

American Legal History – Russell

Proceedings of the Provincial Court of Maryland, 1663-1666 (Archives of Maryland, XLIX, Baltimore, 1932)

(Excerpt from the Proceedings for 1664)

The Jury for the Right Hon^{ble} the Lord Proprietary Doe p^rsent Pope Alvey in Brittons Bay in the County of s^t Marys Cooper the twenty ninth day of ffebruary in the yeare of Our Lord God 1663 att S^t Winifreds in s^t Clements Hundred in the County aforesaid upon Alce Sandford Servant to the said Pope Alvey by force and Armes an Assault did make and wth Certaine Sticks of no vallue which hee the said Pope Alvey in his right hand then and there did hold, divers blowes on the Body of the said Alce Sandford did strike soe that of the Said Blowes the said Alce Sandford did dye wthin halfe an houres space, and soe that the said Pope Alvey the said Alce Sandford then and there feloniously did kill Contrary to the peace of his said Lordsp his Rule & dignity

[*BB:298] The Jury for the Rig^t Hon^{ble} the Lord Proprietary Doe p^rsent Elizabeth Greene of Garriden in Calvert County spinster the sixth day of May in the yeare of Our Lord God 1664 being bigg wth Childe by Gods Providence was delivered of a Certaine living man Childe which said living man Childe She the said Elizabeth Greene did throw into the fire, And soe that the said Elizabeth Greene the living man Childe by throwing into the fire in manner and forme aforesaid, then and there feloniously and of malice forethought did Kill and Murder Contrary to the peace of his said Lorsp his Rule and Dignity-- The Grand Jury discharged and the Petite Jury called (vizt) Foreman M^r Richard Smyth, Thomas Bennitt, Joseph Horsley, William Hatten ,W^m Dorrington William Watts, Francis Armstrong, Robert Jones, Robert Blinckhorne, William Black ,William Groome, William Harper.

The presentments was againe read to the said Jurors, And the Evidences Called Examined and Sworne as afore-The Jurors wthdrew to Consider on the said Bills and their Charge--

The Jurors being called and answering all of them to their Call by their Several names-The foreman delivers in their Verdicts endorsed on the backside of each bill with this word (vizt) Guilty--

Pope Alvey Arthur Nottoll and Elizabeth Greene all Called by their names to the Barre--

Pope Alvey first demanded of him what hee had to say for himselfe. To which hee Craves Benefitt of Clergy, which was granted him, And the booke being given and demanded whither he read or not, Answer was made that hee read--

Arthur Nottoll being demanded what he had to say for himselfe To which hee Craves benefitt of Clergy, w^{ch} was Granted him, and the booke being given. and demanded whither he read or not, Answer was made. the hee read--

Ordered thereupon that the said Pope Alvey & Arthur Notooll bee forthwith burnt in the brawne of their righte handes with a red hott Iron. Which was by the Under Sherriffe immediately Executed--

[*BB:299] Then was it demanded of Elizabeth Greene, what she had to say for herselfe, Answered that she threw herselfe on the mercy of the Board, being againe demanded if that was all she had to say, she Answered Yes-Then Sentence of Death past upon her by the Governo^r and Judge in these words following (vizt) Elizabeth Greene Yo^w shall bee Carryed to the place from whence yo^w Came, from thence to the place of Execucon, and there bee hang'd by the neck till yo^w are dead. and soe God have Mercy upon yo^r Soule.

On the Morrow being the 8th of July 1664 warr^t issued to the Sheriffe of s^t Marys County for the p^rformance of Execucon (vizt)

Whereas Elizabeth Greene was att Our Court of Sessions Arraigned for Murder and there found Guilty by the Virdict of the Jury, upon which sentence of Death was past as by the Judgment given on the 6th day of July 1664 doth upon Our Record appeare,--

These are in the name of the Rig^t Hon^{ble} the Lord Proprietary of this province to will and require yo^w to see the said Elizabeth Greene

Liber B B carryed to the place of Execucon this 8th p^rsent betwixt 8 and 9 of the Clock in the morning there to hang by the neck till she be dead according to the Judgm^t given on the 6th day of this p^rsent Instant, And for soe doing this shall be yo^r Warrant Given und^r my hand this 8th July 1664--

Signed Charles Calvert

To the High Sherriffe of S^t Marys County

[*FF:147] The Charge being given to the Grand Jury Proclamacon was then made by the Cryer

All manner of persons that have any Bills of Indictm^t to put unto the great Inquest, put them into the Court first that his Lordsp^s Councell may peruse them or else they shall not be received

Noe person putting any in, after a while the Jury returnes into Court & delivers in these bills foll: and that they were Content the Court should amend forme, and false Latine altering matter of noe substance in those bill w^{ch} they have found.

The Jury for the Rig^t Hon^{ble} the Lord Proprietary doth p^rsent that Pope Alvey of Newtowne hundred in the County of S^t Marys Cooper the 19th day of Decemb^r in the yeare 1665 att Brittons Bay in Newtowne hundred in the County afores^d a Certaine Cow of black Culler to the vallue of two pounds tenn shillings sterling of the Goods and Chattles of Coll: William Evans then And there being found feloniously tooke stoled kill'd and carryed away against the peace of the said Lord Proprietary his Rule & dignity

Witnesses John Jarbo The said Bill by the Jury

James Pattison Endorced thus

Walter Pake Billa Vera

Gregory Rowse

Henry Aspinall

Daniel Hammond

The Grand Jury dismiss

Then the Cryer maketh Proclamacon thus, his Lordsp^s Councell straightly Charge and Comand all persons to deepe silence for now they will proceed upon the please of the Crowne to the arraigm^t of Prisoners upon life and death and that all persons that have any Evidence to give against any of the prisoners draw near and give yo^r attendance upon forfeiting yo^r Recognizances--

