

West Virginia Archives & History NEWS

VOLUME V, No. 4 JUNE 2004



WEST VIRGINIA
DIVISION OF
CULTURE & HISTORY

From the Editor:

Please pardon the noise and the dust in the Cultural Center, home of the West Virginia Archives and History Library. Renovations necessary for constructing the completely redesigned State Museum are underway, including the use of jackhammers inside the building. The Library will remain open throughout the months of construction. However, if you are planning to travel to Charleston to visit us in person, you probably should call ahead to confirm that we will be open the days of your visit, just in case something unforeseen happens. We have always advised travelers to check with us before coming under ordinary circumstances, and we especially urge you to do so now. We do not anticipate problems, but we can not guarantee that the Library will not be affected by the construction.

Early Marriage Laws In Virginia/West Virginia

by Susan Scouras

“The marriage of John Laydon and Ann Burrus was the first solemnized in Virginia, and it is probable that their daughter Virginia was the first child born in the colony.” So writes W. G. Stanard in “Abstracts of Virginia Land Patents,” *Virginia Historical Magazine*, Volume 5, 1898. The marriage took place in 1608, and in 1636 John Laydon was granted 200 acres of land “for the personal adventure of himself and his wife into this Colony,” an act thought to be in recognition of the significance of this marriage as the first in Virginia. (Also in 1636, Laydon was awarded an additional grant of 500 acres, possibly in recognition of his daughter’s birth as the first among the colonists in Virginia.) Then, as now, marriage was regarded as a vital event, both in social and legal terms. Surprisingly to many, marriage was not always of religious importance. While the Church of England was the official religion of the colony of Virginia, exception was made for specific religious groups who did not require religious sanctification of the union

of a man and a woman as husband and wife, seeing marriage as a secular matter.

Some of the earliest laws enacted in the colony of Virginia were concerned with marriage. References to articles about marriage take up three full columns in the *Virginia Historical Index*, by E. G. Swem. For over three centuries various governing bodies, whether colonial, county, city or commonwealth, have paid great attention to the definition and regulation of parties eligible to be married, of ministers and others authorized to perform marriages, of fees to be charged by ministers and clerks, of recording requirements, of bonding and licensing, etc.

An act in 1628 forbade marriages “without lycence or asking in church.” In 1632, in the same group of acts that empowered church wardens to collect penalties of one shilling for each unexcused absence from church and that required ministers to preach one sermon every Sunday, it was stated that “noe mynister shall celebrate matrimony

betweene any persons without a facultie or lycence graunted by the Governor except the banes of matrimony have beene first published three severall Sondayes or holidayes” in a church located where the parties lived. The act forbade marriages to be performed “at any unseasonable tymes, but onlie betweene the howres of eight and twelve in the forenoone,” and required consent of parents or guardians for parties under 21. Also in 1632, an act was passed requiring all preaching, administration of communion, baptizing of children and marriages to be performed in the church, “except in cases of necessitie.” [*The Statutes at Large; Being a Collection of all the Laws of Virginia*, Volume I, by William Waller Hening, 1823.]

Laws pertaining to punishment of indentured servants who married in secret without the permission of their master or widowed mistress (implication being that if the master were alive, the mistress’s consent alone was not acceptable)—and were

Continued on page 2

discovered—were enacted in the 1642 and 1657 Virginia Grand Assembly sessions. The 1642 act punished male indentured servants by adding one year to their servitude, female indentured servants by doubling the time of their service, and freemen who secretly married indentured females by doubling the value of the woman’s service and by requiring payment of a fine of 500 pounds of tobacco to the parish. The 1657 law reduced the penalty for females to an additional year of service, and eliminated the fine for freemen. Free women are not mentioned. The marriages themselves were not invalidated. There were additional consequences for unlawful unions, in or out of wedlock, that produced a child. [*Laws of Virginia*, Volume I, Hening, 1823.]

In 1661, the Grand Assembly enacted a law requiring the posting of bonds as a remedy to problems caused by persons marrying outside their home parishes where their marital status and character presumably were known, and by the fact that most licenses were issued by the governor, “whose knowledge of persons cannot possibly extend over the whole country.” The purpose of bonding was to insure against any legal action should the marriage not take place due to either party declining to go through with the union, or should one of the parties be found ineligible for marriage, the prime reasons for ineligibility being that the groom or bride was already married to someone else, or was underage and lacked parental approval to wed.

