upon the accused to prove that he is innocent of the offense charged in the indictment. If the evidence is sufficient to prove beyond a reasonable doubt that the accused committed the crime charged in the indictment, the jury must find him guilty. If the evidence is not sufficient to prove beyond a reasonable doubt that the accused committed the crime, the jury must find him not guilty. The jury must find the accused guilty if the evidence is sufficient to prove beyond a reasonable doubt that he committed the crime charged in the indictment. If the evidence is not sufficient to prove beyond a reasonable doubt that he committed the crime, the jury must find him not guilty.

~~—~~
they cannot say they feel an abiding conviction to a moral certainty of the truth of the charge".

Instruction No. 4.

The court instructs the jury: That if there is any reasonable theory arising out of the evidence given in this case ^{other than} ~~except~~ the theory that the accused committed the rape on Lizzie Knupp as charged in the indictment, then the accused is entitled to the benefit of such theory.

they cannot say they feel an inhibiting conviction to a moral certainty
of the truth of the charge.

Instruction No. 4.

The court instructs the jury: That if there is any reasonable
theory arising out of the evidence given in this case ^{which} supports the theory
that the accused committed the rape on ^{the} female ^{known} as charged in the
indictment, then the accused is entitled to the benefit of such theory.

TALFOURD N. HAAS,
ATTORNEY AT LAW.

HARRISONBURG, VA.

If it is shown by the evidence beyond reasonable doubt that the accused had carnal knowledge of Lizzie Knupp as charged in the indictment by force and against her will, then he is guilty of rape.

If the jury believe from the evidence that the accused had carnal knowledge of said Lizzie Knupp without resistance on her part, but further believe that she was incapable of consenting to such act by reason of imbecility, then such act was accomplished by force and against her will within the meaning of the first part of this instruction, and the accused is guilty of rape. But in order to find that said Lizzie Knupp was incapable of consenting to such act, the jury must believe from the evidence that she was so imbecile as not to know the nature of the act, or as to be incapable of forming any will or of exercising any will power with respect to it. If she knew the nature of the act and yielded to gratify her own lust, it is not rape.

18th October 1892

My dear Mr. [Name]

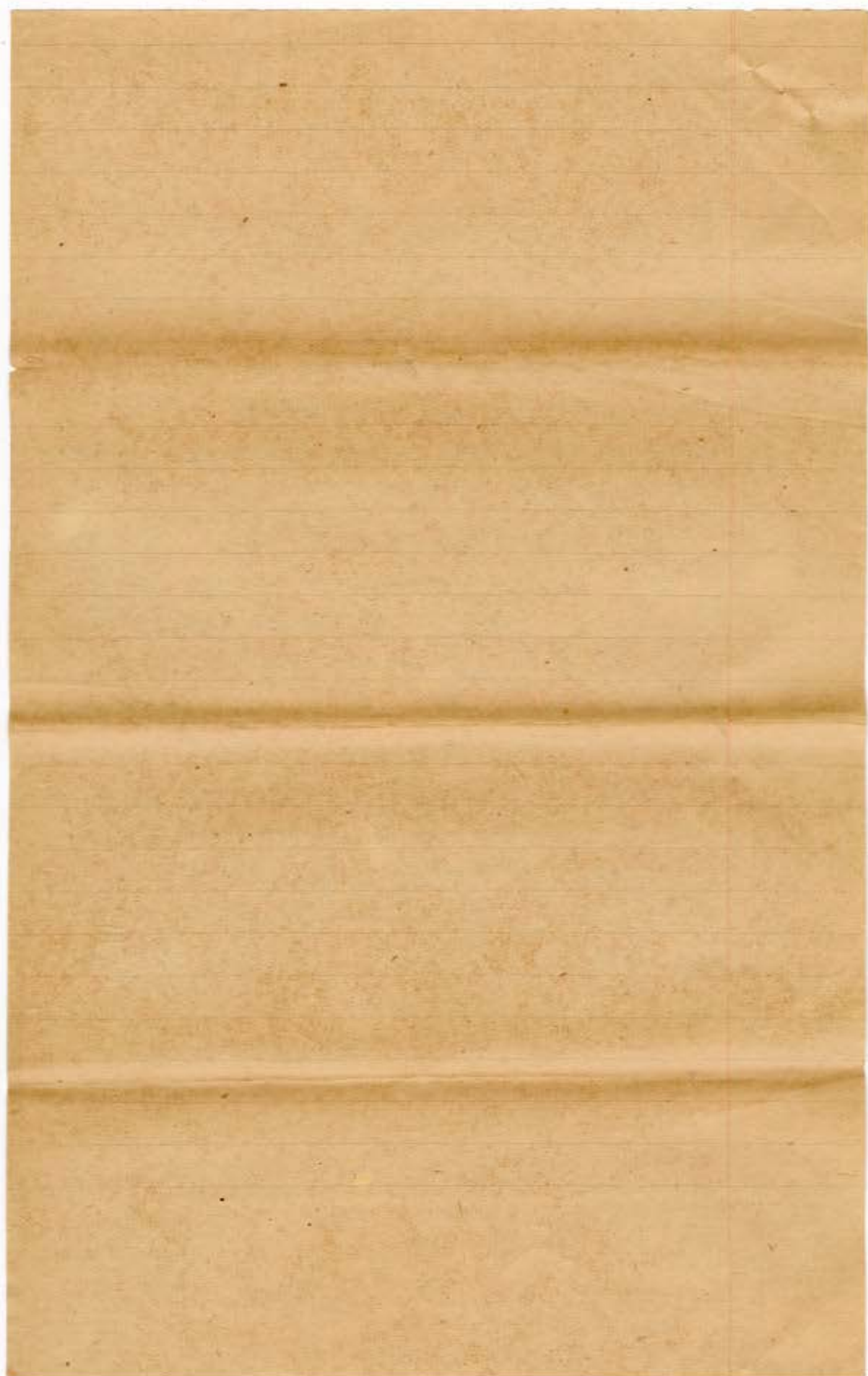
I have just received your letter of the 10th inst. and am glad to hear that you are well. I am also well and hope this finds you the same. I have not much news to write at present. The weather here is very pleasant at the moment. I have been out for a walk in the park and saw many beautiful flowers. I have also been to the theatre and saw a very good performance. I have not much more to write at present. I am, dear Mr. [Name], very truly yours, [Signature]

