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Eddie Woodward
Library of Virginia

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The Library of Virginia, Local Records, and the Civil War

Eddie Woodward

Introduction

Not long after Virginia seceded from the Union at the commencement of the Civil War in 1861, Northern armies began to make their way into the state. In the early stages of the war, the invasion and occupation of Virginia's cities and towns met with mixed degrees of severity for the inhabitants. Once the Northern soldiers arrived, however, the residents, their property, and their resources were at the mercy of the troops and their commanders. This was notably true of Virginia's city and county courthouses, which because of their legal and administrative importance to the locality were prime targets during a war. Destroying court records not only erases history, but can also cause a great amount of disruption, confusion, and anxiety among residents. As the courthouse is often seen as the head or administrative symbol of authority for the locality, it would be a logical objective for an invading army. This was the case in 1861, after Virginia seceded from the Union and the state capital of Richmond also became the national capital of the Confederate States of America. The records of each individual courthouse have their own story of survival, destruction, or a combination of the two. This essay will survey the fate of some of those records as well as the efforts of those responsible for their care and preservation during the conflict and in the years afterward.

For anyone who loves both history and archival work, nothing could be more fulfilling than to work with a collection where the actual preservation of the records has its own long storied past. That is the case if one is fortunate enough to work as a local records archivist with the Library of Virginia's Circuit Court Records Preservation Program.¹ While the program has been in existence

¹ Sponsored in collaboration with the Virginia Court Clerks' Association, the mission of the program is to preserve and make accessible the circuit court records of the 120 city and county circuit court clerks' offices located across the state. This is done by assisting the clerks in preserving the records in their care; by transferring records to the Library of Virginia where they are processed and stored in a secure, climate controlled environment; by digitizing and making accessible

since the early 1990s, the Commonwealth of Virginia and the Library of Virginia can trace and document its court records preservation efforts back to the Civil War and possibly earlier. Library resources, such as the records of the state archivists, state government records, library publications, the voluminous “Locality Receipt Files,” and periodic courthouse inventories and surveys, combined with newspaper accounts, local historical and genealogical societies and published local histories, as well as local legends and lore all help to document various aspects of these preservation efforts. Time and the elements play a major factor in the survival of courthouse records. However, if one takes into account the fact that many of Virginia’s courthouses, some with records that date to the 1630s, were ravaged by two wars, the survival of the records is all the more impressive. The mission of the Circuit Court Records Preservation Program is to ensure that the records that have survived these calamities continue to exist.

City and county courthouses contain local records. These records document the legal history of their specific locality, as well as administrative affairs. Before centralized governmental entities such as city or county commissions and boards of supervisors were established, the courthouse justices were responsible for the management of the locality. The records of the courts might include law, criminal, and chancery, while administrative records might contain vital statistics such as births, deaths, and marriages, as well as legal transactions like the recording of deeds, wills, estate appraisals, and other property records. The justices were also responsible for the social and public needs of the community and addressed such issues as indentures, orphans, poor relief, schools, and the construction of roads, bridges, and ferries, to name a few. When these records survive, they offer a wealth of information and serve as the foundation for local history, as well as the building blocks for social history and historiography.

Virginia’s city and county court records are not only the resources used to write and interpret history, but also have a history in and of themselves—if they still survive. Of course, each courthouse’s proximity to the fighting had a direct effect on the

over 10 million chancery and other court records; and by promoting the collection through blogs, presentations, and other outreach methods.

survival and completeness of those records. At the commencement of the Civil War, the government in Richmond recognized the threat that invading armies would pose on the courthouses and local governments of the region. As a result, the Virginia General Assembly passed legislation encouraging courthouses in the path of Union forces to move their records to the state capital for safekeeping. As the resolution did not mandate their transfer, not every city or county followed through. Those localities that chose to keep their court records and take their chances with the Northern armies turned out to have made the wisest decision because on April 3, 1865, with the fall of Richmond, those records that had been removed to the state capital were destroyed.²

It might be said that in Virginia, the Civil War started and ended at courthouses. One of the first land engagements of the war occurred when a Union scouting party clashed with local militia at Fairfax Courthouse on June 1, 1861. The sleepy village of Appomattox County Courthouse avoided the conflict until it was thrust upon them when Confederate General Robert E. Lee surrendered the Army of Northern Virginia to General Ulysses S. Grant on April 9, 1865. Because of the rural nature of some Virginia counties, sometimes the only village in the county was the crossroads where the courthouse was located, and in some instances, this is still true today. While Appomattox County Courthouse remained in relative obscurity until its moment in the spotlight, Fairfax County Courthouse was arguably one of the most embattled Virginia courthouses of the war. The court records in the Appomattox County Courthouse survived the trauma of the war and Reconstruction only

