

# A Research Guide to Virginia's Historical Records

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I've never talked about a single book before. And since I'm writing it, this can't be a review. And so it isn't. What it is, is a preview, (see after, for sample pages from VITAL RECORDS) and unless it encompasses major additions or rewrites, it's in time to get something added. So to focus—we'll start with an explanation of its purpose.

Introduction: What This Is and What This Isn't

Then we'll continue with a review of the topics and materials that will be covered.. I'm leaving space in each category for you to take notes and then send them to me if you so desire.

What have I missed that you expected or wanted? What do you think is unnecessary? I'll listen, but I reserve the right to disagree.

Since I can't cover 600-plus pages in an hour, I can't ask you what you don't understand about my explanations, but I can ask you to note any word I use this evening that you didn't understand. I'll add that to the glossary.

Virginia Geography: Its Impact on Settlement and Migration

Record Loss

State Government: Company, Colony, and Commonwealth

Censuses

Land

Colonial Land Records

Northern Neck Proprietary

Virginia Land Office

Courts and the Law

Local Government Records: County and Municipal

Vital Records

Probate and Inheritance

Local Land Records

Taxes

Women, Children, Apprentices, and Indentures

Religion

Business and Industry: Their Records

Military Records

Institutions and Their Records

Aliens, Immigrants, and Migration In and Out

African American and Native American

Appendix

Bibliography: General Reference

Definitions

# VITAL RECORDS

## COLONIAL PERIOD

As early as March 1631/2 the law required that “the minister of the church keep a book in which he records the day and year of every christening, wedding, and burial.”<sup>1</sup> That this was done sporadically at best is apparent from the number of re-enactments of the laws and increase in penalties for noncompliance.<sup>2</sup> Unfortunately, the fees established for recording such events were counterproductive and many were not reported.<sup>3</sup> There are sometimes missing events even among families who appear in the records.

The records that survive have been published. (See RELIGION: Parishes.) Other sources for colonial records include bible records, individual minister’s and church records, records kept by dissenting religions and coroner’s inquisitions (See LOCAL GOVERNMENT RECORDS). Few tombstones from the colonial period survive. Account books or other records found in family and business record collections will sometimes contain records of births and deaths including the enslaved.

The first oversight of death was established in March 1661/2 with the requirement that “Neighbors were to be called in to view the corpse in case of suspicion of ill-treatment or murder.”<sup>4</sup>

Under common law, a prior marriage, being under twelve for females and fourteen for males, or under age twenty-one without consent,<sup>5</sup> or want of reason (a lunatic), was a bar to legal marriage.<sup>6</sup> Under canon law consanguinity or relation of blood and affinity or relation by marriage could void a marriage. Under Virginia

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<sup>1</sup> William Waller Hening, *The Statutes at Large; Being a Collection of All the Laws of Virginia . . . 1619–1792*, 13 vols. (1819–1823; reprint, Charlottesville: University Press of Virginia, 1969), 1:155, 158.

<sup>2</sup> Hening, *Statutes*, 1:180, 182–183, 241, 433, 542, 2:54.

<sup>3</sup> Hening, *Statutes*, 1:160, 3:153.

<sup>4</sup> Hening, *Statutes*, 2:53.

<sup>5</sup> A widow or widower is assumed to be emancipated. The father’s consent was required; if not living, the mother could grant consent. St. George Tucker, *Blackstone’s Commentaries: With Notes of Reference to the Constitution and Laws of the Federal Government of the United States and of the Commonwealth of Virginia*, 5 vols. (1803; reprint, Union, N.J.: Lawbook Exchange, 1996), 2:437.

<sup>6</sup> Since marriage was considered a contract either could at age fourteen deny the act even though it was with parental consent and the marriage would be considered void. Underage widows did not have to have parental consent. St. George Tucker, *Blackstone’s Commentaries: With Notes of Reference to the Constitution and Laws of the Federal Government of the United States, and of the Commonwealth of Virginia in Five Volumes* (Philadelphia: William Young Birch and Abraham Small, 1803), Volume 2 (Book 1, part 2): 435–440.

law these were not void, but were voidable by the General Court upon a bill for that purpose from the attorney general.