The law stated that “all persons desiring lycences for marriage shall first repaire to the clerke of the county court and there give bond with sufficient security that there is noe lawfull cause to obstruct their said marriage and that upon receipt of such bond the said clerke shall

write the lycence and certifie to the first in commission for that county, or such other when it shall please the governor to depute that he hath taken bond as aforesaid who by vertue thereof shall signe the said lycence and direct the same to the minister.” The actual amount required for a bond was not specified. The county sheriff or other collector for the county was to be given a copy of each licence in order to collect the fees and remit them to the proper officers.

I used a couple of currency calculators on the Internet to convert pounds and shillings in the year 1661 to modern day British currency, then to convert the British pounds to American dollars. According to my estimates, the following fees were to be paid in sterling or in tobacco:

Governor	\$150.00
Secretary	\$30.00
Clerk	\$37.50
Minister	\$150.00
	(marriage by license)
Minister	\$37.50
	(marriage by banns)
A marriage cost	\$255.00 to \$367.50
in fees alone, not counting the bond!	

As an interesting side note, a law passed later in that same 1661-62 Grand Assembly forbade the firing of guns at marriages or at “drinkings” (but allowed gunfire at burials), since the gunfire had to serve as alarms for Indian attacks, and celebratory gunfire led to uncertainty in the surrounding area as to what was happening. This revised a 1655 act that was essentially the same in banning indiscriminate firing of guns due to drinking, but had allowed firing of guns at both marriages and burials. [*Laws of Virginia*, Volumes I and II, Hening, 1823.]

Apparently earlier efforts did not suffice to reduce the instances of unlawful or unsuitable marriage, as shown by an act passed in 1670, requiring that a marriage license be

issued only by the clerk of the county in which the prospective bride and her parents or guardian lived, with the personal consent of her parent or guardian. A clerk who did not abide by this law would forfeit his position. The justification for the law was that complaints had been made that “diverse persons to the defeating [of] the law and defrauding [of] parents and guardians of that naturall right and just privilege in disposing of their children or orphans in marriage, have clandestinely procured the clerke of other counties then that the parents live in, to give them certificates for lycences, and soe the parents by the inequality of the match dishonoured, and the child ruynated in her fortunes.” [*Laws of Virginia*, Volume II, Hening, 1823.]

Those of us who have experience with the history and genealogy of the frontiersmen know that accomplishing a legal marriage was sometimes difficult in the area now known as Appalachia, including modern West Virginia and Eastern Kentucky. Colonial Virginia and the early Commonwealth of Virginia passed many laws regulating the who, when and where of how marriages could be performed. For many years only marriages performed by a recognized, licensed minister of the Church of England were accepted as legal marriages, making it difficult to marry in wilderness areas with few churches (even fewer of which had full time pastors), particularly when the law required a minister to read the banns for three Sundays.

Although many aspects of the law were liberalized over time, specific exceptions were still required for “the western waters” as late as 1792, as demonstrated in a law enacted that year: “[A]ll publications of the bans of matrimony on the western waters of this commonwealth, shall be made on three

Continued on page 3

several days, and not in less time than two weeks, in open and public assemblies, convened for religious worship or other lawful purposes, within the bounds of the respective congregations or militia companies in which the parties to be married severally reside; and for a certificate of such publication, the person making same, may demand and receive fifty cents." Inability or refusal to be married by a licensed minister was addressed in two ways. Itinerant ministers, those "not stated and settled within some parish, or with some christian congregation within this commonwealth," were not to be given official credentials. Marriages among "the people called quakers and menonists, or any other christian society" that had their own practices for uniting couples were recognized as legal in an act of 1780, and reaffirmed in 1792. The 1792 act also declared legal any otherwise lawful marriages performed before July 1, 1785, by magistrates and others not authorized by law but "induced by the want of ministers to solemnize marriages," then waived any penalties for those who had performed such marriages. [*Laws of Virginia*, Volume X (1780), Hening, 1822, and *Statutes at Large of Virginia*, Volume I (1792), by Shepherd, 1835.]

Throughout the 17th and 18th centuries, Virginia legislative bodies periodically enacted, reenacted and reinforced every aspect of marriage law, including requirements for ministers and clerks to record all marriages, births, baptisms and/or deaths in each parish and to turn in copies of their lists to the governor. Some of these parish records survive today and serve in place of or in addition to actual county government vital records.