The Clarke then bid the sherriffe sett Pope Alvey to the Barr, when done, he saith Thou art here indicted by the name of Pope Alvey for that thou on the 19th day of December &^c: (read the Indictm^t out) then the Clarke saith What saiest thou, art thou Guilty of the Felony whereof thou stands indicted or not Guilty. Answered by the Prisoner (not Guilty) then being askt him by the Clarke how wilt thou be tryed, Prisoner answered by God and the Country, the Clark saying God send thee a good deliverance--

Then the Clarke called to the sherriffe for a pannell of Jurors to try the Prisoner Pope Alvey * * * * *

Clarke

Pope Alvey hold upp thy hand att th^e Barr These good men that were last called and have here appeared are those that shall passe between the Lord Proprietary and yo^w upon your life and yo^r death, that therefore if yo^w [or any of yo^w] will Challenge them or any of them yo^w may Challenge them as they come to the Booke to be sworn before they be sworn and yo^w shall bee heard

The Cryer then makes Proclamacon

If any man cann informe his lordsp^s Councell the Attorney Generall or this inquest to be taken between the Lord Proprietary and the Prisoner att the Bar of any Treason Murder Felony or other misdeameanor committed or done [*FF:150] by the Prisoner att the Bar: let them come forth and they shall be

heard, the Prisoner stands att the Bar upon his deliverance. Noe informacon given in--

The Jury was then sworne every man severally by this Oath following--

Yo^w shall well and truely try and true deliverance make between his Lordsp the Lord Proprietary and the Prisoner att the Bar, whom yo^w shall have in Charge according to yo^r evidence soe help yo^w God.

The Clarke then call'd them ouer and the sherriffe counted them being twelve Clarke askt are yo^ww all sworne or not they answered Yes

The Clark called Pope Alvey hold up thy hand att the Bar, and saith Look upon the Prisoner yo^w that be sworne and hearken to his Cause Yo^w shall understand that he stands indited by the name of Pope Alvey for that hee the 19th day of Decemb^r in the yeare 1665 (the Indictm^t then read out) upon this Indictm^t hee hath been arraigned upon his arraignment he hath pleaded not Guilty, and for his tryall hath put himselfe upon God and the Country which Country are yo^w, so that yo^r Charge is to enquire whether he be Guilty of this felony whereof hee stands indited or not Guilty if yo^w find him Guilty yo^w shall enquire what lands Tenements Goods and Chattles he had at the time of the [*FF:151] felony Committed or at any time sithence, if yo^w finde him not Guilty then shall yo^w enquire if he did flye for it or not, if yo^w finde that he did not fly for it, then yo^w shall enquire what Goods or Chattles he had att the time when he did fly for it, or att any time sithence, if yo^w find him not Guilty, nor that he flye for it, say soe and no more, and hear yo^r Evidence--

The wittnesses were all Called to the Board and sworne which are exprest under the Inditement and there Examined--The Jury hauing their Charge given they wthdraw and Ordered the sherriffe provide them a roome wthout having meat or drinke untill they make returne of their Verdict.

The Jury of life and death being agreed they came into Court to give their Verdict, being call'd by their names and all answered thereto, was askt by the Clark if they were agreed of their Verdict. who answered Yes, who shall say for yo^w, answered the foreman

Pope Alvey hold up thy hand att the Bar.

Then say to the Jury Look upon the Prisoner yo^w that be sworne what say yo^w, is he Guilty of the felony whereof he stands indicted or not Guilty Who delivered their verdict in writing on the back of the Inditement, Thus- (Guilty) And the Cow worth Eleven pence and noe more--

Whereupon they were againe Comanded out to Consider thereof with a Charge given them to have a speciall Care in what they did.

[*FF:152] The Jury returns into Court the second time & askt if they were all agreed as in the former time who answered yes Then the foreman delivers in their Verdict on the back side of the Inditement thus (Guilty)

Then being askt what lands or Tenements Goods or Chattles had he at the time of the felony Comitted or att any time sithence--their Answer None to Our knowledge, did he fly, noe

Clarke/Hearken to yo^r Verdict as the Court Recordeth it--Yo^w say Pope Alvey is Guilty of the felony whereof he stands indicted: answer Yes And so yo^w say all, answer Yes

The Petty Jury dismiss

Clarke saith/Sherriffe set the presoner to the Bar:

Judge speaketh--Yo^w doe remember that yo^w have been indicted for felony by yo^w done and Comitted; uppon yo^r indictment yo^w have been arraigned and have pleaded not Guilty, And for yo^r Tryall have put yo^r selfe uppon God and the Country which Country hath found yo^w Guilty, what cann yo^w now say for yo^r selfe why according to law yo^w should not have Judgm^t to suffer death. Whereuppon hee Claim'd the benefitt of his Clergy, which were denyed him the Record making it manefest that he have had it allready allowed him in this same Court. Then he throw himselfe upon the mercy of the Board. The Judge then read this sentence to him & gave Judgment in these words following-(vizt)

Yo^w shall be Carryed to the Place from whence yo^w Came, from thence **[*FF:153]** to the Place of Execucon and there be hanged by the neck till yo^w are dead--

Then came severall persons and uppon theire kneese humbly begg of the
Leiutenn^t Gen^l the life of the said Pope Alvey, & that hee would please to
reverse the Judgm^t Through the Earnest intercessions of the said p^rsons, The
Governor^r hath given & Granted the said Pope Alvey Respite of Execucon and
Liberty to depart to his owne howse Yet nevertheless the Judgm^t and sentence
past against him to remaine in full force and effect on the Records during the
pleasure of the Governor^r and according as the said Alvey shall hence forward
behave himselfe in his remaining Course of life.

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