That if any person whatsoever shall hereafter marry within the levitical degrees prohibited by the laws of England, that is to say, if the son shall marry his mother or step-mother, the brother his sister, the father his son's daughter, or his daughter's daughter; or if the son shall marry the daughter of his father, begotten and born of his step-mother, or the son shall marry his aunt, being his father's or mother's sister, or marry his **uncle's wife**, or the father shall marry his son's wife, or the brother shall marry his brother's wife, or any man shall marry his wife's daughter, or his wife's son's daughter, or his wife's daughter's daughter, or his wife's sister, every person or persons so unlawfully married, shall be separated by the difinitive sentence or judgment of the general court; and the children proceeding or procreate under such unlawful marriage, shall be accounted illegitimate . . . the general court shall and may proceed to give judgment, and to declare the nullity of such marriage.<sup>7</sup>

First referenced in 1628 under the Virginia Company, marriage licenses were originally issued by the governor<sup>8</sup> and on occasion surviving county fee books will note the name of the groom (but not the bride) when listing the fees paid. A March 1657/8 law included the notation that only ministers could perform marriages.<sup>9</sup> In March 1660/1 the county court was authorized to issue licenses following the posting of a bond.<sup>10</sup> The alternative was the posting of banns—announcing the prospective marriage for three successive times in church. No record of these announcements was typically kept and the only record of the marriage was the parish register, which would, on occasion, include the notation, “by banns.” While the license had to be issued in the county of the bride's residence with the permission of the parent(s) or guardian if she was under age (21),<sup>11</sup> the marriage did not have to take place in that county. The requirement of a license or banns was an effort to ensure that the parties were legally capable of marrying (neither previously married or underage).

By act of 15 April 1691 free white men or women who intermarried with a Negro, mulatto, or Indian man or woman, bond or free, were within three months after such marriage to be banished and removed from the dominion forever.<sup>12</sup>

In October 1705 under what Hening terms the fifth revisal of the law, chapter 48, “An Act Concerning Marriage,” summarizes the laws then in effect.<sup>13</sup> Under chapter 49, “An Act Concerning Servants and Slaves,” interracial marriages were banned. The penalty was six months in prison and a ten pound fine; ministers were fined ten thousand pounds of tobacco for performing such marriages.<sup>14</sup>

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<sup>7</sup> Hening, *Statutes*, 4:244–246. The law had been previously enacted according to the preface but “hath not been duly put in execution.” The acts of 1788 and 1794 include the father his daughter (see Hening, *Statutes*, 12:688; Samuel Shepherd, *The Statutes at Large of Virginia, from October Session 1792 to December Session 1806 Inclusive*, 3 vols. (1835; reprint, New York: AMS Press, 1970), 1:133.

<sup>8</sup> Hening, *Statutes*, 1:130, 241.

<sup>9</sup> Hening, *Statutes*, 1:433.

<sup>10</sup> Hening, *Statutes*, 2:28. However in order to guarantee the Secretary's fees, a yearly account to his office was still required.

<sup>11</sup> Hening, *Statutes*, 2:281, 3:441.

<sup>12</sup> Hening, *Statutes*, 3:86–87.

<sup>13</sup> Hening, *Statutes*, 3:441–446.

<sup>14</sup> Hening, *Statutes*, 3:453–454.

The act of November 1753 Ordered that “whatsoever English, or other white man or woman, being free, shall intermarry with a negroe, or mulattoe man or woman, bond or free, shall, by judgment of the county court, be committed to prison, and there remain during the space of six months, without bail or mainprize.”<sup>15</sup> It was reenacted in 1794. The marriage was not declared void.

☛ While marriage within certain limits of consanguinity (not necessarily always by blood) were defined and banned from the colonial period through the eighteen hundreds, the only case ever brought to the attention of this writer appears in Charles City County court orders for 3 Aug 1694.

Charles Bartholmew being [*at*] the last Court overuled in his plea to the Jurisdicon of the Court pleaded over & sayth That he hath not Married within the degrees prohibited by the Leviticall law But the Court considering his plea doe say they are to give judgm<sup>t</sup> upon the laws of England and of this Dominion and therefore Rest this pleas of the sd Bartholomew and Require him to amend his plea And the Sd Charles Bartholomew pleads the Gen<sup>l</sup> issue Not Guilty in Manner and Forme and hereof putts himself on the Country [*asks for a jury trial*] and Mr Att [*prosecuting attorney*] likewise.