² It is often assumed that, soon after the opening of hostilities, the government in Richmond requested that city and county courthouses transfer their records to Richmond for safekeeping, and there is evidence to suggest that early in the war clerks were moving their court records to the state capital. However, the only act that can be found, “Chap. 93—An ACT to provide for the Preservation of the Records of the Counties of Warwick, Elizabeth City and James City, and the City of Williamsburg,” was passed in February 1864 and was directed at the Tidewater localities. It might be that the act passed in 1864 is assumed to have been passed earlier on and the localities that were moving their records to Richmond prior to that had done so on their own initiative. *Acts of General Assembly of the State of Virginia, Passes at Session of 1863-4 in the Eighty-Eighth Year of the Commonwealth* (Richmond, Virginia: William F. Ritchie, Public Printer, 1864), 72-73.

to be destroyed by a fire in 1892.³ The same could not be said of Fairfax, where original deeds, wills, and other loose papers, as well as numerous deed books and minute books, were lost because of the hostilities.⁴

Over the course of its history the Library of Virginia has maintained surveys and other documents that outline the status and losses of court records in Virginia's 120 localities. In the early twentieth century, the first state archivist Morgan P. Robinson conducted an inventory that attempted to document the completeness of each of the city and county courthouse's records.

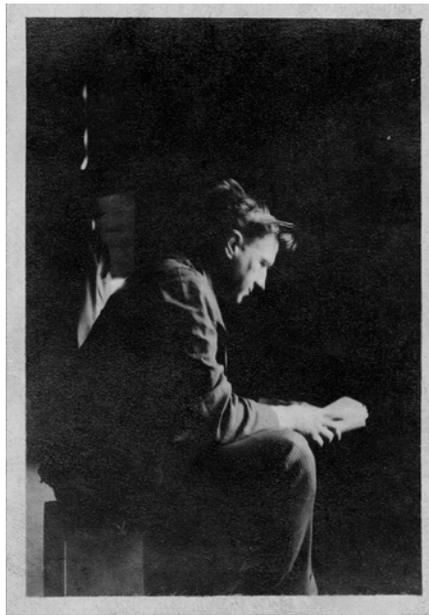


Figure 1: Morgan P. Robinson, undated. Collection of Materials Concerning County Courthouses, Records, and Clerks of Court, 1916-1929, Office of the State Archivist, Library of Virginia.

These findings were, in part, used when he authored, "Virginia Counties: Those Resulting from Virginia Legislation," published in the *Bulletin of the Virginia State Library* in 1916. The footnotes for

³ "Lost Records Localities: Counties and Cities with Missing Records," *Research Notes No. 30*, Library of Virginia (Revised January 2017), 2.

⁴ Elwood Street, "Wellsprings of Democracy in Virginia: Courthouse for Virginia," *Richmond Times-Dispatch*, January 4, 1942.

part one of that publication include a number of correspondences between Robinson and the clerks where they sometimes mention the war and its effects on the court records.⁵ Today, the Library of Virginia publishes “Lost Records Localities: Counties and Cities with Missing Records,” which gives a brief summary of the significant losses of each of the courthouses. That survey indicates that of the commonwealth’s 120 city and county courthouses, 45 had significant losses, with 26 of those as a direct result of the Civil War.⁶

Virginia Courthouses and the Civil War

During the war, localities attempted to maintain their routine court functions. Keeping up their usual business was often determined by the proximity of the invading army. The war did bring on new responsibilities for the clerks and the courthouses. Library of Virginia local records archivists occasionally come across unusual war-related documents, such as salt distribution registers kept by the clerk in various counties.⁷ Free African Americans between the ages of 15 and 50 were required to go to the courthouse to be examined by doctors in order to determine their fitness as labor for the Confederate government. If they refused to work, they were taken at gunpoint, and sometimes slaves were commandeered for use.⁸ Courts might also establish alternate meeting places in the event that the courthouse was occupied or inaccessible as a result of enemy troops. The locality was also obligated to purchase or “impress” corn and meat for the families of Confederate soldiers. And in some instances,

⁵ Morgan P. Robinson, “Virginia Counties: Those Resulting from Virginia Legislation,” *Bulletin of the Virginia State Library* 9 (January, April and July, 1916), 73-88.

