

*Church & State*

Fairfax Circuit Court Historic Records Center



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.

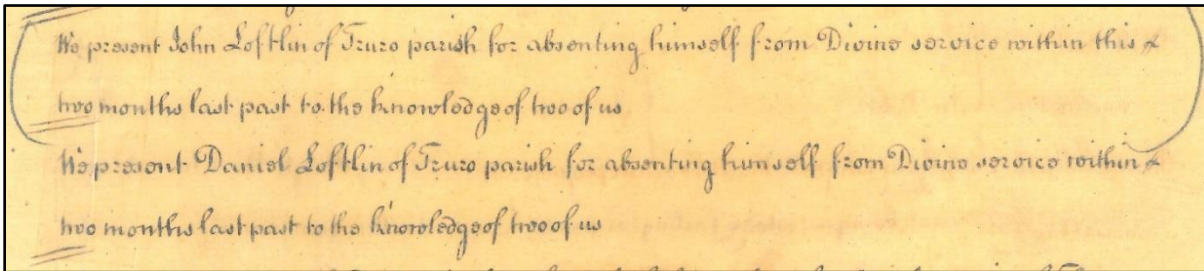


*Colonial-era Pohick Church, courtesy of Pohick Church*

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



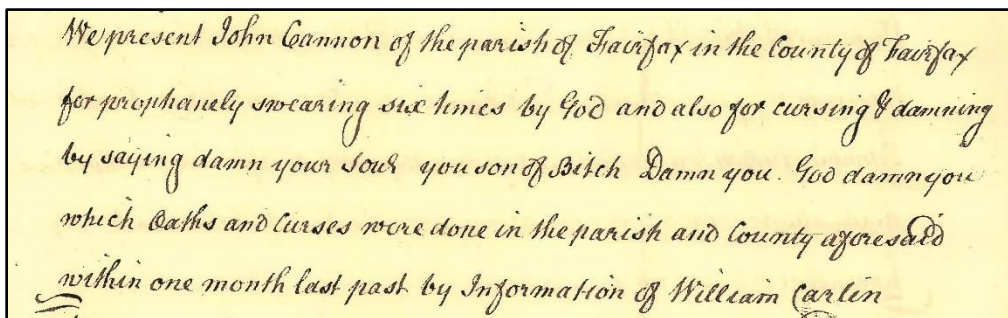
We present John Loftlin of Truro parish for absenting himself from Divine service within this & two months last past to the knowledge of two of us  
We present Daniel Loftlin of Truro parish for absenting himself from Divine service within & two months last past to the knowledge of two of us

**John & Daniel Loftlin, presentments for not attending church, Fairfax Minute Book 1756, p. 227, May 16, 1758**

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 18<sup>th</sup> 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'.



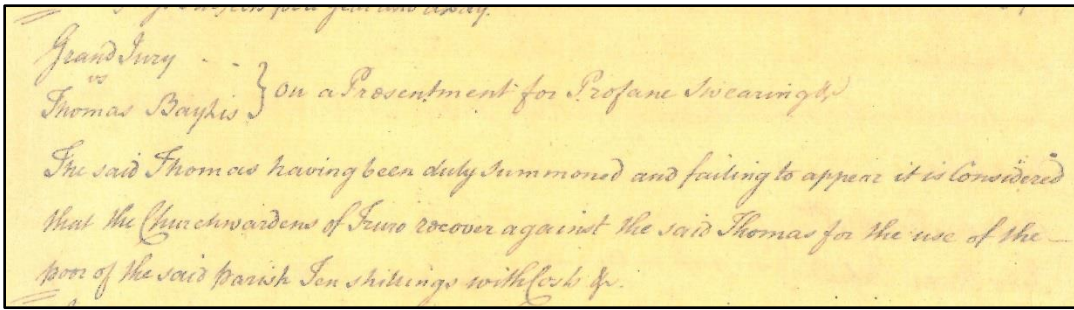
We present John Cannon of the parish of Fairfax in the County of Fairfax for profanely swearing six times by God and also for cursing & damning by saying damn your soul you son of Bitch Damn you. God damn you which oaths and curses were done in the parish and County aforesaid within one month last past by Information of William Carlen

**John Cannon, presentment for swearing, Fairfax Court Order Book 1768, p. 259, November 22nd, 1769**

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 18<sup>th</sup> century Fairfax Grand

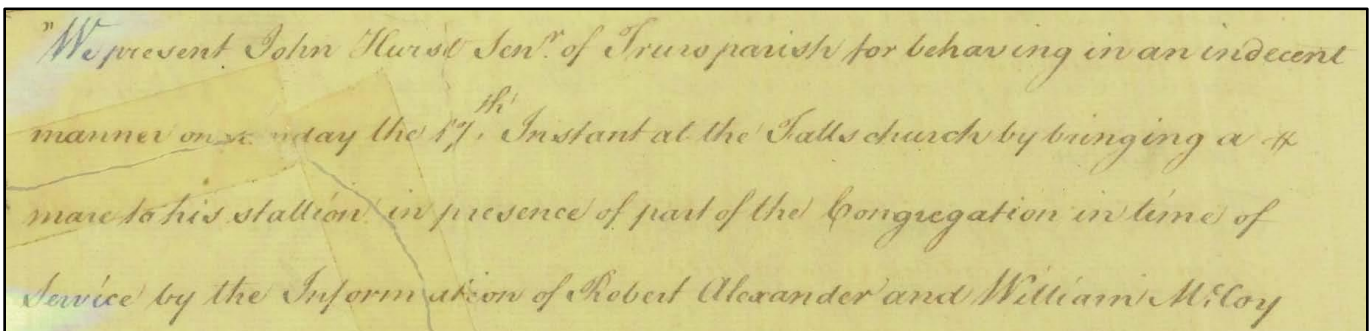
Juries. In November 1769, John Cannon was charged with uttering ten profanities; if found guilty, the maximum fine allowable would have been 20 shillings (or the commensurate 200 pounds of tobacco). And, again, failure to pay could have cost him 20 lashes with the whip. To

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

[Thomas Baylis, failure to appear, Fairfax Minute Book 1756, p. 439, February 19, 1760](#) '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'.



[John Hurst, Sr., presentment for indecent behavior on a Sunday, Fairfax Minute Book 1756, p. 581, May 19, 1761](#)

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.



John West son of Abraham Barnes, Baldwin Dade, Townshend Dade Michael Hall and John Bayley being convicted of Gaming <sup>contrary to law</sup> before Daniel M. Gentry, John Cadylo & William Ramsay Gent. Justices of the Peace from whose Judgment they appealed to this Court and on hearing the Evidence it is considered that the Judgment given by the said Justices be affirmed & that the churchwardens of Furo Parish recover against each of them Five pounds with costs.

**John West, Abraham Barnes, Baldwin & Townshend Dade, Michael Hall & John Bayley, gaming on a Sunday, Fairfax Court Order Book 1749, p. 331, March 23, 1753**

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.

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

We present Edward Violet of the parish of Furo & County of Fairfax for keeping a disorderly House on the Sabbath day within three months last past by Information of William Payne Baylis

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.

**Edward Violet, presentment for keeping a 'disorderly House' on the Sabbath, Fairfax Court Order Book 1770, p. 156, November 22, 1770**

The Common Wealth } Presentment for profane swearing  
 against }  
 Dorcas Towers. Deft

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

**Dorcas Towers, presentment for profane swearing, Fairfax Court Order Book 1799, p. 32, June 18, 1799**

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*.

Have a great holiday season, and we will see you in the New Year!



*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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