

American Legal History – Russell

The Pynchon Court Record

Joseph H. Smith, ed., *Colonial Justice in Western Massachusetts (1639-1702): The Pynchon Court Record, An Original Judges' Diary of the Administration of Justice in the Springfield Courts in the Massachusetts Bay Colony* (Cambridge: Harvard University Press, 1961).

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[*2] February the 14th 1638 [1639. Until 1752, the new year began on March 25.]

We the Inhabitanes of Agaam uppon Quinnetecot takinge into consideration the manifold inconveniences that may fale uppon us for want of some fit magistracy amonge us: Beinge now by Godes providence fallen into the line of the Massachusetts Jurisdiction: and it beinge farr of to repayer thither in such cases of justice as may often fall out amonge us doe therefore thinke it meete by a generall consent and vote to ordaine (till we receive further directions from the generall court in the Massachuset Bay) Mr. William Pynchon to execute the office of a magistrate in this our plantation of Agaam viz .

To give oathes to Conestables or military officers to direct warrantes, both processe executions and attachentes, to here and examine misdemenors to depose witnesses and uppon profe of misdemenor to inflict corporall punishment, as whipping stockinge byndinge to the peace, or good behaviour, and in some cases to requier sureties, and if the offence requier to commit to prison and in default of a common prison to comit delinquentes to the charge of some fit person or persons till justice may be satisfied, Also in the Tryall of actions for debt or trespasse, to give oathes, direct juries depose witnesses, take verdictes and keepe Records of verdictes, Judgmentes, executions: and what ever else may tend to the Kinges peace, and the manifestation of our fidellity to the Bay Jurisdiction and the restraining of any that shall molest Godes lawes: or lastely whatsoever else may fall within the power of an assistant in the Massachuset.

It is also agreed uppon my a mutuall consent that in case any action of debt or trespasse to be tryed: seinge a Jury of 12 fit persons cannot be had at present among us: That six persons shall be esteemed and held a sufficient Jury to try any

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action under the some of Ten pounds till we shall see cause to the Contrary and by common consent shall alter this number of Jurors or shall be otherwise directed from the Generall Court in the Massachusets.

John Cable is chosen and sworne to execute the office of a Constable in this place for a year or till another shall be chosen in his roome.

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[*4] December 12 1639.

John Woodcock beinge sommond by warrant to answer Mr. George Moxon in an action of slander for reporting that he tooke a false oath against him: The said John desyred that this difference might be tried by a private hearinge below in the River: Mr. Moxon referred himselfe to the Judgment of the plantation present [*5] present whether it were fitter to be heard by a private refference below in the River, or tryed here publikly by a Jury. The generall voa[t] of the plantation is that seeing the matter is publike it should be publikly herd and tryed her by a Jury: Liberty is granted to John Woodcoke to produce his witnesses against this day fortnight being the 26 of December. Also at the said tyme John Woodcoke is warned to answer for his laughinge in Sermon tyme: this day at the Lecture.

Also he is then to answer his misdemenor [of] idlenesse.

The meeting on the 26 of December is deferred till the 2d of January 1639 [1640].

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1639 [1640] January 2d.

George Moxon complai[n]es against John Woodcoke in an action of slander that he saith that John Woodcoke doth report that he tooke a false oath against him at Hartford and he demandes of John Woodcoke for the said sland[er] 9£ 19s.

The Jury. Henry Smyth, Jehew Burr, Robert Ashly, Thomas Merik, John Searle, Samuell Hubbard.

Mr. Moxon produces thes witnesses Thomas Horton, John Cable, Robert Ashly, Henry Smyth, Samuell Hubbard.

The Jury find for the Plaintife damages 6£ 13s. [*Page torn.*]

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When Mr. Moxon gave the Constable the warrant [*6] to distraine for the said damag the said John Woodcoke answered that he ought Mr. Moxon no mony nor none he would pay him.

Also John Woodcoke said that he had showed Mr. Moxon more respect and reverence than ever he would againe. Witnessse Henry Smyth, Samuell Hubbard and Thomas Horton

February 13 1639 [1640].

The Jury Henry Smyth, Jehew Bur, Robert Ashly, John Leonard, Samuell Hubbard, Samuell Wright.

1. Thomas Horton complaines against Thomas Mericke in an action of the case for not doinge a sufficient dayes worke for the wages of a day.