⁶ “Lost Records Localities,” Library of Virginia.

⁷ An 1862 act by the Virginia General Assembly authorized the courts in some counties to purchase salt for residents. Callie Freed, “An Unexpected Discovery Sheds Light on Warren County During the Civil War,” *Recordatur: The Newsletter of Virginia's Circuit Court Records Preservation Program* 14:2 (Fall 2010), [4-5].

⁸ Ervin L. Jordan Jr., “Charlottesville during the Civil War,” *Encyclopedia Virginia*, Virginia Foundation for the Humanities, accessed February 28, 2017, http://www.encyclopediavirginia.org/Charlottesville_During_the_Civil_War; Greg Crawford, “Virginia Untold: Requisitions for Public Use,” *Out of the Box: Notes from the Archives @ The Library of Virginia*, Library of Virginia, January 20, 2016, accessed April 19, 2017, http://www.virginiamemory.com/blogs/out_of_the_box/2016/01/20/virginia-untold-requisitions-for-public-use/.

because of the war or the proximity to the enemy, city and county justices and clerks made arrangements to transport their court records out of their area.

As the courthouse buildings were targets for the invading Union armies, over the course of the conflict they suffered great physical damage and were sometimes destroyed. Without extraordinary efforts by the localities' clerks and citizens, if the courthouse did not survive the war, neither did the court records. If the Union army invaded or occupied a locality, the courthouse and court records usually suffered in one way or another.

The Washington County Courthouse in Abingdon in southwest Virginia was burned to the ground during General George Stoneman's raid in 1864, and with it numerous books and loose records were lost.⁹ The incident was unusual, however, in that the fire is presumed to have been started by Washington County resident James B. Wyatt of the 13th (U. S.) Tennessee Cavalry, who sought revenge for his treatment by a county court justice prior to the war. Some versions of the incident have Wyatt climbing to the top of the courthouse cupola to set it ablaze. However, all versions have Wyatt shot dead as he tried to get away.¹⁰ The courthouse was rebuilt in 1868 and is the only Reconstruction-era courthouse in Virginia.¹¹

Today, a large portion of the records in the circuit court clerk's office in York County, which date back to the 1630s, survive, but it was not from their safekeeping in the courthouse during the war. Localities, and Tidewater counties in particular, were strongly encouraged to move their records to Richmond for safekeeping.¹² In the spring of 1862, as Confederate General John Bankhead Magruder evacuated the county seat at Yorktown and United States General George McClellan's army moved up the peninsula, the York County clerk, Bolivar Sheild loaded the court records onto a wagon to take to

⁹ "Lost Records Localities," Library of Virginia, 7.

¹⁰ James W. Hagy, "Was It Really James Wyatt Who Burned the Courthouse in 1864?," *Historical Society of Washington County, Virginia Newsletter* 34:4 (October 2012), 2.

¹¹ "Abingdon," The Virginia Center for Civil War Studies, Virginia Tech History Department, accessed March 4, 2017, <http://www.civilwar.vt.edu/wordpress/abingdon/>.

¹² Elwood Street, "The Beginning in James City: Fountainhead of Wellsprings of Democracy in America," *Richmond Times-Dispatch*, January 25, 1942.

the state capital. While he was on his way he learned that Union troops were in his path so he instead headed toward the river where he put the records on a sloop and sailed them up the Mattaponi River, where they were hidden in an icehouse on a plantation. Their removal was important on a number of levels, but most importantly, during the occupation of Yorktown, the Union army used the courthouse as an arsenal and on December 16, 1863, it exploded, destroying nearby buildings—including the historic Swan Tavern—but not the court records. At the end of the war the records were returned to Yorktown.¹³

Sometimes the courthouses played a prominent part in a battle or skirmish. Such was the case with the Wise County Courthouse in Wise, Virginia. The county seat, which was then known as Gladeville, was the scene of a number of skirmishes and in the summer of 1862 there was actual street fighting in the small village. Accounts vary, but it appears that the Confederates arrived on July 6 and were welcomed by the residents, who threw a ball for the soldiers that went late into the evening. On the morning of July 7, as the southerners were sleeping off the celebration, the village was attacked by Union forces, sending the Confederate soldiers scrambling for cover. Some of the soldiers rallied in the courthouse, where they barricaded themselves inside. When the Union soldiers threatened to set fire to the building the southerners surrendered, saving the building and its records. By all accounts, it was a huge Union victory, but the Northern army quickly withdrew and was back at their base in Kentucky by July 11.¹⁴ Two years later, in the late summer of 1864, during another Union invasion the courthouse was set on fire. Local residents, including a Union soldier (who was a property owner), raced into the courthouse to save the records. According to one local history, "a Northern soldier drew his sword and made a crisscross mark on order book number one, which still

