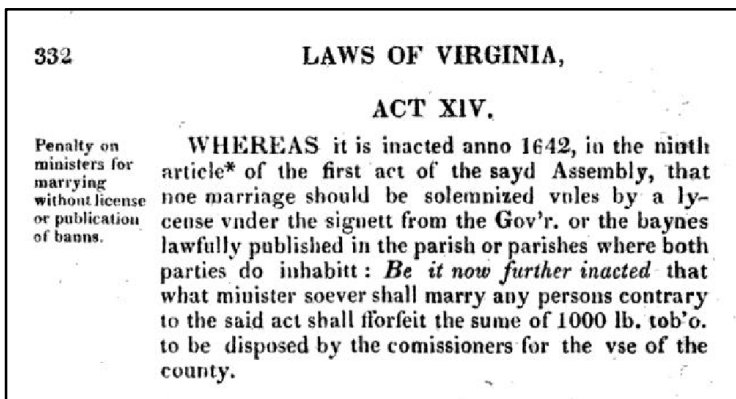




The year 2017 marks Fairfax County's 275th Anniversary – check out www.fairfax275.com for a calendar of upcoming events this fall, all celebrating the County's historic birthday!

The Historic Courthouse plays host to various ceremonies throughout the year, with weddings being the most popular type of event. In this month's *Found in the Archives*, we look at Colonial and immediate post-Revolution marriage documentation found within the Circuit Court's records.

In Colonial Fairfax County, the official religion was the Church of England, also known as Anglicanism. The first Anglican (and Christian) marriages in British North America were those of the Jamestown settlers, the most well-known being the marriage of a newly-baptized Pocahontas to John Rolfe in 1614. As a royal colony, Virginia had no separation of Church and State, and the church actively governed community practices, including marriage.



Beginning in 1619, the governing body of Virginia passed successive acts regulating every aspect of the colonists' lives. These acts were collected and published in the early 1800s by William Waller Hening, a Virginia lawyer and legal editor, in a series of volumes referred to as *Hening's Statutes at*

Large. Most of what we know about Colonial marriage laws comes from these

publications. The *Statutes at Large* show that in 1642, an act was passed that required church ministers to ensure that prospective bride and grooms either had a "lycense [license] under the signett [signature] from the Gov'r" or had their "banns of marriage" read or published at their respective churches for three Sundays preceding their marriage. Banns are essentially notices giving the names of the bride and groom, and the date and place of their marriage. Today, in England, reading the banns is still how weddings are broadcast to the parish; licenses are only required for foreign nationals marrying within the Church of England. By the 1700s,

[Hening's Statutes at Large, Vol. 1, p. 332](#)

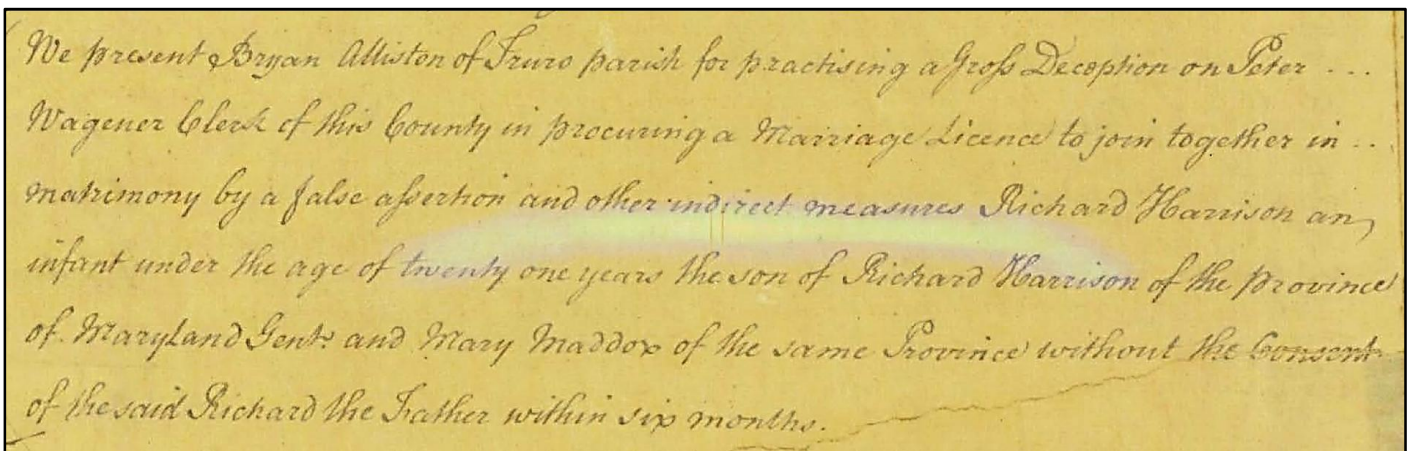
licenses were granted by the County Clerk, not the Governor; this practice continued after the Revolution and marriage licenses are still required by §20-13 of the Code of Virginia.