The jury was ordered; their names are listed. “George Robison Clerke Sworn in Court Sayth That he married the sd Charles Bartholomew to the sd Rebecca the 2 day of February 1693 in the County of Henrico.” Testimony of various individuals proving that Bartholomew was married first to Frances and later to Rebecca and that the two were sisters of the half-blood being of the same mother but of different fathers was recorded. The jury returned its verdict as not guilty. Bartholomew prayed judgment upon the verdict and the court ordered that “sd Bartholomew be dismissed without day.” [*finally dismissed*].<sup>16</sup>

☛ It is more than likely that the basis for the decision was the fact that under common law half-siblings were not considered heirs of each other.

## — POST-COLONIAL TO 1853 —

No record of births and deaths was required. In October 1780 any minister of any Christian society including Quaker and Mennoite ministers were authorized to celebrate the rites of matrimony. The law also validated prior marriages made by dissenting ministers.<sup>17</sup> In 1783 county courts were given the power to authorize laymen to perform marriage rites if there were an insufficient number of ministers in the county. Marriages so performed prior to the act taking effect were legitimized.<sup>18</sup> The absence of ministers in western counties continued to be a problem into the 1800s. In 1784 ministers were required to keep a register of marriages and to send a record to the county court within twelve months of performing a marriage.<sup>19</sup>

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<sup>15</sup> Hening, *Statutes*, 6:361.

<sup>16</sup> Charles City Co. Orders, 1687–1695, pp. 510–511.

<sup>17</sup> Hening, *Statutes*, 10:361–362.

<sup>18</sup> Hening, *Statutes*, 11:281–282.

<sup>19</sup> Hening, *Statutes*, 11:504–505.

Note that specific dates were not always listed by the minister and the only date on the return on the right is a penciled 1812 added at some point after the return was recorded.

Albemarle Co  
 April the 10<sup>th</sup> 1791  
 that Day I Married David Hering  
 & Jean Ramsey With License

November the 7<sup>th</sup> 1791  
 that Day I Married Reuben Burgess  
 & Judah Grady With License

December the 13<sup>th</sup> 1791  
 that Day I Married Richard Bradley  
 & Nancy Bullock With License

December the 20<sup>th</sup> 1791  
 that Day I Married Charles Epperson  
 & Sarah Lamb With License

December the 22<sup>d</sup> 1791  
 that Day I Married Martin Breadlove  
 & Elizabeth Carr With License

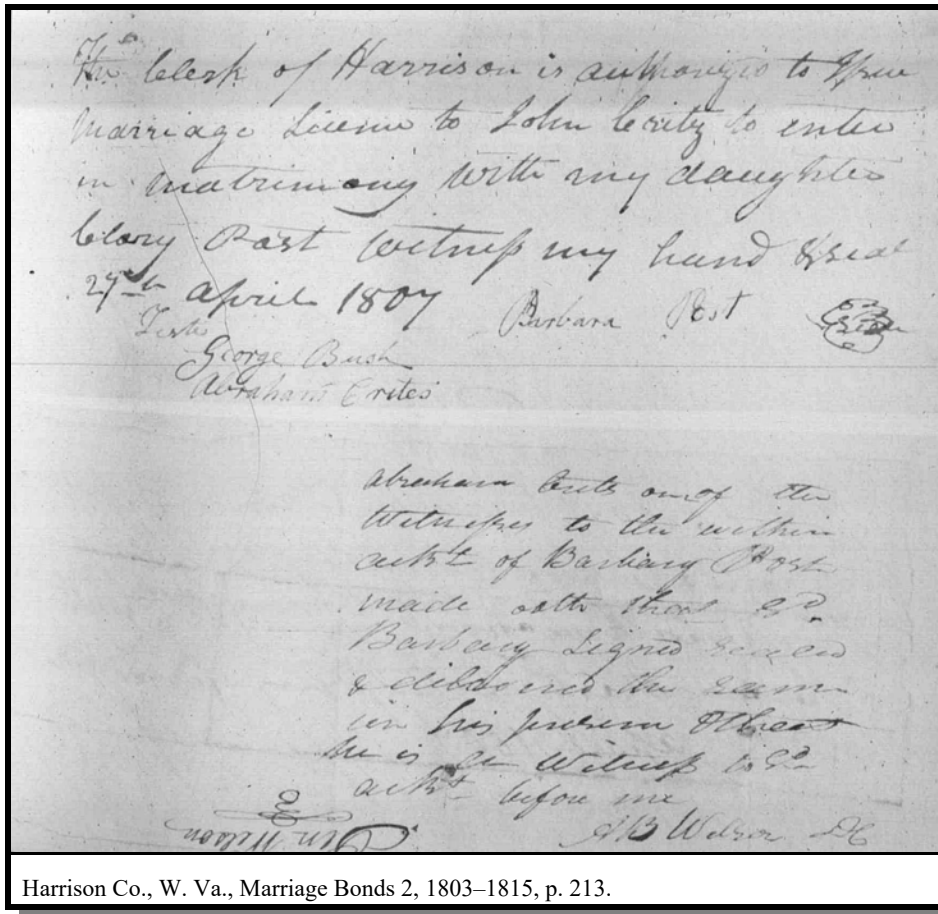
January the 3<sup>th</sup> 1792  
 that Day I Married Henry Stone  
 & Elizabeth Crosthwait With License