¹³ "Preservation of Records During the Civil War," Yorktown Preservation Society, accessed March 4, 2017, <http://ypsva.org/preservation-of-records-during-civil-war/>; Edward M. Riley, "The Colonial Courthouses of York County, Virginia," *The William and Mary Quarterly* 22: 4 (October 1942), 410, 414.

¹⁴ Col. Ben E. Caudill Camp No. 1629, SCV, *13th Kentucky Cavalry C. S. A.: "Caudill's Army"* (Whitesburg, Kentucky: Col. Ben E. Caudill Camp No. 1629, SCV, 2013), 24-25.

remains as grim reminder of the raid."¹⁵ The only record lost was Will Book No. 1.¹⁶

Once Union soldiers took control of a courthouse, however, the destruction or fate of the records was not predetermined or predictable. By December 1861, Union forces had taken control of both Accomack and Northampton counties on Virginia's eastern shore without firing a shot. In fact, the invasion and occupation went so smoothly that some northerners suspected the commander of the Union army, General Henry Lockwood, of colluding with the local inhabitants. These allegations gained so much credence that a congressional investigation was called, at the end of which Lockwood was cleared of any suspicion.¹⁷ As a result of his benevolent leadership, court business proceeded as usual and the records for both localities were undamaged. Today, the Northampton County courthouse can boast having the "oldest continuous chain of local government records in the United States."¹⁸

Generally speaking, however, without restrictions from their leadership, once the enemy arrived, the courthouse was ransacked, in the classical sense of the word. The court records themselves might be looted, defaced, or destroyed. Pages could be torn, ripped, shredded, or mutilated in other ways, or books and records might be taken as historical souvenirs by Northern soldiers.

Not all of the destruction caused by the invading troops was this extreme. For example, sometime after Union troops took and occupied the city of Williamsburg, soldiers from the 81st New York infantry carved their initials in the bricks of the Public Records Office.¹⁹ Graffiti left by wounded soldiers and prisoners can also be found on the walls of the Frederick County Courthouse in

¹⁵ Luther F. Addington, *The Story of Wise County (Virginia)* (Johnson City, Tennessee: The Overmountain Press, 1988), 107-109.

¹⁶ Emory L. Hamilton, "The Civil War in Wise County," *Historical Sketches of Southwest Virginia* 15 (1982), 14.

¹⁷ Lloyd J. Matthews, *General Henry Lockwood of Delaware: Shipmate of Melville, Co-builder of the Naval Academy, Civil War Commander* (Newark, Delaware: University of Delaware Press, 2014), 215, 216, 220, 224.

¹⁸ Traci Johnson, Frances Bibbins Latimer, and Jean Mihalyka, compilers, *Exploring the Oldest Continuous Court Records of America* (Eastville, Virginia: Hickory House, 2007), 8.

¹⁹ Ivor Noel Hume, "Lasting Impressions: Graffiti as History," *Colonial Williamsburg* 9:2 (Winter 1986-1987), 35-36.

Winchester, as well as at the Shenandoah County Courthouse in Woodstock.²⁰

Records Defaced

In other instances, it was not the courthouse, but the records themselves where the Union soldiers made their marks, and as with the courthouse graffiti, sometimes the invading troops expressed themselves by writing on the courthouse records. Fairfax County Courthouse is reputed to have record books with some extremely authentic looking pornographic drawings created by the occupying Union troops.²¹ More often than not, the writings in the books were impromptu and less well crafted. Buildings could be repainted to cover graffiti; however, court records defaced by soldiers were still public records and could not be painted over. So of those records that survive, there are the drawings, scribbles, and scrawls of the occupying Union soldiers, all as a part of the public record.

