

Park Gate, Prince William County, January 11th 1796
Box 3, Folder 4, film page 0532, accession #40723
Virginia Governors Executive Papers – Robert Brooke
Recommendation of Militia Officers
To His Excellency Robert Brooke Esq.

Sir,

Being a member of the Court of Prince William County, who first made the recommendation of officers to be commissioned for the second Regiment of the Militia given by the Law of 1793 to the County, and being also one who had the honor of meeting with the approbation of the court in being recommended, which subject & proceedings still remaining unconcluded and from the manner in which the court has been taxed with connivance & partiality in their proceedings by sundry memorialist to the Honorable the Executive, I feel myself as a member of that court & as an individual called on to support that character which has thus been attacked. I hope and trust, Sir, from your candor, that this letter may be laid before that tribunal who investigated the subject matter of the memorial. As a magistrate & a man I equally revolt at being governed by principles such as have been attributed to me among other members of the Court before alluded to. That the Court proceeded in fairness I beg leave to subjoin from the records the manner of their conducting the business & as to myself I beg to leave to state my construction of the law, which has governed me in my conduct, resulting from such a view and consideration of the subject as I gave it and which will ever be the governing principal of my actions and not such unworthy motives as are pleased to be annexed to them. The Law of 1792 entitled An Act for regulating the Militia of the Commonwealth in the fifth section directs the Officers to be Commissioned for the Regiments given by that Act, to the respective Counties, to be recommended by the Courts from the Militia Officers then holding Commissioners by grades & seniorities making use of the authoritative word shall. This Law was complied with by the Court of Prince William, previous to the meetings of the Assembly of 1793, and the Officers holding Commissioners above the number necessary to fill the active posts carved out by that Law became comprised under the sixth section of the same Law, as supernumeraries, and as expressed in said section may be recommended by the respective County and Corporation Courts to supply vacancies, without either in this, the preceding clause, or any other that I could discover, having the most distant blush or looking forward to any future original appointments for these supernumeraries, indeed not ever saying that the courts should be bound down to the unequivocal recommendation of them in supplying vacancies, of course in my mind leaving it on the accustomed broad bases and constitutional ground of the Courts recommending in future those characters, when such a duty should devolve upon them, as they in their judgment might think the fittest from the community at large. The amendatory Law passed in 1793 has nothing repealing on this subject in any part of it so far as respects those counties that had acted upon the preceding Law, on the contrary the first section of the Law, which with the following section only has reference to the preceding Law, expressly states “that whereas many county and Corporation Courts have failed &c” & in the second section still keeping in view the defaulting counties directs that the several county & corporation courts shall &c” nothing in either of these clauses or any other in this Law directs how the additional Regiment given by the 16th section shall be officered, in this instance also leaving it on the constitutional ground before alluded to. Having thus briefly stated to your Excellency my reasoning on and construction of the Law I must observe that it has appeared strange to me that in issuing the commissions a different decision should be given on the same Law in different counties. I am warranted in this observation by the commissions being issued on the recommendation of the Court of Fauquier & as General Blackwell has informed me in other Counties who had not acted on the Militia Law until after the second and amendatory Law was passed; That County, to my knowledge, then recommended from the character of their county at large, without having any reference to the directions of the Law of 1792 respecting the officering the first Regiment, a Remonstrance was sent to the Executive by the old Militia Officers, notwithstanding which commissions have long ago come up for those recommended by that court, and the very desirable situation of the Militia Law being carried into effect has taken place in that County whilst in this it remains in confusion and a bone of contest and animosity existing in its place. So desirous am I to see our Militia Law attended to and carried into effect as also to see all grounds for animosity removed from among the Citizens of the County where I reside that should your Excellency and the council still continue to deem it a requisite of the Law that the supernumeraries should in the first place be commissioned for the additional regiment I pledge myself to submit to that opinion, hoping that it will be so plainly stated to the Court that no misconstruction of your meaning may take place by the interference of the officers already holding commissions in the Regiments under the Law of 1792, and who insist upon a right of rising in the Regiment now to be officered.

