

FOUND IN THE ARCHIVES, no. 28 – January 2017

Fairfax Circuit Court Historic Records Center



Happy New Year!

The year 2017 marks Fairfax County's 275th Anniversary – stay tuned for news about all of the great events happening around the county celebrating this historic birthday!

In this month's edition of *Found in the Archives*, we will discuss a recent find which is quite unique to our court records collection. These records cast light on the court's role as protector of public health during the 19th century.

During reorganization of our clerk's papers, one of our volunteers stumbled across the interesting find. In 1872, Cyrus McCormick, M. D., filed an affidavit with the court that he had visited Ennis Jackson's family and found that the children had smallpox:

Personally came before me this 30th day of November 1872 Cyrus McCormick M.D. and made oath that on the 30th day of November 1872 he made examination of the family of Ennis Jackson ^{infected with smallpox} according to order of warrant issued by me on the 28th Nov 1872 and that he did find three of the children of said Jackson infected with smallpox and that it is his opinion that the public interest requires that the said family remain where they now are

Sworn to before me this 30th day of November 1872

Cyrus McCormick M.D. H. S. Barnum J.P.

“Personally appeared before me this 30th day of November 1872, Cyrus McCormick M. D. and made oath that on the 30th day of November 1872, he made examination of the family of Ennis Jackson according to warrant issued by me on the 28th Nov 1872 and that he did find three of the children of said Jackson infected with smallpox and that it is his

opinion that the public interest requires that the said family remain where they now are.”

[Sworn and signed H. S. Barnum, J. P.]

In 1852, the Commonwealth of Virginia had given justices of the peace the right to issue warrants regarding the investigation of smallpox infections:

If any justice of any county shall have complaint on oath made to him, or if he shall have reason to think that there is on any lot, tenement, or plantation... any person infected with small-pox, or other dangerous disease, it shall be the duty of said justice to issue a warrant requiring two physicians... to go to the place so suspected and to examine the persons diseased, if any, and report to such justice in writing and on oath, if the justice shall require the same, their opinion of such disease, and whether the public interest requires any action by the justices... For such services a reasonable allowance shall be made to said physicians by the court at the next county levy thereafter.¹

Dr. McCormick having attested that the family should be quarantined, one can assume that the Jackson family had remained in their home until the disease had run its course.

Perhaps in reaction to the Jackson family's quarantine during November and December 1872, in January 1873, the court issued an order of publication in *The Fairfax County News* stating that the state laws regarding smallpox must be followed. Below is the original receipt of publication:

1873

Fairfax C. H. Va., March 20

At Fairfax Co. Court

Go THE FAIRFAX COUNTY NEWS, Va.

FOR ADVERTISING.

Jan'y 24th Order of Court regarding Small Pox &c. four times \$5.00 Received

Pro Fairfax Co. News

At Fairfax County Court, January Court, 1873.
It is ordered by the Court that the several Justices of the Peace for this County, as well as other officers, be requested to enforce the laws of this State in reference to persons coming into the State who are infected with SMALL POX, or who have been in contact with those having the same, or situated in localities where the same is prevailing. And a copy of this order be published in the Fairfax County News, and the Alexandria papers.
A Copy—Teste,
F. D. RICHARDSON, Clerk.
January 24, 1873—4t

Subscription, per Year.....	\$1.50
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The order reads, in part:

In Fairfax County Court, January Court, 1873: It is ordered by the Court that the several Justices of the Peace for this County, as well as other officers, be requested to enforce the laws of this State in reference to persons coming into the State who are infected with SMALL POX, or who have been in contact with those having the same...

¹ Code of Virginia, 1852-3, p. 128, c. 148, §1 and §2.

In February 1873, Cyrus McCormick wrote to the county's Board of Supervisors requesting his compensation, which he valued at \$40 -- \$20 for examining the family, and \$20 for the loss of "a suit of clothes" that he destroyed after the visit. Dr. McCormick's earnest appeal sheds light on how seriously he took his duties, but also the fear many had of smallpox. The letter is worth reading in its entirety:

Fairfax Co, Va, Feb 28th 1873

To Hon. Judge Gray, President of Board of Supervisors of Fairfax Co,

Dear Sir,

According to promise I write you in regard to my claim against the County for visiting small pox patients & for loss of clothing incurred thereby.

