

FOUND IN THE ARCHIVES, no. 13 – October 2015

Fairfax Circuit Court Historic Records Center



Happy fall! In *Found in the Archives*, the Fairfax Circuit Court Historic Records Center seeks to highlight interesting and unique documents in our custody.

In this edition, we are going to examine the practice of dueling and its legality in Virginia, and more specifically, Fairfax County.

During the 18th and early 19th centuries in the United States, dueling – whereby two men arranged to fight each other, usually with swords or pistols, according to previously agreed-upon rules – was seen as an appropriate way to defend one’s honor against insult or some other slight. The duel had been imported from England with the colonists, and became particularly engrained in southern culture up to the outbreak of the Civil War.

A duel followed a specific set of rules – the challenge was proposed by the offended party and accepted by the offender; seconds (assistants to the duelers) were chosen and a date and time selected; and the rules of engagement, including choice of weapon, identified. People of all classes used the duel as an accepted method for dealing with interpersonal conflict. The practice of dueling started to decline after two infamous duels – the Burr-Hamilton duel of 1804, in which Alexander Hamilton, former Treasurer of the United States, was killed by sitting Vice President Aaron Burr; and the Jackson-Dickenson duel of 1806, in which future United States President Andrew Jackson killed Charles Dickenson, a famous duelist. Jackson was wounded in the chest and the injury affected his health for the rest of his life.

Despite these prominent duels, which made headlines around the country, it was not until 1848 that the state of Virginia passed legislation outlawing duels. This law prevented individuals from all backgrounds from holding duels, but a further stipulation was made for those who sought government office:

“No person shall be capable of holding or being elected to any post of profit, trust, or emolument, civil or military, legislative, executive or judicial, under the government of this commonwealth, who, since the fourteenth day of March eighteen hundred and forty-eight, shall have fought, sent or accepted a challenge to fight, the probable issue of which might have been the death of either party; or shall have been knowingly the bearer of such challenge or acceptance; or been a second to either party; or shall have aided or assisted in such duel in any manner whatever..”¹

¹ *Code of Virginia*, Title 5, Chapter XII, page 84, 1849.

Additionally, government officials took two oaths before beginning their duties: the first was an oath to the commonwealth of Virginia:

*"I declare myself a citizen of the commonwealth of Virginia, and solemnly swear that that I will be faithful and true to the said commonwealth, and will support the constitution thereof, so long as I continue to be a citizen of the same. So help me God."*²

The second oath was an anti-dueling oath:

*"I swear that I have not, since the fourteenth of March eighteen hundred and forty-eight, fought in a duel, the probable issue of which might have been the death of the challenger or challenged, nor been knowingly the bearer of such challenge or acceptance, nor been a second to either party, nor in any manner aided or assisted in such duel, and that I will not be engaged or concerned directly or indirectly in or about any such duel, during my continuance in office. So help me God."*³

Below is an example of the fidelity to the Commonwealth and anti-dueling oaths from 1915, signed by C. Vernon Ford, who had been elected County Commonwealth Attorney:

Everett Wadler Co.,
Stationers and Printers,
Richmond, Va. } Form No. 115

State of Virginia, County of Fairfax to-wit:

I, C. Vernon Ford, do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the State of Virginia ordained by the Convention which assembled in the city of Richmond on the twelfth day of June, nineteen hundred and one, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as Commonwealth's Atty of Fairfax Co. Va. according to the best of my ability. So help me God.

I swear that I have not, while a citizen of this State, since the tenth day of July, nineteen hundred and two, fought a duel with a deadly weapon, or sent or accepted a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or knowingly conveyed such challenge, or aided or assisted in any manner in fighting such duel; and that I will not fight a duel with a deadly weapon, or send or accept a challenge to fight a duel with a deadly weapon, either within or beyond the boundaries of this State, or knowingly convey such challenge, or aid or assist in any manner in fighting such duel, during my continuance in office. So help me God.

I, County Clerk in and for the County of Fairfax Va. do certify that C. Vernon Ford on this 2nd day of Nov A. D. 1915 personally appeared before me and took and subscribed the above oaths.

J. W. Richardson, Co. Clerk

² The oath of fidelity to the Commonwealth is still part of the oath Virginia government officials take; *Code of Virginia*, Title 6, Chapter XIII, page 86, 1849.