The 1780 act, "An act declaring what shall be a lawful marriage," was the earliest I found that specifically

required those who performed marriages to record those marriages directly with the county clerk: "And that a register of all marriages may be preserved, *Be it enacted*, That a certificate of every marriage hereafter to be solemnized signed by the minister celebrating the same, or in the case of quakers, by the clerk of the meeting, shall be by such minister or clerk, as the case may be, transmitted to the clerk of the county wherein the marriage is solemnized,

within three months thereafter, to be entered upon record by such clerk, in a book to be by him kept for that purpose, which shall be evidence of such marriage." Thus began the series of county marriage register ledger books with which most of us are familiar, as well as a potpourri of license applications, parental consent notes, minister's returns and marriage bonds. [*Laws of Virginia*, Volume X, Hening, 1822.]

To read the full text of two examples of early Virginia marriage laws, visit our Web site at <http://www.wvculture.org/history/marriagelaws.html>.

New Titles

(Many others listed under Donations this issue.)

The Wheeling Blue Book: 1901-02 edition, 1901.

The Tree Army: A Pictorial History of the Civilian Conservation Corps, 1933-1942: Stan Cohen, 1999, c1980.

The Buckhannon Presbyterian Church: 150 Years in Review, 1849-1999: The Church, 1999.

Assessment of Channel Geometry Data Through May 2003 in the Mid-Atlantic Highlands of Pennsylvania, Maryland, Virginia and West Virginia: U.S. Geological Survey report 03-388: Kimberly F. Miller, 2003.

A Search for the Immigrant Ancestors of Frances Lou Cunningham: Vincent Beckley Roberts, 2004.

Hidden Sources: Family History in Unlikely Places: Laura Szucs Pfeiffer, 2000.

The Family Nunnery: Nunnalee, Nunnally, Nunley, Nurney: Mary Frances Nunnery, 2003.

Brooke County (WV) Index: Volumes 19-26: Gwendolyn Mackey Hubbard and Bobbie Britt Elliott, 2004 [county court order book transcriptions].

Brooke County (WV) Index: Special Cumulative Edition: Volumes 1-26 and Volumes 54-57: Kenneth Fischer Craft, Jr., Gwendolyn Mackey Hubbard and Bobbie Britt Elliott, 2004 [index to transcription books].

Epling/Eplin: Volume III: Robert Louis Massard and Debra Kay Cyprych, 2003.

The Hering Clock, Its Owners and Their Families: Mary Michele and Timothy Taylor Hering, Jr., 2003.

Donations

The following titles were donated by **Barbara Jean Cochran**, South Charleston, WV, in memory of her daughter, **Tracie A. Burton**.

The Gray Riders: Stories from the Confederate Cavalry: Lee Jacobs 1999.

The Death of Reconstruction: Race, Labor, and Politics in the Post-Civil War North, 1865-1901: Heather Cox Richardson, 2001.

The Confederate Nation, 1861-1865: Emory M. Thomas, 1979.

Continued on page 4

Confederate Chaplain, a War Journal: James B. Sheeran, 1960.
The Many Faces of the Civil War: Irving Werstein, 1961 [juvenile literature].
Generals of the Civil War: Michael Golay, 1997.
When Will This Cruel War Be Over? The Diary of Emma Simpson, Gordonsville, Virginia, 1864: Barry Denenberg, 1996 [juvenile fiction].
Confederate Generals: Life Portraits: George Cantor, 2000.
Civil War: Strange and Fascinating Facts: Burke Davis, 1994.

The following titles, all marriage books for Virginia counties, were donated by **Mining Your History Foundation**, a statewide genealogy and local history society, whose three main goals are networking among similar organizations throughout the state, dissemination of information about West Virginia groups on a national basis, and support of the West Virginia State Archives through donations and volunteer hours. For more information on MYHF, visit <http://www.rootsweb.com/~myhf/>.

Alleghany County, Virginia Marriages, 1822-1854: Alleghany Highlands Genealogical Society, 1994.

Bath Parish Register (Births, Deaths & Marriages), 1827-1897 of Dinwiddie County, Virginia and St. Andrews Parish Vestry Book, 1732-1797 of Brunswick County, Virginia: William Lindsay Hopkins, 1992.

Marriages of Pittsylvania County, Virginia, 1862-1875: Mike K. Williams, 1988.

Marriages of Norfolk County, Virginia, 1851-1865: Volume V: Elisabeth Baum Hanbury, 1997.

Lee County, Virginia Marriage Register 2: 1853-1884: Elizabeth M. Carpenter, [no date].