verso: Watts Return of Marriages 1791 (sic).  
 Albemarle Co., Various Marriage Records, 1782-1929,  
 Box 1, BC 1114912, Local Government Records  
 Collection, Archives and Manuscripts, Library of  
 Virginia, Richmond.

A return of Lundry marriages  
 that is to say  
 Joseph Hunter to Cynthia Mead. —  
 Reubin Elsom to Elizabeth Dawson. —  
 Thomas Golding to Nancy Harlan. —  
 Mizajh Woods to Sally H. Davinport. —  
 Cornelous Bevely to Polly Carr —  
 James Gentry to Elizabeth Tuley —  
 Thomas Holstiew to Vannah White. —  
 Connon Lively to Lucy Durham. —  
 Thomas Gillack to Aggy Burgess. —  
 Thomas Maupin to Polly Clarkon. —  
 Thomas Jefferson to Polly Lewis. —  
 Jesse Harlan to Abigail Morris. —  
 John W. Lewis to Nancy Vneed. —  
 John Monday to Sally Harper —  
 Turn over

verso: Martin Dawson Return Recorded.  
 Albemarle Co., Various Marriage Records, 1782-1929, Box  
 1, BC 1114912, Local Government Records Collection,  
 Archives and Manuscripts, Library of Virginia, Richmond.

In a 1792 recapitulation of the marriage laws and a repeal of prior laws, permission for underage parties was limited to the “father or guardian.”<sup>20</sup> This was rescinded in 1832.<sup>21</sup> Yet in 1807 Barbara Post, a widow, gave permission for her underage daughter to marry John Crites. No formal application for guardianship has been located in either the county of her father’s death (Hardy County) or her county of marriage. Bible records attest to the bride’s date of birth (30 May 1788) and the father’s date of death (Valentine Post, 27 Oct 1800).<sup>22</sup> The witness, Abraham Crites, was the groom’s brother.<sup>23</sup>



“The Clerk of Harrison is authorized to Issue Marriage License to John Critz to enter in matrimony with my daughter Clory Post witness my hand & seal 27<sup>th</sup> April 1807 [signed] Barbara Post Teste George Bush Abraham Crites

Abraham Crites one of the witnesses to the within act of Barbara Post made oath that s<sup>d</sup> Barbara Signed Sealed & delivered the Same in his presence & That he is a Witness to s<sup>d</sup> act before me [signed] A B Wilson DC”

<sup>20</sup> Shepherd, *The Statutes at Large of Virginia*, 1:132.

<sup>21</sup> “Chapter 39: An act to amend so much of the marriage act as prescribes the mode of obtaining licenses,” *Acts Passed at a General Assembly of the Commonwealth of Virginia, 1831* (Richmond: Thomas Ritchie, Printer for the Commonwealth, 1832), 27.

<sup>22</sup> Clory Post’s Bible, held privately. Copy in author’s possession.

<sup>23</sup> Both Ancestry and FamilySearch have identified Abraham as the groom’s father. However, even without the will and the bible record, Barbara Post’s signature without her husband indicates that he was deceased.