I have just received your letter of the 10th inst. and am glad to hear that you are well. I am also well and hope this finds you the same. I have not much news to write at present. The weather here is very pleasant at the moment. I have been out for a walk in the park and saw many beautiful flowers. I have also been to the theatre and saw a very good performance. I have not much more to write at present. I am, dear Mr. [Name], very truly yours, [Signature]

The Court instructs the jury that although they may believe from the evidence that the said Lizzie Knupp was not of strong mind, yet, if they further believe from the evidence that she had sufficient mental capacity to know what she was doing, then she should have resisted to the uttermost, considering her intelligence and strength, and the circumstances generally of the case, any attempt to have carnal intercourse with her, by making outcry, or by preventing such an act by her physical strength, and if she did not do this, but consented to the act, then they must find the accused not guilty of ~~rape~~ ^{an attempted rape}.

The Court instructs the jury that a reasonable doubt - is such a doubt as may be honestly and reasonably entertained as to any substantial and material fact - essential to prove the offense charged.

Reasonable doubt - must be based on the evidence or that is suggested by the evidence or grows out of the evidence itself. It must not be an arbitrary doubt - without evidence to sustain it. It must be serious and substantial in order to warrant an acquittal. It must be a doubt of a material fact or facts necessary for the jury to believe to find a verdict of conviction and not of immaterial and non-essential circumstances.



If the jury believe from the evidence that the accused had carnal intercourse with Lizzie Knapp and that she was mentally capable of consenting to such act and that her will did not oppose the act of intercourse, then the accused can not be found guilty of rape or attempted rape; but if, before such consent was given, the accused laid hands on her without her consent, the accused may be found guilty of assault and battery; and though her consent was given to such intercourse and all acts preceding it, still the jury may convict the accused of fornication, the punishment of which is a fine of such amount as the jury may think proper provided only that the same be not less than \$20.

Page 10

Common mite

Common Flycatcher

alto	10.00
black	10.57
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wing	3.25
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	<hr/>
	96.20

from

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Paid stiff	8.90
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Information having been made on oath to and before the Judge of this Court that, on the 17th day of January 1911, being the 2^d day of the now present term of the Court, one A. B. Corley, within the walls of the Court house but outside the Court room, a few minutes before the opening of the ^{Court}, approached one B. J. White, a juror summoned and then in attendance upon the Court under a writ of venire facias for the trial of one Coram Fitzgerald, who stood indicted on the charge of rape, which trial was set for that day, the said Corley being well acquainted with the said B. J. White and well knowing that said White was summoned on the venire for the trial of said case and was then in attendance upon the Court as such venireman, and asked him, the said White, whether he was summoned on the venire for the trial of said case of said Fitzgerald, and, on being answered by the said White that he, the said White, was so summoned, asked the said White to step aside with him, which being done, the said White and the said Corley having repaired to the vestibule of the Court House, the said Corley then said to said White: "Brook, George Conrad", meaning the Commonwealth's Attorney, whose name is George N.

father said that the woman in the case was
a bad character and other men in the
neighborhood were running after her. And that
that when the said White, taking offense at
the remarks of the said Corley, turned away and

Conrad and who was well known both to the
said Brock J. White and to the said Corley,
"is bringing every nasty little case that
he can scrape up before the grand jury;"
and further, ^{said} that the said Conrad had forced
him, the said Corley, who is a justice of
the peace for Lincoln district of Rockingham
County, to send up to the grand jury a
case from Lincoln district that he, the
said Corley, did not want to send on
to the grand jury, and that one Huff,
the magistrate who held the examining trial
of said Fitzwater and sent said Fitzwater
on to the grand jury, ^{had} told him, ^{the said Corley,} that he, the
said Huff, ought to have picked the case
out of court, and further, ^{that the said Corley} made other
slighting remarks about said case, and X

and said to said Corley that he, the said
White, would pass on the case when he
got to it, the said Corley replied
"Of course, of course, but I just want to
put you on your guard."

