

Commonwealth

vs

J. Monroe Klingens



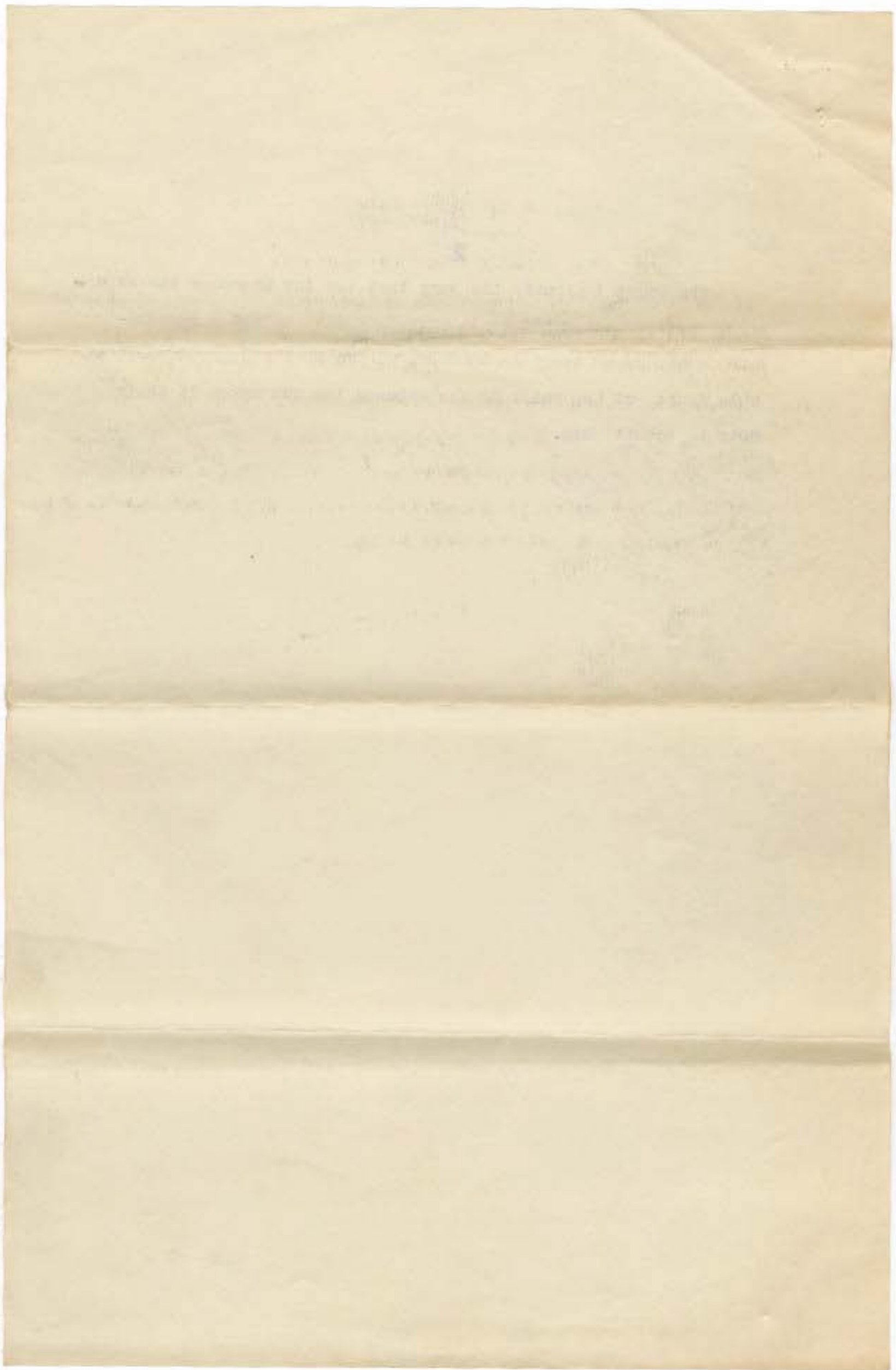
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The Court instructs the jury that if they believe from the evidence, beyond a reasonable doubt, that the prisoner, J. M. Klinger, caused drugs to be taken by Freda Houchens, or used an instrument upon her, with intent to produce an abortion or miscarriage by her, and by either or both of such means did produce an abortion or miscarriage by the said Freda Houchens, then they should find the accused guilty.

The Court instructs the jury that if they believe from
the evidence, beyond a reasonable doubt, that the prisoner, J.
M. Miller, caused drugs to be taken by Freda Hochman, or
used an instrument upon her, with intent to produce an abor-
tion or miscarriage by her, and by either or both of such
means did produce an abortion or miscarriage by the said
Freda Hochman, then they should find the accused guilty.

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The Court instructs the jury that the law presumes the accused to be innocent until he is proved guilty beyond a reasonable doubt, and if there is upon the minds of the jury any reasonable doubt of the guilt of the accused the law makes it their duty to acquit him.



