

## Early Virginia Marriage Records

Before the General Assembly passed a law requiring the systematic statewide recording of vital statistics in 1853, marriages were recorded by ministers and county clerks. These records are an indispensable source for the most basic biographical facts about earlier generations of Virginians. Types of records include:

**Marriage License:** This form was granted by public officials to couples intending to marry. The license indicated to the minister and the public that there were no impediments to the marriage. The governor originally granted marriage licenses; county clerks and commissioners were granted the authority to issue them in the seventeenth century. By the 1670s marriage licenses could only be issued in the county in which the bride resided. Marriage by license was more expensive than marriage by publication of banns, but couples did not have to wait an extended period of time to marry.

**Marriage by Publication of Banns:** this public notice of an intended marriage had to be published, verbally or by written notice, for three consecutive meetings at the churches of the bride and groom. Banns were announced as directed in the Book of Common Prayer. This allowed the community to object to the union. After the American Revolution, community gatherings, militia musters, and other events were acceptable venues to announce upcoming marriages. Marriages by banns were recorded only in the church or parish register. Prior to 1848, banns were a legal substitute for a marriage license. Very few records of marriages by banns have survived.

**Consents:** According to Virginia law, individuals under the age of twenty-one needed the consent of a parent or guardian to marry. In the seventeenth and eighteenth centuries, officials were especially concerned about females under the age of sixteen marrying without consent. County clerks were not authorized to issue a marriage license without certificate (permission) from the parent, master, or guardian. In the nineteenth century, a parent or guardian could give consent verbally to the clerk of the court, or provide written consent in front of one to two witnesses; the consent was then delivered to the county clerk.

**Marriage Bonds:** The first law requiring a bond was enacted in 1660/61. It required the prospective groom to give bond at the courthouse in the bride's county of residence. The bond was pledged, with two or more sufficient securities (or witnesses), but no money was exchanged. A license was then prepared by the clerk and presented to the minister who performed the ceremony. This practice was discontinued in 1849, although in some communities bonds were pledged into the 1850s. Bonding insured against legal action should the marriage not take place, if either party declined to go through with the union, or if one of the parties was found to be ineligible for marriage—for example, if the bride or groom was already married, or was underage and lacked approval to wed.

**Ministers' Returns:** prior to 1780 marriages could only be performed legally in Virginia by ministers of the Church of England, who were required to record marriages in the parish register. After 1780, dissenting ministers were

also permitted to conduct marriages. In order to have a record of all marriages, ministers were required to sign a certificate to be filed with the county clerk. Initially, ministers sent marriage certificates to the clerk every three months; beginning in 1784, marriage certificates were returned annually. The law was rarely enforced, and ministers' returns were sometimes late, incorrect, incomplete, or, in many instances, not made at all. County clerks compiled a register of marriages based, in part, on ministers' returns.

## Virginia Marriage Laws

Despite the harsh realities of living in colonial Virginia, in the seventeenth century Englishmen and -women moved to the Chesapeake region in increasing numbers. Population growth necessitated the recording of births, marriages, and deaths. Some of the earliest laws enacted in the colony of Virginia were concerned with marriage. Governor Francis Wyatt received orders from the Virginia Company of London in 1621 to make a "catalog of the people in every plantation, and their condition, and of deaths, marriages, and christenings." Few records survive from these early decades.

Virginia's population continued to expand after it became a royal colony in 1624, and the House of Burgesses found it necessary to pass laws related to the act of marriage. The first definitive marriage laws were passed in 1632 and remained in effect through the nineteenth century. Virginians were forbidden to marry without a marriage license or to marry without publication by banns (a public notice of intended marriage published, verbally or by written notice, for three consecutive meetings at the churches of the bride and groom). Ministers were to keep a record of marriages performed and were required to present these registers at the court that convened in James City each year on the first of June. These records are not extant, and there are very few records of marriages in Virginia prior to 1715. Most counties have incomplete marriage records until after the Revolutionary War.

Attempts at regulation did not eliminate all of the problems associated with the act of marriage. As per English law, Virginia law made it illegal for indentured servants to marry without their master's consent, and bigamy was outlawed. Written or verbal permission from a parent or guardian was needed for individuals younger than twenty-one. The General Assembly emphasized by law the need for parents to consent to their children's marriages, especially those under the age of sixteen. The General Assembly passed an "Act for the Prevention of Clandestine Marriages" in 1696 requiring ministers and county clerks to obtain parental consent for marriage before marrying or issuing marriage certificates for women under age twenty-one, the age of consent. Those who did not follow the law (including ministers and clerks) were fined, and the women involved lost their inheritance.

It was impossible for the governor to know every colonist living in Virginia by the 1660s, and there was a shortage of Anglican ministers. To solve these problems, the General Assembly granted county courts the authority to issue marriage licenses. Couples marrying by license had to give bond with sufficient security that there was no lawful reason for the marriage ceremony not to be performed: for example, that there was no existing marriage; the parties were of age; and, if not, that they were marrying with permission. Beginning in the 1670s, the General Assembly required colonists marrying by license to obtain the marriage license from the county in which the bride resided. These early records do not survive.

