

Case No. 15,699. UNITED STATES V. McMAHON.
[4 Cranch, C. C. 573.]¹

Circuit Court, District of Columbia.

March Term, 1835.

ALIENS—JCITR DE MEDIETATE—MURDER—JUROR.

1. A foreigner is not entitled to a jury de medietate, in Washington county, D. C.
2. Upon a trial for murder, evidence will not be admitted that another person confessed himself to be the murderer.
3. A person conscientiously opposed to capital punishment was found “not indifferent,” by the triors. Indictment [against Owen McMahan] for he murder of Henry Howard.

Mr. Brent for the prisoner, asked for a jury de medietate linguas.

THE COURT (THRUSTON, Circuit Judge, absent) refused. See the Maryland act of 1789, c. 22, § 5.

Upon the trial Mr. Brent, for the prisoner, offered to prove that another person confessed that he killed the deceased; and that person had fled.

THE COURT (THRUSTON, Circuit Judge, absent) rejected the evidence.

Upon calling the jurors to the book to be sworn, Mr. James Friend, one of the panel, said that he was conscientiously opposed to punishment by death, and could not conscientiously find a man guilty of a capital offence.

Whereupon, Mr. Key, the attorney for the United States, challenged him for favor. The two first sworn jurors were sworn as triors, “well and truly to try whether James Friend stands indifferent between the United States and the prisoner at the bar;” and they found that he did not; having heard the declaration which he had just made to the court; and thereupon he was set aside.

At ten o'clock p. m., the jury found the prisoner “guilty of manslaughter in a most aggravated case; and not guilty of murder.” The sentence of THE COURT was eight years' labor in the penitentiary.

¹ [Reported by Hon. William Cranch, Chief Judge.]