INSTRUCTION No. 3

The court instructs the jury that unless they believe from the evidence that the Commonwealth has proven beyond every reasonable doubt that, at the time Fleta Houchens applied to the accused for medical treatment, ~~that~~ she was then pregnant, and that ^{accused} he administered drugs to said Fleta Houchens or inserted an instrument into her womb intending thereby to destroy her unborn child, or for the purpose of producing an abortion or miscarriage, then the jury ~~is instructed~~ ~~that he is not guilty of the crime charged in the indictment, and~~ they should find the accused "Not guilty."

Instruction No. 4.

The court instructs the jury that if they believe from the evidence that the accused, in the ^{honest} exercise of his professional judgment, after consultation with him by Lurty Houchens and Fleta Houchens, his wife, inserted into the person of said Fleta Houchens, ~~not for the purpose of causing an abortion or miscarriage, but~~ ^{not} ~~for the purpose of~~ a dilator, for the purpose of relieving her from irregular or suppressed ^{Misstatement} ~~menstruation~~, ~~through~~ ^a under ~~the~~ mistaken belief resulting from his own examination ^{or} ~~and~~ ~~the~~ statements made to him by the said Fleta Houchens, or her husband, or both of them, that she was not then in a pregnant condition, and that as the consequence of the use of said dilator, injury was caused to the womb of said Fleta Houchens which caused a miscarriage or premature birth of the fetus, the defendant was ^{not} thereby guilty of the crime alleged in the indictment and he should be acquitted.

The Court instructs the jury that neither the consent nor the entreaty of the pregnant woman to an attempt to produce an abortion or miscarriage, nor the consent or entreaty of the woman and her husband together, would constitute a valid defence for the accused, if the criminal operation was in fact performed by him.

And the Court further instructs the jury that it is not essential to the guilt of the accused for him to have had positive information or knowledge that the woman was in a pregnant condition, but if he had reason to believe or suspect that she was or might be in that condition and gave drugs or used an instrument, either or both, with intent thereby to produce an abortion or a miscarriage in case she was pregnant, and by that means did produce an abortion or miscarriage, he is as much guilty as if he had definitely learned her condition before acting.

The Court instructs the jury that neither the consent
nor the entry of the pregnant woman to an attempt to pro-
duce an abortion or miscarriage, nor the consent or entry
of the woman into a house, or the fact that the woman was in a
house for the accused, if the original operation was in fact
performed by him.

And the Court further instructs the jury that it is
not essential to the guilt of the accused for him to have had
positive information or knowledge that the woman was in a house
that condition, but if he had reason to believe or suspect that
she was or might be in that condition and gave force or used
an instrument, either or both, with intent thereby to produce
an abortion or a miscarriage in case she was pregnant, and by
that means did produce an abortion or miscarriage, he is as
guilty as if he had actually learned her condition be-
fore acting.



Charge

If you find him not guilty you will say so and no more.

If you find him guilty you will say so and then ascertain his punishment by confinement in the penitentiary so that such term be not less than three years nor more than ten years.

Charge
in
Klinger Case

Charge

If you find the fact guilty you will say so and no more.
If you find the fact guilty you will say so and then answer the
question by answering in the affirmative or that you have no
idea how these facts were done.

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 Circuit
Court of said county, ^{at its May term, 1916,} UPON THEIR OATHS PRESENT, that J. Monroe Klinger
on the _____ day of April, 1916, and on other days prior to find-
ing this indictment, in said County, did feloniously administer to and
cause to be taken by, one Freda Houchen, a certain drug, the kind where-
of is unknown to the jurors, and feloniously did use on the said Freda
Houchen an instrument, the name of which is to the jurors unknown, by
then and there, by forcing the same into the private parts of the said
Freda Houchen, the said J. Monroe Klinger well knowing the said Freda
Houchen to be pregnant and such operation not being necessary to save
the life of said Freda Houchen or her unborn infant, with the felonious
intent to produce miscarriage and abortion of the said Freda Houchen and
to destroy the unborn child of the said Freda Houchen, whereby the said
J. Monroe Klinger did produce miscarriage and abortion of and did destroy
the unborn child of the said Freda Houchen,

against the peace and dignity of the Commonwealth of Virginia.

AND THE JURORS AFORESAID, UPON THEIR OATHS AFORESAID, DO
FURTHER PRESENT, that

against the peace and dignity of the Commonwealth of Virginia.

This indictment is found on the testimony of D. J. M. Biedler

witnesses sworn in Court and sent before the Grand Jury to give
evidence.

We the jury find the accused not guilty.

J. P. Bennett
Foreman

Abortion
May term, 1916.

COMMONWEALTH
vs. Indictment

J. Monroe Klinger

For Felony
~~XXXXXXXXXXXX~~

A TRUE BILL

M. H. Strickler
Foreman

3670
Herry H. Strickler,
Com. Atty.