Some of the most famed examples of Union soldier scribbles can be seen in the record books at the Nottoway County Courthouse. Like Appomattox, Nottoway avoided much of the war until April 1865 when General Ulysses S. Grant's troops passed through in pursuit of Lee's retreating army. One account has the Union soldiers, "ransacking the Clerk's Office, cutting the indexes out of the books and hacking them to pieces with their sabers, finally throwing them into the horse trough where they were later rescued."²² During the visit a Union soldier wrote, "Abraham Lincoln President of Virginia Ap. 2nd 1865," on the flyleaf of an old will book, while another book, more explicitly, reads "Johney Reb you can thank me for saving your

²⁰ Linda Wheeler, "Virginia Battlefield Preservation Foundation Takes on Responsibility for a Museum," *Washington Post*, February 16, 2016, accessed March 5, 2017, <https://www.washingtonpost.com/news/house-divided/wp/2016/02/16/virginia-battlefield-preservation-foundation-takes-on-responsibility-for-a-museum/>; Kaitlin Mayhew, "Civil War-era Graffiti Found in Old Historic Courthouse in Shenandoah County," *The Shenandoah Valley-Herald*, accessed March 5, 2017, http://www.shenvalleynow.com/news/article/civil_war_era_graffit_found_in_old_courthouse_in_woodstock.

²¹ John Tinsley (Kofile Technologies/Caskie Graphics) in telephone conversation with author, February 28, 2017.

²² W. R. Turner, *Old Homes and Families in Nottoway* (Blackstone, Virginia: Nottoway Publishing Co., 1932), 65.

Lawyer Jones books. I save them because I am a sort of Yankee Lawyer myself. Charles Cook, York, Pennsylvania.”²³

Another notable inscription occurred at the Sussex County Courthouse in the winter of 1864 when the Union army was passing through on their way to destroy a nearby railroad bridge.²⁴ During the visit, while Northern soldiers were burning the small village, the “Commanding Officer of the Cavalry Corps” wrote, “This indenture was made on the 11th day of Dec/64 in the Co. of Sussex Va. Know ye all people that this is the case that there is to be one more vigorous and well directed blow against the existing Rebellion while she is struggling in the last throes of expiring agony. O Fiddle Styx.” During the same raid the original 1804 solid silver county seal was removed. In 1901 it was mailed back by a former commissary sergeant from the 40th New York Infantry who “accidentally” had acquired it.²⁵

In 1990, Hanover County circuit court clerk Frank Hargrove discovered a will book with numerous notations by John Dumont from the 3rd Rhode Island Artillery. The inscriptions were from April 1865 as the Union army closed in on Lee, and Dumont identified himself as being with the Army of The James. Dumont left his record of service in the volume, along with a drawing of a cavalryman on horseback and another soldier on foot, with the horseman saying, “Halt there,” to “Corp. Riley,” with the “139 NY.”²⁶

The Fairfax County court record book known as “Civil War Rule Book, 1857,” contains the doodlings, practice signatures, and other handwritings of the Union soldiers who were occupying the

²³ “Southside Virginia & Lee's Retreat: Lee's Retreat: Radio Message Scripts,” Civil War Traveler, accessed March 18, 2017, <http://www.civilwartraveler.com/EAST/VA/va-southside/LR-RadioScripts.html>.

²⁴ Gary M. Williams, “Where We Came From: A Synopsis of The History of Sussex County,” Sussex County, Virginia Historical Society, accessed April 16, 2017, <http://www.rootsweb.ancestry.com/~vascvhs/History%20of%20Sussex%20County,%20Virginia.html>.

²⁵ George E. Deutsch, “Survivor of the Raid,” *Civil War Times* 48: 6 (December 2009), 43.

²⁶ Tom Harris, “No Longer ‘Lost,’ Old Court Files Contain Civil War Signatures,” *Hanover Herald-Progress*, May 26, 2000, accessed April 1, 2017, <http://jkwward.home.mindspring.com/hanover.htm>.

courthouse during the war.²⁷ An 1812 business ledger used as an exhibit in a chancery or law suit found in the Lynchburg City Courthouse contains the names and drawings of soldiers from the 206th Pennsylvania Volunteer Infantry. The unit was stationed in Lynchburg on provost duty after the war.²⁸



Figure 2: Drawing by a Union soldier in a Lynchburg business ledger, Lynchburg City Court Records, Circuit Court Records Preservation Program, Library of Virginia.

However, not every Civil War related inscription in Virginia court records was written by occupying Union soldiers. In Craig County Order Book No. 2, in a section prior to the start of the June 1861 court session, someone wrote, “This is for som damd Yankee to reade, It is written by a Rebel, a Rebel from the South, wo fiars no living Yankee and will never shut his mouth.” It was signed, “Virginia, Adjourned.” On the flyleaf of Albemarle County Deed

²⁷ Fairfax Circuit Court Historic Records Center, *Found in the Archives* (October 2014), 3-4.