Wise County Virginia Marriage Register, 1856-1886: John C. Mullins, 1981.

Highland County, Virginia 1860 Census and Marriages 1853-1860: Holly Wanless Cochran, 2000.

The Marriage Register of Henry County Virginia: Volume I, 1853-1878 and Volume II, 1879-1893: Anne Vestal-Miller, 1998.

Caroline County, Virginia Court Records & Marriages, 1787-1810: William Lindsay Hopkins, 1995, c1987.

Grayson County Marriage Register No. 1: Nancy Clark Baker, 1981.

Grayson County Marriage Register No. 2, Part 1, 1853-1882: Jeffrey Craig Weaver, 1990.

Grayson County Marriage Register No. 2, Part 2, 1883-1898: Jeffrey Craig Weaver, 1992.

Floyd County, VA Ministers Returns, 1840-1863: Marvin U. Neighbors, 1988.

Bland County, Virginia Marriages, 1861-1929: Jo An Tickle Scott, [no date].

Marriage Bonds and Ministers' Returns of Chesterfield County, Virginia, 1816-1853: Benjamin B. Weisiger, III, 1981.

Bland County, Virginia Marriages, 1861-1899: Robert Hetherington, 2001.

Marriage Records of Gloucester County, Virginia, Book 1: 1853-1895: L. Roane Hunt, 2001.

Marriage Records of Accomack County, Virginia, 1854-1895: Recorded in Licenses & Ministers' Returns: Barry W. Miles and Moody K. Miles, III, 1997.

Alexandria County (Arlington), Virginia Marriage Records, 1853-1895: Wesley E. Pippenger, 2000, c1994.

Alexandria, Virginia Marriages, 1870-1892: Wesley E. Pippenger, 1994.

"The Ghosts of the Civil War" in Parkersburg

Haunted Parkersburg, an organization which regularly conducts the Haunted Parkersburg Ghost Tour, is presenting its annual Haunted West Virginia Ghost Hunters and Spirituality Conference in Parkersburg on August 6, 7 and 8, 2004. Civil War buffs, regardless of their viewpoints on ghosts, may be interested in the Civil War encampment, reenactors and parade that are scheduled as part of this year's activities.

For additional information, visit www.hauntedparkersburg.com.

Hacker's Creek Pioneer Descendants 22nd Annual Gathering August 12-15, 2004

Hacker's Creek Pioneer Descendants will be celebrating "The Good Old Days" with workshops, library research, local tours, food and fun. Workshops include:

- *Research Aids and Putting Your Family Tree Together*, led by Paul Petit.
- *Immigration Patterns and Central West Virginia*, with David Houchin.
- *History of the Lower Tygart Valley*, discussed by Carolyn Fortney Hamilton.
- *Family Tree Maker Seminar*, an all-day class taught by John Hines and Dave Heise.

Joy Stalnaker will lead tours of the Weston State Hospital building and grounds and of the Hacker's Creek area.

For information about registration, fees, lodging and activities, visit <http://www.hackerscreek.com>, e-mail hcpd@hackerscreek.com, call (304) 269-7091, or write HCPD, 45 Abbotts Run Road, Horner, WV 26372.

Continued on page 5

Marriages of Caroline County, Virginia, 1777-1853: Therese Fisher, 1998.
Implied Marriages of Russell County, Virginia: Maiden Names of Wives Mentioned in the Wills and Deeds of Russell County Prior to 1860, and in the Earliest Records of Lee and Scott Counties, Formed From Russell in 1793 and 1814 Respectively: Mary D. Fugate, 1991.

Marriages of Patrick County, Virginia, 1791-1850: Lela C. Adams, 1984, c1983.

York County, Virginia Marriages: Volume I, 1769-1853: Michael Pollock, 1994.

Abstracts From Norfolk City Marriage Bonds (1797-1850) and Other Genealogical Data: George Holbert Tucker, 2001, c1934. Note: In addition to marriage bonds, includes baptismal records and burial list of Christ P. E. Church, 1809-1816.

King George County, Virginia Marriages: Volume 1, Marriage Bonds Book, 1786-1850: Elizabeth Nuckols Lee, 1995.

Index to the Fairfax County Virginia Register of Marriages, 1853-1933: Constance K. Ring, 1997.

Clarke County Marriages, 1836-1850: John Vogt and T. William Kethley, Jr., 1983.