It is therefore ordered by the Court
that a rule issue from the Clerk's office
against the said A. B. Corley, returnable
to ^{the second term on} the 7th day of the current month requiring
him to show cause if any he can
why he should not be attached and
fined for his contempt of this Court
in attempting ^{in the manner and} by the means aforesaid
to obstruct and wrongfully and
corruptly to influence the course
of justice in the said case
of the Commonwealth vs Carson Fitzwater.

and further that the said Corley made other slighting remarks about said case, and further said that the woman in the case was a bad character and that men in the neighborhood were treating after her - And further that when the said White, taking offence at the remarks of the said Corley, turned away and said to said Corley that he, the said White, would prosecute the case when he got to it, the said Corley replied: "Oh, course, of course, but I just wanted to put you on your guard."

the trial of said case and was then in attendance upon the Court as such vermineman, and asked him, the said White, whether he was summoned on the venire for the trial of said case, and, on being answered by the said White that he, the said White, was so summoned, asked the said White to stop with him, which being done and the said White and said Corley having repaired to the vestibule of the Court House, the said Corley then said to said White: "Brook, George Conrad," meaning the Commonwealth's attorney, whose name is George N. Conrad and who was well known both to said Brook J. White and to the said Corley, "is bringing every nasty little case that he can scrape up before the grand jury"; and further said that said Conrad had forced him, the said Corley, who is a justice of the peace for Lincoln's district of Rockingham County, to send up to the grand jury a case from Lincoln's district that he, the said Corley, did not want to send on to the grand jury, and that one Jeff. the magistrate who held the examining trial of said Fitzwater and sent said Fitzwater on to the grand jury, told him, the said Corley, that he, the said Jeff. ought to have kicked the case out of Court,

To show cause why he should not be at-
tached and fined for his contempt of
this Court in attempting to obstruct and
wrongfully and corruptly to influence the
course of justice in the case of
the Commonwealth vs Aaron Filgwater, in-
dicted for rape, set for trial and tried at
a former day of this Court, in the man-
ner and by the means following, to wit:

That on the 17th day of January, 1911,
being the 2^d day of the now present term
of Court, within the walls of the Court house
but outside the Court room, a few minutes before
the opening of the Court, ^{the said Corley,} he approached one
B. J. White, a juror summoned and then
in attendance upon the Court under a
writ of venire facias for the trial of
said Aaron Filgwater upon the indictment
aforesaid, which trial was set for that day,
^{the said Corley} being well acquainted with said
B. J. White and well knowing that said
White was summoned on the venire for

We the jury find the prisoner
guilty of Assault and Battery and
for his punishment at five dollars
fine. Wm. D. Singer



Commonwealth of Virginia,

COUNTY OF ROCKINGHAM, To-wit:

IN THE CIRCUIT COURT OF 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 at its November term, in the year 1910,
upon their oaths present that

Carson Fitzgerald

on the 13th day of September, in the year 1910, in the said County,

did with force and arms in and upon one Lizzie Knupp, she said Lizzie Knupp then being over the age of fourteen years to wit of the age of thirty-three years violently and feloniously did make an assault; and then she said Lizzie Knupp then and there, to wit on the day and year aforesaid in the County aforesaid in the County aforesaid feloniously did ravish and carnally know against her will and by force

against the peace and dignity of the Commonwealth of Virginia.

Upon the evidence of Frank Knupp Mrs Knupp Wm. H. Hoff
Wm. Stroop Lizzie Knupp witness sworn in open Court and sent to the
Grand Jury to give evidence.

J. L. Leeth Clerk.

We, the jury find the accused, Parson Fitz-
water, not guilty of the Felony charged in the
within indictment, but guilty of assault and
battery, ^{as therein charged,} and ~~ascertain~~ his punishment at
a fine of Five Dollars.

Geo. H. Senger Foreman

Commonwealth

INDICTMENT.

Carson Fitzwater

True Bill

A TRUE BILL.

Daniel Early

Foreman

not guilty (see 6)

J. L. Fitzwater \$1000-

IN THE CIRCUIT COURT OF THE COUNTY OF
COMMONWEALTH OF VIRGINIA