From the last proceedings of the Court in this business the necessity of their being a speedy determination, so that commissions may issue, will be self evident. The Court has there divided the county into two districts and

ascertains which district shall compose the 36th Regiment and which the additional, so that until this last regiment is officered the Militia will be at large without any control. I have the honor to be with all due respect.

Your Excellency's most obedient Humble Servant.
Thomas Lee

Dumfries, Prince William County, May 17th 1796
Box 3, Folder 11, accession #40723
Virginia Governors Executive Papers – Robert Brooke
Escape of Charles Bruster from District Jail
To His Excellency Robert Brooke Esq.

Sir,

Agreeable to an order of the District Court held at this place October last. I informed you by post of the escape of a certain Charles Bruster, who was committed to my Goal last September from the corporation of Alexander for felony, & on the 18th August last broke Goal; but have not received the scrip of a pen from you, there for I have taken this opportunity by post again to describe the person of said Bruster to you. He is a man of about 30 years of age 5 feet 8 or 9 inches high, brown hair tied, had on when he broke Goal a chocolate culled coat, fine black hat, shirt of Irish lining ruffled stripe mastoal(?). Nankean breeches, white cotton stockings, & black leather shoes tied with black fissittin (?) I hope you will receive this letter, & inform how I am to proceed.

I am with esteem your very humble servant
George Lane D.S.
& Goaler of P. Wm. County

Dumfries, Prince William County, June 3rd 1796
Box 3, Folder 7, accession #40723
Virginia Governors Executive Papers – Robert Brooke
Commonwealth vs Dick
To His Excellency Robert Brooke Esq.

At a Court of Oyer & Terminer called & held at the Court House of Prince William County on Friday the third day of June 1796 for the trial of a Mulatto Slave named Dick for Felony. Present, Jesse Ewell, Alexander Lithgow, William Barnes, John Lawson & James Smith, Gentlemen Justices.

The said dick a mulatto man Slave belonging to John Macrae gentleman, being indicted of Felony for Feloniously and burglariously breaking & entering the warehouse of James & George Deneale, and four barrels of wheat flour of the value of ten pounds, and one barrel of kiln Indian meal of the value of forty shillings, the property of the said James & George Deneale from the said warehouse feloniously & burglariously stealing, taking & carrying away, and being arraigned in open court upon his arraignment pleaded not guilty, and thereupon the several witnesses against him were sworn and examined, and upon consideration thereof the court are unanimously of opinion that the said Dick is guilty of the felony aforesaid. Therefore It is considered by the Court that the said Dick (he not being entitled to the benefit of clergy having had it extended to him on a former conviction of grand larceny) be hanged on Saturday the ninth day of July next between the hours of Ten O'clock in the forenoon and two o'clock in the afternoon by the neck until he be dead & the court are of opinion that the said Dick is worth three hundred & seventy dollars current money which is ordered to be certified.

The business of the court being over the same is dissolved.
Jesse Ewell

A Copy Teste – John Williams C.C. P. W. County

Dumfries, Prince William County, June 25th 1796
Box 3, Folder 7, accession #40723
Virginia Governors Executive Papers – Robert Brooke
Commonwealth vs Dick
To His Excellency Robert Brooke Esq.

Sir,

Where the life of a fellow creature is involved, & at a time too when the general sentiment sanctions the opinion, that in all offences except murder the punishment is out of all proportion to the crime; more officially when

applied to Slaves. I feel a confidence little short of absolute certainty, that your liberality & real for equal rights, will on this awful occasion induce you to intend your mercy, (that darling attribute of the duty) to a man whose life the tyranny of our laws have brought into jeopardy.

I am therefore Sir to solicit your pardon for a Slave of mine named Dick under condemnation by the County Court of Prince William. The circumstances (which I shall briefly relate) your humanity will weigh with grains of allowance.

It came out on trial, that there were four concerned in breaking the granary of Messrs. James & George Deneale (to wit) Phil, Anthony Kimbal, Dick & Moses & stealing thence, three barrels of flour & one of kiln dry'd meal.

The testimony adduced against Dick was depraved & perhaps illegal for the following reasons.