Although colonists and slaves of African descent had long lived in the colony of Virginia, the legislature did not pass the first law governing interracial marriages until 1753. While free blacks could marry, Virginia never recognized the legality of slave marriages. According to an act passed in November 1753, interracial marriages were banned—a ban that remained in effect in some form until 1967 when the Supreme Court of the United States in *Loving v. Virginia* ruled that all such state laws were unconstitutional. Despite the legal constraints, relationships occurred across the color line in the commonwealth, as revealed in recent scholarship by Joshua Rothman (*Notorious in the Neighborhood: Sex and Families Across the Color Line in Virginia, 1787–1861*, published 2003) and Thomas E. Buckley (*The Great Catastrophe of My Life: Divorce in the Old Dominion*, published 2002).

At the time of the American Revolution, the General Assembly changed the law so that four ministers from dissenting denominations in each county could perform the marriage ceremony in accordance with their denomination's traditions. This act included Quakers and Mennonites. For the first time in Virginia's history, ministers from denominations other than the Church of England could officially perform the marriage ceremony. By 1784 most ministers residing in Virginia could perform the marriage ceremony, and were required by law to send marriage certificates to the clerks annually. For available marriage records, including ministers' returns, check the *Guide to Virginia County and City Court Records on Microfilm* on the Library of Virginia's Web site. Many of these microfilmed records may also be available through interlibrary loan. Other useful resources may be found by clicking on "Marriage Records" in the site index on the Library's Web site, and by searching the online catalog for published abstracts of early marriage records.

The shortage of ministers in Virginia during and after the American Revolution made it difficult for Virginians, especially those living in the state's western regions, to be married by Anglican ministers. As a result, marriages were performed by those who did not have authority to perform the marriage ceremony. In the 1783 "Act to Authorize and Confirm Marriages in Certain Cases," the General Assembly validated these marriages and empowered the county courts to name a justice of the peace to perform the marriage ceremony.

The General Assembly issued a comprehensive marriage act in 1792, fines and fees were stated, and any marriages defined within the degrees of consanguinity (or familial kinship) would be made null and void by the High Court of Chancery. The degrees of consanguinity were based on English ecclesiastical court standards. It became a felony to commit an act of bigamy or to kidnap and marry a widow or a woman under the age of consent against her will and that of her parents. During the 1847–1848 session, the General Assembly passed an act entitled "Of Offences Against Chastity, Morality and Decency," which established fines for numerous offenses including adultery, fornication, bigamy, cohabitation, interracial marriages, and marriages within the degrees of consanguinity. Fines and punishments were also listed for clerks and ministers who failed to comply with the state's marriage laws.

## Resources

Copies of surviving marriage records prior to 1853 are available at the Library of Virginia. To determine whether marriage records are available for the county you are researching, consult the archivist on duty or check the Library of Virginia's online *Guide to Virginia County and City Court Records on Microfilm*.

Marriage records, particularly marriage by publication of banns, were recorded in church registers. The Library of Virginia's church records collection includes records of marriages from several denominations, as well as independent clergy records. Visit the Library's Web site and consult the Archives and Manuscripts catalog to search for church records. The published *Guide to Church Records in the Library of Virginia* also lists holdings by denomination. In some cases, the only record of a marriage was the minister's return and the marriage register kept by the church.

A ready-reference notebook with abstracts of Virginia marriage and divorce laws, 1621–1853, is available in the Archives Reading Room. Researchers interested in marriage laws may also wish to consult *The Statutes at Large*, 13 vols. (1819–1823; reprint, 1969); the *Acts of the General Assembly of Virginia*, 1838–1853 (Film 358a); *The Statutes at Large of Virginia, from October Session 1792 to December Session 1806*, 3 vols. (1835–1836; reprint, 1970); Session Laws, 1660–1837 (Film 358); and *The Laws Respecting Women* (1777; reprint, 1974). Marriage statistics for some counties were collected by the secretary of the commonwealth in 1817, 1827, 1837, and 1838 (Accession 38241).

Secondary sources on Virginia marriage law include George MacLaren Brydon, *Virginia's Mother Church and the Political Conditions Under Which it Grew* (1947); Hugh Jones, *The Present State of Virginia* (1724; reprint, 1956); Robert Baylor Semple, *History of the Baptists in Virginia* (1972); and Robert Wheeler, "The County Court in Colonial Virginia," in *Town and Country: Essays on the Structure of Local Government in the American Colonies* (1978).

Marriage records and accounts of weddings allow researchers to reconstruct family histories and understand the past better. Moreau de St. Mary, who visited Norfolk in the 1790s, noted that couples were often married in the home of the bride. While the ceremony did not last long, the dinner afterward was a memorable affair (as described in *A Poetical Picture of America* [1809]): "Singing and dancing took place, then everyone sojourned into the supper room. The young people approached the head of the table where chickens, oysters, tarts, fruit cakes, syllabubs, confections, trifles, and floating cream were awaiting." Marriages could be exciting occasions, offering guests respite and relaxation from their daily lives. Among the many useful sources on Virginia marital customs are:

- Jane Carson, *Colonial Virginians at Play* (1965; reprint, 1989) and *Travelers in Tidewater Virginia, 1700–1800: A Bibliography* (1965)
- Edmund Sears Morgan, *Virginians at Home: Family Life in the Eighteenth Century* (1952)
- Nuran Cinlar, "Marriage in the Colonial Chesapeake, 1607–1770, A Study in Cultural Adaptation and Reformulation" (Ph.D. dissertation, John Hopkins University, 2001)
- Julia Cherry Spruill, *Women's Life and Work in the Southern Colonies* (1938; reprint, 1972)
- Brenda Stevenson, "All My Cherished Ones: Marriage and Family in Antebellum Virginia" (Ph.D. dissertation, Yale University, 1990)

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