The purpose of having a license (then and now) or publishing the wedding banns was to make sure the couple were marrying legally. The three-week reading of the banns notice period gave people time to raise concerns about the legality of a marriage. There were three reasons why a marriage may not have been legal:

1. Either party was underage (at that time, under 16)
2. Either party was already married
3. The couple were too closely related

These same impediments still exist in Virginia. Last year, the General Assembly set a minimum age-requirement of 18, and the Virginia Marriage Oath requires applicants to vouchsafe that they are not related to an impermissible degree.

In Colonial Virginia, illegal marriages were taken very seriously by the Church of England. In 1642, ministers found breaking or neglecting the Licensing Act were fined one thousand pounds of tobacco. Only fifteen years later, the fine was ten thousand pounds of tobacco, used to “ease the leavye [levy] of the county.” The massive fine increase may be an indication that illegal marriages were increasing; however, it is more likely that the constantly strapped-for-cash colony was merely trying to increase revenue. Fines changed in size throughout the Colonial era. The courts of post-Revolution Virginia also enforced penalties.

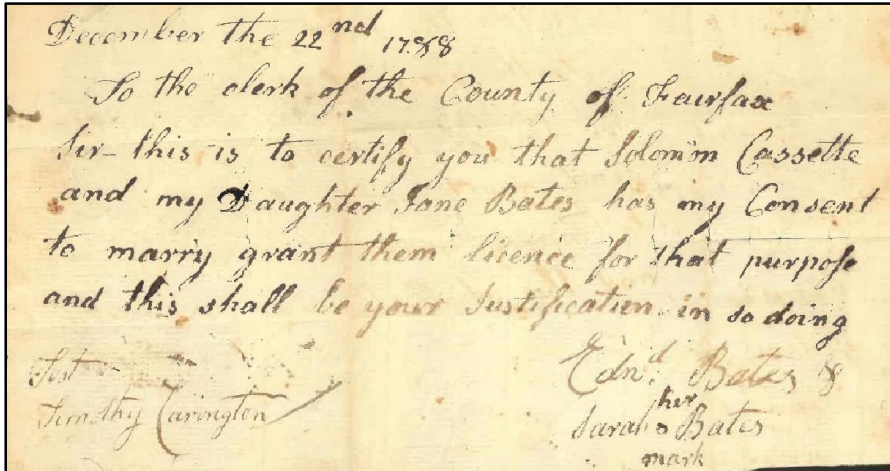


We present Bryan Alliston of Suro parish for practising a gross Deception on Peter ... Wagener Clerk of this County in procuring a Marriage Licence to join together in ... matrimony by a false assertion and other indirect measures Richard Harrison an infant under the age of twenty one years the son of Richard Harrison of the province of Maryland Gent: and Mary Maddox of the same Province without the Consent of the said Richard the Father within six months.

[Court Order Book 1756, p. 424](#)

In Fairfax County, at the November 1759 Term of Court, minister Bryan Alliston was sued by a Grand Jury for obtaining an illegal license to ‘join together in matrimony’ Richard Harrison and Mary Maddox. At 16, *both* the bride and groom were under the age of majority (under 21)

which meant they could not make legal decisions without a parent's or guardian's consent. Richard Harrison's father did not give his consent, so the license was considered illegal. The charge itself was written as "a Gross Deception" of the County Clerk, Peter Wagener, as he presented Alliston with the license. Bryan Alliston was eventually exonerated, as the Jury decided that he, personally, was not at fault -- the couple intending to marry were.



