Benefit of Clergy [1]

Benefit of Clergy

by Donna J. Spindel, 2006

Benefit of Clergy [2] was a colonial [3] legal term rooted in medieval English law that allowed a person convicted of a capital crime to receive a special pardon and escape execution. Initially, only clergymen-who were often the only members of their communities who could read and write and consequently faced prejudicial decisions by illiterate judges and juries in the common courts-were eligible for benefit of clergy. Over time, any illiterate person could claim the privilege, although not always successfully. Some felonies were so heinous that benefit of clergy was not allowed. By the mid-eighteenth century, for example, North Carolina followed the English law on horse stealing, making it a nonclergyable offense. During the last years of the colonial era, every recorded sentence for horse theft reflected the penalty required by law-death without benefit of clergy. Mixed larceny, stealing from a person or a house, robbery, and burglary were also not clergyable crimes.

In general, benefit of clergy was permitted in North Carolina "in all Cases where Clergy is not expressly taken away, or where the Offender has not once before had Clergy allow'd." Judges never deviated from the law on this point. Throughout the colonial era, no offender was extended the privilege if the law did not allow it. The earliest recorded case in which a North Carolina court granted benefit of clergy was the theft conviction of Elijah Stanton at the Edenton General Court in 1727. Stanton "pray'd the Benefit of the Act of Parliament . . . wherein the Clergy is allow'd." He was then sentenced to "be burnt on the hand with the letter T." A later beneficiary of this form of pardon was Charles Dent, indicted in 1743 for killing his infant daughter. A General Court found him guilty of manslaughter, a clergyable offense, for which he was burned on the hand. At times it was even possible for an offender to evade the required branding on the thumb. This was the experience of Roger Snell, a convicted thief who escaped the traditional branding because "of his very grievous sickness and weakness of Body." From a modern-day perspective, benefit of clergy was a means to mitigate the sometimes harsh penalties rendered under colonial law.

References:

Bradley Chapin, *Criminal Justice in Colonial America, 1606-1660* (1983).

Donna J. Spindel, *Crime and Society in North Carolina, 1663-1776* (1989).

Additional Resources:

Benefit of Clergy, Britannica: http://www.britannica.com/EBchecked/topic/121291/benefit-of-clergy [2]

Criminal law and reform, by David Walbert. ANCHOR. https://www.ncpedia.org/anchor/criminal-law-and-reform [4]

The Benefit of Clergy Plea, by Linda Rowe, Colonial Williamsburg Foundation: http://research.history.org/Historical_Research/Research_Themes/ThemeReligion/Clergy.cfm [5]

Documents and Comments on Benefit of Clergy as Applied to Slaves, by Wm. K. Boyd. The Journal of Negro History: http://www.jstor.org/stable/2713694 [6]

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Spindel, Donna J. [9]
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Encyclopedia of North Carolina, University of North Carolina Press.[10]

1 January 2006 | Spindel, Donna J.

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