2. The said Thomas Horton Complaines against Thomas Mericke in an action of the case for taking away certaine planks or boardes.

[*206] 3. the said Thomas Horton complaines against Thomas Mericke in an action of the case for felling of two trees in the lot of Thomas Horton.

4. For changing of 4 bushells of corne after it was delivered.

1. Thomas Merick complaines against John Woodcoke in an action of debt of 2s 6d.

2. Also in another action of the Case for two bushells of corne that was delivered into his possession: and about two bushells more that he is to be accountable for.

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[*12] October 9. 1640.

The Examination of Widdow Horton about selling of her husbands peice to the Indians.

She saith that she hath not sould it but she confesseth that she lent it to an Indian for it lay spoilinge in her seller, but she saith that the Indian is suddenly to bring it againe and he hath lost about six fatham of wampam in pawne for it: and she saith

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that she knew of no order against it and doth promise to take it home againe: she cannot tell the Indians name but saith it is an Indian of Agaam.

I tould her if she would speedily get it home againe or else it would cost her dere for no commonwealth would allow of such a misdemenor.

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January the 11 1640 [1641].

It is ordered that John Hobell shall be well whipt by the Constable for two misdemenors first for proceeding to get promises of Marriage from Abigall Burt, after that both he and she had been prohibbited by her Father severall tymes, and also for offeringe and attemptinge to doe the act of fornication with her as they both confesse though as far as we can discerne by any prooffe of Justice the act was not don.

Also Abigall Burt is found guilty in both the said faultes and is also to be well whipt by the Constable for the said faultes:

[*13] February the 15. 1640 [1641].

Robert Ashly complaines against John Woodcooke in an action of the case for a gunn that he bought of him and paid him 22s 6d for it yet the said John Woodcoke did not deliver it to him accordinge to bargaine.

Also Robert Ashly complaines against John Woodcok in an action of the case for not breaking up of certain ground for planting according to bargaine.

The Jury Henry Smyth, Henry Burt, John Leonard, John Dible, Samuell Wright, Thomas Merick:

In the first action the Jury find for the plaintife 22s 6d and in costes 4s.

The 2d action John Woodcoke doth acknowledge it his dew to brake up the said ground and doth bynd over some of the Swine that he hath now in the hands of Thomas Mirick for the performance of the said ground in case it for not don before the first of Aprill, then he doth promise to allow for the damage out of the said swine as two indifferent neighbors shall prise the said swine and so to pay as much as the workmanship of the said ground shall be valued at.

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After the Jury had given in their verdict John Woodcoke denied that Robert had paid for the said gunn notwithstanding the action was [*illegible*] before him and he never denied it: but I offered him a new tryall by a writ of error if he would present it.

Goody Gregory hearing him denie that he was paid testified uppon oath that she heard John Woodcock say [*14] that he did not owe above as 2s 6d in the plantation she said that she replied thus to John Wookcocke that she heard Robert say that John Woodcock ought him between 30 and 40s. Then John Woodcok answered that Robert was a pratinge fellow for he had set of his gunn and now he did not owe him past 7 or 8s: Also Henry Gregory testified uppon oath that he heard him speak the same to his wife.

Goody Gregory being accused by oath of John Woodcoke and Richard Williams [*210] for swearing before God I could break her head: she did acknowledge it was her great sin and fault and saith she hath bin much humbled for it:

She is fined 12d to the pore to be paid to Henry Smyth within a month: or if she doe not she is to sit 3 houers in the stocks.

[*15] August. 7. 1641.

Know all men that whereas there is a mariage shortly intended betweene the widdow Horton and Robert Ashly both of Springfeild: That the said widdow Horton in the presence of Robert Ashly doth assigne and set over her house and house lott conteining about eleven akers and 4 akers of woodland afore the house Eastward all which is valued now at Twelwe pounds: and all her hoggs litle and greate which are valued at eighteene pounds all together are valued at Thirty pounds into the hands of Robert Ashly for the use and behafe of her two sonns one sucking and the other about Three years ould caled Jermy to be paid to them that is to say to eather of them fifteene pounds apeice when they shall come to the age of Twenty and one yeares: and the said Robert is to have the use and profits of the said land and hogges for the educatinge of her said Two sonns: and when they shall come to the age of 13 or 14 yeares the said Robert doth promise to put them out as apprentices to some usefull trade such as they shall like of: and if they cannot be put out without a portion of mony then so much is to be deducted out of their portion of 15£ apeice as shall be indifferently judged fitt for their bynding out: and for the rest of the said 15£ apeice the said Robert doth bynd himselfe his land goods and cattell to pay to them when they shall come to the age of .21 yeares: and in the meane tyme doth bynd himselfe to maintaine the present house and fencinge