First, Phil, was selected as a witness & from his own confession was the actual breaker of the house & was moreover perjured being sworn to tell the whole truth & it has since come to light that he & Moses concealed two barrels of flour in my hay stack, which were stolen as above mentioned. Jury was not an approver. Secondly Tony Kendal (another witness) a free mulatto was examined on oath before a single Magistrate, & upon the trial of Dick, his testimony was materially different, so much so that he was committed for perjury but escaped the punishment due for his offence by agreeing to remove out of the neighbourhood & this by special favour of the Court. It also appeared that Tony was as active as Dick in this affair, & therefore is not he an approver. In addition to the above facts Phill acknowledged that he came to my house & waked Dick from his bed about two o'clock at night & that he brought with him the cutter of a plough, with which he broke the house. Upon the whole it appears evidently to my mind & to all who were present at the trial that Phill was the prime mover of this villaing.

If however, you should deem the above statement incorrect, or partial, Messrs. Deneale & others will readily certify the facts. An should you think this form irregular I entrust your mercy & direction how to proceed, for this infatuated wretch that I may endeavor to satisfy you how far he merits your clemency.

With the greatest respect
I am your most obedient and very humble servant
John Macraeg

Added at the bottom of the page – He robbed me some time ago of money for which he suffered the punishment of burning & whipping – except for this circumstance the court here inclined to favor him. Moses precisely in the situation of Dick (the burning &c. excepted,) was acquitted. Dick is sentenced to be hanged the first Saturday in July.

J.M.

Also written on the bottom (apparently by the Governor) “On the subject of a pardon for Negro Dick – reprieved for two weeks”

Dumfries, Prince William County, July 9th 1796
Box 3, Folder 7, accession #40723
Virginia Governors Executive Papers – Robert Brooke
Commonwealth vs Dick

To His Excellency Robert Brooke Esq. Governor of Virginia. The petition of John Macrae & others hereto humbly sheweth, that resting confidently on your mercy & benevolence your petitioners beg leave to address you in favour of a mulatto man slave the property of J. Macrae named Dick who is under condemnation & sentenced to be hanged on Saturday the ninth day of July for burglary. Your petitioners in cases of this nature cannot but remark that the punishment is greatly disproportioned to the offence & that except for the powers vested in your Excellency of granting pardon much injustice sanctioned too by our laws would necessarily be committed. In the case then of Dick (although before allowed the benefit of clergy) your petitioner's think him hardly circumstanced & with hearts fought with compassion recommended him to your mercy. He has scarcely arrived at manhood & at that tender age untaught by experience inconsiderate of consequences & when nature herself inclines to goodness & pleasurable vice even those whole morals have been the best guarded by example & instruction often stray or rush into circumstances that claim the tear of pity. What then could reasonably be expected from an untaught Slave. The infinite disparity between such terrible punishment & petty larceny is now so clearly seen & detested that a reform of our penal laws is –outly to be wished for, indeed from a late bill (greatly to the honour of the mover) & to the joy of every benevolent heart your petitioners are taught to believe that the reform contemplated will be adopted in our legislature at their next session, so that perhaps Dick will be the last victim offered at the Bloody alters of the present code. Your petitioners therefore commit him into your hands & no doubt the same spirit of philanthropy will

operate on your mind which gave use to the forgoing reflections. Under these impressions we claim your indulgence & in the character of Chief Magistrate we invoke your pardon & forgiveness for this unfortunate man. Your making our wishes will call forth our warmest acknowledgments & as in duty bound shall ever pray.

Alexander Lithgow
James Deneale
Timothy Brundidge
David Boyle
Richard Tomlin
William Dunnington
Jesse Ewell Sen.
J. Lawson
Wm. Barnes
George Lane

John Macrae
John Williams
G. Deneale
Edward Duvall
James James
Mango M. Hancock
Hector Alexander
John Muschett
Charles Tyler
Arrenton Wickliffe

[The front or envelope reads – Dumfries Va. – post paid 20 To Robert Brooke Esquire, Governor of Virginia – Also written on the front – “This letter contains a petition in favor of a man condemned to be hanged on Saturday – it is therefore hoped the post-master will send it to the Governor immediately, or it will be too late.]

(Note - Dick was pardoned July 9th 1796 – His punishment is not known)