December the 22nd 1788
To the clerk of the County of Fairfax
Sir this is to certify you that Solomon Cassette
and my Daughter Jane Bates has my Consent
to marry grant them licence for that purpose
and this shall be your Justification in so doing
Edw^d Bates
Sarah^h Bates
mark

Parental consent for marriages remained a legal necessity in post-Revolution Virginia. This Letter of Consent from Edward Bates accompanied the marriage bond of Solomon Cassette (the groom) and Edward's daughter, Jane Bates. Both documents were filed at the courthouse in order for the

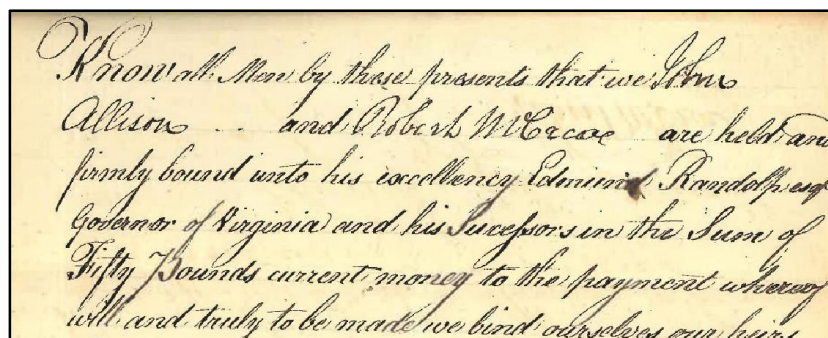
Edward Bates' Consent for his Daughter's Marriage, December 22, 1788

couple to get the license.

Marriage bonds were common on both sides of the Atlantic during the 18th century, and endured long after American independence. A marriage bond fulfilled much of the same purpose as a license or publishing the banns. The groom and a close family member of the bride signed a bond promising a sum of money (usually £50) to the Governor of Virginia if the marriage did not take place. Contrary to popular belief, the bond was not taken out solely as an insurance policy for the bride or her family -- the main purpose was to provide people time to present legal impediments to the marriage. To avoid paying the fine, the groom had to be very sure of his and his fiancée's legal standing in terms of marriage. Bonds were usually taken out if the groom was not from the same parish or area as the bride and was therefore not locally known and not easily vouched for by the community. The bond was presented at the

courthouse, and a license given by the clerk.

John Allison took out a marriage bond to marry Rebecca McCrea in December 1788. His co-signee was Robert McCrea, most probably Rebecca's brother, cousin or uncle.



Know all Men by these presents that we John
Allison and Robert McCrea are held an
firmly bound unto his excellency Edmund Randolph
Governor of Virginia and his Successors in the Sum of
Fifty Pounds current money to the payment whereof
we and truly to be made we bind ourselves our heirs

Marriage Bond of John Allison & Rebecca McCrea, December 2, 1788

Fifty pounds would have been quite a sum for a young man to pay, if the marriage did not occur. The fact that the co-signee was an immediate family member of the bride means that they were extremely confident of the proposed marriage.

Another act from Hening's *Statutes at Large* concerns the recordation of marriages. Ministers were required to keep a register of all marriages performed by them. Initially, they were required to present these registers at court; by the mid-1700s, the registers were not presented at court but were kept by the parish. Under §32.1-267 of the modern Virginia Code, the officiants authorized by the Court to solemnize marriages in Virginia are mandated to return the marriage certificate (a vital record of the Commonwealth) to the Clerk.

Pre-Revolutionary Virginia only permitted Anglican ministers to officiate weddings. After the Revolution, and the consequential dissolution of the Church of England in America, Virginia law changed to allow ministers of all denominations to perform marriages. The law also allowed for non-religious celebrants to procure licenses.

Today, the Clerk issues marriage licenses from the first floor of the modern courthouse, and the Historic Courthouse welcomes many couples who choose to wed in this beautiful and storied space.

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.

Sign up for *Found in the Archives*, the monthly newsletter of the HRC:

http://www.fairfaxcounty.gov/courts/circuit/historical_records.htm