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and if he shall leave it in better case than it is at present then he then shall enjoy it shall pay such cost as shall be judged to make it better for his use by indifferent parties and if one of the two sons of the widdow Horton shall die before the age of 21 yeares then the other shall have his portion also: and the widdow Horton being present before me at the wrighting hereof doth acknowledge that this is her will and meaninge and that she is fully consenting to what is above expressed and the said Robert Ashly being also present doth acknowledge that [*16] he is fully consentinge to all that is above expressed: and uppon this their mutuall Consent I have given them leave and liberty to proceed in marriage when they please: and the Inventory of her goods I have hereunto annexed as they were apprised under the hands of Samuell Wright and Samuell Hubbard.

William Pynchon

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An Inventory of the Goods and Cattell of the widdow Horton of Springfeild this first July 1641 we whose names are underwritten do value things as followeth

Imprimis for all her linnen brasse pewter beddinge vessels and other

implements 17£ .0 .0

her hoggs litle and greate as they were rated by

the appriser of the Towne Rate 18 .0 .0

her house and houselot 12 .0 .0

Samuell Wright

Samuell Hubbard

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[*18] A coppie of Record: of the last will and testament of John Searles of Springfeild dated the 21th day of the 10 month 1641 Recorded this 20 of the 2d month 1642.

I John Searles beinge very sicke in body doe make my last Will and Testament in manner and fourme followinge first I give to my brother in law William Warrener

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my best coate and my cullored hatt: and whereas in some reckonings betwixt him and me he owes be betwixt three and fower poundes: if he pay fortie shillings therof I am content that all the rest shall be remitted: The rest of my estate I deuide betwixt my wife and my child equally: and doe appoint that my wife shall have for her use till my child come to the Age of 20 yeares that portion belonging to my Sonn John Searles in consideration of his maintenance and education Provided that before she marry againe she shall give or in her behalfe cause to be given sufficient security for the payment of my childes portion which security shall be given to Mr. Moxon my brother Timothy Bawldwin and Samuell Wright whom I doe intrust to be overseers for the performance of this my last will:

witnesses hereof Henry Smyth, Elitzur Holioake

[*19] A Cobby of the inventory of the Goods and Chattayles of the late deceased John Searle taken the 8 Feb: 1641 [1642].

Imprimis 8 goates at 15s peace 6. 0. 0

6 boardes and rackes at 4s 0 4 0

9 hogges at 11. 0 0

3 small piggs at 0 4 6

a hogg lent William Warrener 2 11. 9

1 hogg in salt and 2 fitches of bacon 5 0 0

2 caske at 6s, tubb at 4s and other small

things at 3s 0 13. 0

4 blankets a rugg a koverlit a bed and

boulster of flaxes and bedsted 6. 0. 0

wearinge apparrell 3. 1. 0

20. yard dowlesse 1 10 0

linnin sheetes and shurtes etc. 4. 2. 6

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a black hatt 0 2 0

pewter 1 5. 3

a pair gloves and a brish 0 2 0

4 traies 0 4. 6

[*213] tooles and Iron things 3 4 0

iron potts and other things 1 1 4

3 chistes with bootes and shoes 2 3 0

peeeces powder and shott 3 1 0

brasse kettle and skilletes [2] 17 0

a wheelebarrow 0 5 0

a canoe lock and chaine 1 2 0

sackes pease and other things 1 15 4

6 bushells of meale at 3s per busheell 0 18

2 tubbes and 2 skins 0 3 0

28 bushells corne at 2s 4d per bushell 3 5 4

12 [illegible] 0 12 0

housing lotts fenceing [page torn] future

dividends 35 0 0

2 load of boltes 0 6 0

in debts that are owing from bretheren at 97 14 0

Milford 4£

Prisers Henry Smyth Richard Sykes. Sume 101 14 0

EOD