Wise County Virginia Marriage Register, 1901-1904: Larry Taylor, 1994.

Scott County, Virginia Marriage Register 1: Rhonda S. Roberson, [no date].

Marriages of Pittsylvania County VA, 1831-1861: Mike K. Williams, 1990.

Wes Cochran, the prolific transcriber and indexer from Parkersburg, WV, continues to donate a copy of each of his new titles to the West Virginia Archives and History Library, as well as a monetary donation to cover the cost of binding his works. Wes is a member of the Mining Your History Foundation (MYHF) Board of Directors, currently MYHF President, and editor of *Mountain News*, the MYHF newsletter.

Don't Throw It Away!

If you are cleaning out pamphlets, books, old West Virginia newspapers and magazines, city directories and telephone books, photographs, post-cards, letters, etc., please check with Archives and History staff. You may have items we can add to the Archives Collection. Items do not have to be very old to be of interest to us.

We are always interested in hearing about your finds; however, please do not send items to us without checking with us by mail or phone. Items we have accepted over the years from yard sale or flea market scavengers include community festival programs, scrapbooks, high school yearbooks, church histories and directories, business ledgers, glass catalogs, and tourism brochures.

We have gladly taken in copies of several volumes of Comstock's West Virginia Heritage Encyclopedia, as well as West Virginia-related biographies, histories and maps, all having been found in book sales of area libraries and charitable organizations. We are interested in duplicate copies of some items and in each edition of a title for the collection, so often we are grateful to acquire additional copies of things already in the library.

Calendar of Events

Please check our web site

www.wvculture.org/history

for Genealogical and historical society meeting announcements,
 and for more complete information on activities listed below.

WEST VIRGINIA STATE MUSEUM CLOSED FOR RENOVATIONS

Reopening date will be announced at a later time.

The Cultural Center, Charleston.

HAUNTED WEST VIRGINIA CONFERENCE

August 6, 7, and 8 - Parkersburg

HACKER'S CREEK PIONEER DESCENDANTS ANNUAL GATHERING

August 12-15 - Horner

LABOR DAY, September 6 - The Archives Library will be *closed*.

**Only the Archives Library will be staffed--all other Archives offices will be closed.* The West Virginia Library Commission Library in the Cultural Center is closed weekends and all holidays.

Permission to reprint articles from *West Virginia Archives and History News* is granted, provided:

(1) The reprint is not used for commercial purposes, and (2) the following notice appears at the end of the reprinted material: Previously published in *West Virginia Archives and History News*, [Volume and issue numbers], [Month, Year], a publication of the West Virginia Division of Culture and History.

West Virginia Division of Culture and History
 The Cultural Center
 1900 Kanawha Boulevard East
 Charleston, WV 25305-0300

West Virginia
Archives & History
NEWS



We would love to hear from you.
 Let us know what you find helpful in the newsletter, and
 what new topics you would like covered.
 Contact *West Virginia Archives and History News* Editor
 Susan Scouras, (304) 558-0230, Ext. 742,
 or by e-mail: susan.scouras@wvculture.org.

Archives and History Staff

- Fredrick Armstrong** Director
- Debra Basham** Archivist (photographs, special collections)
- Constance Baston** Researcher (Veterans Memorial Archives)
- Greg Carroll** Historian (Civil War, Native American history)
- Dick Fauss** Archivist (microfilm and moving images collection)
- Elaine Gates** Library Assistant (microfilming and microfilm repairs)
- Joe Geiger** Assistant Director (historian, web page)
- Ed Hicks** Photographer (archival photography, darkroom)
- Mary Johnson** Historian (*West Virginia History*)
- Terry Lowry** Library Assistant (Civil War)
- Cathy Miller** Library Assistant (State documents, periodicals)
- Sharon Newhouse** Secretary
- Harold Newman** Library Assistant (microfilming, Revolutionary War)
- Pat Pleska** Manager of the Veterans Memorial Archives
- Susan Scouras** Librarian (cataloging, Kentucky, library collection, newsletter editor)
- Jaime Simmons** Library Assistant (records of the 1700's and early 1800's, Pennsylvania)
- Bobby Taylor** Library Manager
- Nancy Waggoner** Office Assistant
- Working on special projects** Allen Fowler
- Volunteers** Carolyn Conner, Bill Kelley, Angela Tolbert, Bob and Lucile Foster,
 John McClure, Carol de la Riva and Lorene Mullins
- Summer Intern** Chad Proudfoot