The Papers connected with this claim, now in your possession, you will oblige me very much by presenting to your Board at their next sitting. You will I think scarcely question the justness of my claim when you consider the loss of my other practice for that day. The risk of losing some of my other regular practice because of the dread some might have of the disease being transmitted to them through me -- also of it being communicated to my family.

My entire suit of clothing, consisting of a full cloth suit, underclothing, shoes &c I abandoned as a proper precautionary measure against any further spread of the disease -- in which I considered Public Interest [his emphasis] as well as my own.

The magistrate under whose warrant I went to see these people showed me the Law, which would insure me a just compensation for any loss I might incur thereby.

Had I not been assured of liberal remuneration both for medical services, risks, & loss of clothing, I should have refused to go & paid the fine for contempt of warrant, so great was the outcry among my regular patients.

If you will be kind enough & if not asking too great a favour I will be very much obliged if you will receive this money from the Clerk & send it to me as soon as possible -- as I am greatly in need of it.

Very respectfully yours, Cyrus McCormick M. D.

P. S. I would further state that the fee for attending small pox patients has always been double that for any other disease -- now I would as soon attend a large number as one. I assure you if I had it to go over again nothing less than the sum mentioned in my account would compensate me for the worry & actual trouble I had in visiting these people, for I lost the whole day in doing so -- by circumstances arising, which was beyond my power to control. Moreover I was obliged to change my clothes in an outhouse where there was not a particle of fire, and one of the coldest days we have had this winter, certainly you could not condemn this as a piece of foolish imprudence -- for you, as well as I know, that it was a proper precaution for every Physician or nurse to take as one measure of preventing the disease from spreading.

The county allowed \$10 in compensation to Dr. McCormick.

Today, over 150 years later, the Circuit Court still has jurisdiction over quarantine appeals procedures, under Virginia Code §32.1-48.010. Virginia law now gives the Commissioner of the Virginia Department of Health the authority to declare a quarantine/isolation, but citizens so affected may appeal that decision to their local Circuit Court. Smartly, the Code allows the Rules of Court to soften, to allow for remote appearance in these types of appeals.

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For more information about the Fairfax Circuit Court Historic Records Center, please email historicalrecords@fairfaxcounty.gov or call 703-246-4168.

Sign up for *Found in the Archives*, the monthly newsletter of the HRC:
http://www.fairfaxcounty.gov/courts/circuit/historical_records.htm



Image courtesy of the City of Fairfax Public Library

FEBRUARY 4, 2017 **FAIRFAX HISTORIC** **COURTHOUSE OPEN HOUSE**

10 am to 3 pm, Fairfax Historic Courthouse

As part of the City of Fairfax Annual Chocolate Lovers Festival, the Fairfax Historic Courthouse is opening its doors to the public! Visit the courthouse and observe the Fairfax Bar Association's mock trials in the Historic Courthouse throughout the day.

11:00 am – "Little Miss Muffet"

12:30 pm – "So You Think You Are Smarter than a Lawyer?"

2:30 pm – "Little Miss Muffet"



**SEE HISTORIC FAIRFAX
COUNTY COURT
DOCUMENTS!**

**SHOWROOM OPEN
10 AM TO 3 PM**

ON DISPLAY:
- ORIGINAL PAGES FROM
GEORGE AND MARTHA
WASHINGTON'S WILLS
- 1751 TEST OATH SIGNED
BY COUNTY OFFICIALS
- RECENTLY CONSERVED
COURT LEDGERS
- OTHER HISTORIC
DOCUMENTS OF INTEREST

ALL AGES WELCOME!

**FAIRFAX BAR
ASSOCIATION
PROGRAMS AT 11:00,
12:30 AND 2:30!**

**FAIRFAX HISTORIC
COURTHOUSE**

4000 Chain Bridge Road
Fairfax, VA 22030

**Historic Courthouse
showroom and building
open 10 am to 3 pm!**



Save the Date! June 17, 2017
HISTORIC FAIRFAX COUNTY COURTHOUSE



Celebrate FAIRFAX COUNTY'S 275TH Birthday!

Saturday, June 17, 2017

10 a.m. - 4 p.m.

Historic Fairfax Courthouse

The day's events, which are free and open to the public, will include:

- Family-friendly activities
- Entertainment
- History Exhibits
- Living History
- Performances

...and more!

Visit www.Fairfax275.org
for more information.



A Fairfax County, Va., publication



To request reasonable ADA accommodations,
call 703-324-5421 or 703-449-1186 (TTY).