

# Docent Dispatch

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By Fairfax Circuit Court Historic Records Center



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#### CARLYLE HOUSE

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For most people in Colonial Fairfax County, Christmas was a simple affair – mandatory church in the morning and a celebratory meal (if they could afford it) in the afternoon. Church was an integral part of the colonists' daily lives. There was no formal separation of Church and State: the ruling monarch of Great Britain was head of both institutions, and used these offices to keep order throughout the British Empire. In this month's *Found in the Archives*, we look at how Church and State operated together in Colonial Fairfax.

The Anglican Church in Colonial America had to be self-sustaining, as the Church of England did not supply any funds to build or maintain churches in the colonies. One way to construct a church was to sell pew deeds. These deeds gave the pew purchaser and his family the right to sit in his pew during his lifetime. The church vestry used the purchase money for construction costs. The Historic Records Center has two pew deeds for Pohick Church, which was in Truro Parish. Church parishes were also expected to raise operating funds to provide a living for their vicar and his subordinates, and to raise charitable funds to care for the poor and needy within the parish. In Colonial Virginia, the Church's operating and charitable income largely came through court fines from particular types of Commonwealth prosecutions. In this way, the Church and the Colony had an intimate connection.

In 1705, the General Assembly in Williamsburg passed '*An act for the effectual suppression of vice, and restraint and punishment of blasphemous, wicked, and dissolute persons.*' The Act deemed atheism (belief in no god), polytheism

(belief in many gods), swearing, intoxication, non-attendance at church, working on a Sunday, adultery and fornication to be unlawful. The residents of each parish, and the parishioners of each church, were tacitly expected to police each other, and inform on lawbreakers. The Commonwealth of Virginia would prosecute suspected wrongdoers in the county courts. In 1744, the General Assembly declared that the Act was 'found insufficient to restrain and discourage wickedness and vice' due to the law's complexity, and so the legislators amended it. The clauses concerning atheism, polytheism and working on a Sunday were repealed, and the other areas adjusted.

The Court's 18th century Court Order and Minute Books contain many "presentments" for not attending church, such as this entry showing charges against John and Daniel Loftlin, for failing to attend Truro services. In order to be fined for non-attendance, a person had to have been 'wilfully absenting him, or herself from divine service, at his or her parish church or chapel, the space of one month.' This action had to have been witnessed by at least one credible person in the parish. You could be exempted from punishment if you could provide a witness to verify that you had worshipped elsewhere. Christian dissenters from the Church of England could attend services in their own houses of worship; Catholics could not. Violators of the church attendance laws were always identified by their parish, and it was the parish that received the fines, which were either 5 shillings or 50 pounds of tobacco, per offense. Failure or refusal to pay could result in ten lashes to the back 'well laid on'.

Still on the Virginia law books today, at §18.2-388 and §18.2-427, profanity in public was considered a crime, and blasphemous swearing was a common cause for presentment by 18th century Fairfax Grand Juries. In November 1769, John Cannon was charged with uttering ten profanities; if found guilty, the maximum fine allowable would have been 20 shillings (or the commensurate 200 pounds of tobacco). And, again, failure to pay could have cost him 20 lashes with the whip. To compound Cannon's troubles, he was drunk 'on the Sabbath day', an action looked at rather darkly by his vicar and the parishioners of Fairfax Parish.

According to our court records, another man, Thomas Baylis, was a repeat offender, being charged with 'drunkenness and profane swearing' three times, in as many years. The Minute Book entry above tells us that he failed to appear for one of the Commonwealth's presentments, resulting in an additional fine of 10 shillings 'for the use of the poor of [Truro] Parish'.

The Church, under the auspices of the Colonial government, prosecuted many different kinds of behavior which were considered improper for a Sunday. In 1761, John Hurst, Sr., was prosecuted for using his stallion's services as a stud horse for a brood mare on a Sunday, in view of the congregation enjoying a service at the Falls Church. It is easy to understand that this might have been distracting. The Court found this charge had merit.

Gaming on a Sunday was also deemed inappropriate. In March 1753, John West, Abraham Barnes, Baldwin and Townshend Dade, Michael Hall and John Bayley were fined £5 each, for illegal gaming. The size of the fine was a small fortune, the equivalent of 100 shillings, a sum well out of reach for most Fairfax County residents. These particular residents were wealthier than most, which might account for the amount of their fines, rather than the enormity of their crime.

Edward Violet was charged with keeping a 'disorderly House' on Sunday. This does not mean his house was untidy. In Colonial Fairfax, a disorderly house could mean a rowdy drinking or gaming establishment, a venue for anti-establishment meetings or even a brothel.

Morality-based presentments were not limited to men; the entry at left is for Dorcas Towers, a woman. Dorcas was charged with profane swearing during the early Federal period, in the same year that our Historic Courthouse was constructed. The Federal period marked a dramatic shift in the relationship between Church and State. Dorcas' 1799 presentment entry does not state her parish, perhaps because the Anglican church had been dissolved in Virginia, as a consequence of the Revolution, and replaced by the Episcopal Church. Local churches no longer had any jurisdiction over the laws governing the morality of the people of Virginia, and so, the courts fulfilled State functions and administered these laws.

In our court records, women were mostly charged with adultery, fornication (before marriage) and having a 'baseborn' (out-of-wedlock) child. These kinds of charges had catastrophic effects on women's lives, and we will explore this further in a future *Found in the Archives*.

*For more information on these and other records held at the Fairfax Circuit Court Historic Records Center, please call 703-246-4168 or email [CCRHistoricRecords@fairfaxcounty.gov](mailto:CCRHistoricRecords@fairfaxcounty.gov).*

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