³ *Ibid.*

The Fairfax Circuit Court Historic Records Center has one case file regarding dueling. In February 1885, Justice of the Peace J. R. Taylor issued the following warrant:

To Sheriff of said County
Fairfax County to wit:
For as much as J. R. Taylor
a Justice of the said County, has
good cause to suspect that
S. R. Donohoe & R. B. Tyler
are about to break the
peace by being engaged in a duel
There are therefore in the name
of the Commonwealth of Virginia
to command you, and each of you
forthwith to apprehend and bring
before me, the bodies of the
said S. R. Donohoe & R. B.
Tyler to answer in the
premises, and to be dealt with as
the law directs, Given under
my hand and seal this 19th day
of February 1885
J. R. Taylor J. P.

J. P.

Here is a transcript of the order:

“To Sheriff of Said County
Fairfax County, to wit:

For as much as I J. P. Taylor, a Justice of the said County, have good cause to suspect that S. B. Donohoe & R. B. Tyler are about to break the peace by being engaged in a duel. These are therefore in the name of the Commonwealth of Virginia to command you and each of you forthwith to apprehend and bring before me, the bodies of the said [S. R.] Donohoe & R. B. Tyler to answer in the premises, and to be dealt with as the law directs.

Given under my hand and seal this 19th day of February 1885.

[signed]

J. R. Taylor, J. P.”

The Code of Virginia provided for Justice Taylor to act as he did:

“If any justice or judge have good cause to suspect, that any persons are about to be engaged in a duel, he may issue his warrant to bring them before him, and if he think proper to take from them a recognizance to keep the peace, he shall insert therein a condition, that they will not, during the time for which they may be bound, be concerned in a duel directly or indirectly.”⁴

⁴ *Code of Virginia*, Chapter CXCL, page 726, 1849.

Justice Taylor must have felt that Donohoe and Tyler were not a serious threat to each other, as he did grant them bond. Below is Donohoe's bond (Tyler's is similar):

The condition of the above recognizance is such that if the above bound S. R. Donohoe do and shall keep the peace towards all the citizens of this Commonwealth and especially towards R. B. Tyler for the space of one year from the date hereof and shall not directly or indirectly be concerned in a duel with the said R. B. Tyler or any other person during that

period then the above recognizance shall be void otherwise to remain in full force and virtue Taken and acknowledged before me the day and year above written

J. P. Taylor JP

Transcript:

"The condition of the above recognizance is such that if the above bound S. R. Donohoe do and shall keep the peace towards all citizens of this commonwealth and especially towards R. B. Tyler for the span of one year from the date hereof, and shall not directly or indirectly be concerned in a duel with said R. B. Tyler or any other person during that period then the above recognizance shall be void, otherwise to remain in full force and virtue.

Taken and acknowledged before me the day and year above written, J. P. Taylor [February 19, 1995]"

The topic of dueling is an unusual one here at the Fairfax Circuit Court Historic Records Center. However rare dueling may have been in Fairfax County, these documents can shed light on a practice engrained in larger southern culture, and one which appears to have taken many decades to fade from public memory.

For more information about these and other records at the Fairfax Circuit Court, please email historicalrecords@fairfaxcounty.gov or call 703-246-4168.



OCTOBER 10, 2015

“The Return of Martha Washington’s Will: A Centennial Celebration”

1:00 pm to 2:00 pm, Fairfax Historic Courthouse

October 2015 marks the *100th Anniversary* of the return of Martha Washington’s Will to the Fairfax Circuit Court, after its removal from the courthouse during the Civil War!

As part of the City of Fairfax Fall Festival, the Clerk of Court, John T. Frey, cordially invites you to attend a special presentation, held in the Historic Courthouse, featuring Fairfax Circuit Court Archivists Katrina Krempasky and Heather Bollinger. The Archivists will share the exciting (and somewhat unbelievable) history of the removal of the Will, its travels, and how, with the help of the Commonwealth of Virginia, Fairfax reacquired this important court document in October 1915.

See historic Fairfax
County court
documents!

Showroom open
10 am to 3 pm

ON DISPLAY:

- Original pages from George and Martha Washington’s Wills
- Documents related to the return of both original Wills

Free and fun
for all ages!

Archivists’
Presentation in
Historic Courtroom,
1-2 pm

**FAIRFAX HISTORIC
COURTHOUSE**

4000 Chain Bridge Road
Fairfax, VA 22030

Historic courthouse
showroom and building
open 10 am to 3 pm!