²⁸ Bari Helms, “Kilroy was Here. Pennsylvania Infantry Left Their Mark on Lynchburg’s Courthouse Records,” *Out of the Box: Notes from the Archives @ The Library of Virginia*, Library of Virginia, June 29, 2011, accessed January 19, 2017, http://www.virginiamemory.com/blogs/out_of_the_box/2011/06/29/kilroy-was-here-pennsylvania-infantry-left-their-mark-on-lynchburgs-courthouse-records/.

Book No. 65 is written, “Great fight at Manassas or at Bull Run on Sunday, 21st July, 1861, and we were both in it up to our eyes.” It was signed, N. R. Sergeant and Ira J. Smyth.²⁹

Records Lost

Of course, it was war, and the consequences of Union occupation could be more drastic. The Library of Virginia’s “Lost Records Localities” lists 45 city and county courthouses with significant losses, with 26 of those as a result of the Civil War. And of those, seven lost all or some of their records because they were sent to Richmond where they were destroyed by fire on April 3, 1865.³⁰

Craig County was typical of localities that suffered significant losses. Union soldiers ransacked the courthouse in New Castle in December 1863 and then again in June of 1864, when Union troops under the command of David Hunter dragged court records into the street and unsuccessfully attempted to set fire to the courthouse.³¹ A wooden banister in the courtroom still has portions carved out of it by an axe as testament to Hunter’s visit.³² In King and Queen County, where court records routinely referred to the invading Union soldiers as the “public enemy,” the Northern army burnt down the courthouse on March 10, 1864, apparently in retaliation for the killing (or “murder” as Union officials reported) of Colonel Ulric Dahlgren.³³ All the records except for four land books and two court order books were destroyed.³⁴

²⁹ Elwood Street, “Albemarle’s Courthouse: This Wellspring of Democracy in Virginia Probably Best Loved by Thomas Jefferson,” *Richmond Times-Dispatch*, November 23, 1941.

³⁰ “Lost Records Localities,” Library of Virginia, 2-7.

³¹ “Lost Records Localities,” Library of Virginia, 5.

³² Meg Hibbert, “Musket Sounds Remind Craig Civil War was Here,” *The New Castle Record*, June 25, 2014, accessed March 11, 2017, <http://ourvalley.org/musket-sounds-remind-craig-civil-war-was-here/>.

³³ Carl Lounsbury, *The Courthouses of Early Virginia: An Architectural History* (Charlottesville, Virginia: University of Virginia Press, 2005), 360; Alfred Bagby, *King and Queen County, Virginia* (New York: The Neale Publishing Company, 1908), 135. It appears that it was quite common for southerners to refer to the invading Union soldiers as the “public enemy.”

³⁴ Elwood Street, “Democracy’s Wellsprings in Virginia—No. III, King and Queen Courthouse,” *Richmond Times-Dispatch*, September 14, 1941.

One of the most celebrated localities for court records vandalism and loss was Charles City County, where in both 1862 and 1864 the courthouse was occupied by invading soldiers. An August 1862 article by a reporter with the *New York Times* provides a graphic description of the courthouse under Union control:

The Court-House is a very old structure, built of brick and covered with slate. It was erected during the last half of the seventeenth century, and contains the oldest records of any other county in the State. I regret to say that all these old books, with the records of real estate titles and other papers, which must be of great value to the country, have been wantonly scattered in confusion about the premises' covering the floors and dooryards, and are almost wholly destroyed. A more impressive exhibition of the destructive effects of war could scarcely be imagined, than to see those old and cherished books of record and title papers scattered to the winds or trodden under foot. Some portion of these records date back to 1600 and 1675, and exhibit some neat and masterly specimens of penmanship. Charcoal caricatures, of fierce and mustachioed horsemen, ornamented the whitewashed walls, evidently intended to counterfeit some cavalry officer of the German persuasion. The premises are thickly overgrown with rank weeds, and neglect and decay are stamped on everything around. I cannot persuade myself that New-England soldiers would be guilty of such vandalism.³⁵

³⁵ "THE ARMY OF THE POTOMAC.; Its Movement Down the Peninsula Safely Effected. Full Particulars of the March from Our Special Correspondent. Gen. McClellan at Williamsburgh on Monday Morning. MOVEMENTS OF THE GUNBOATS. THE WEATHER. THE RETURN OF GENS. M'CALL AND REYNOLDS. THE ORDER TO FALL IN CHARLES CITY COURT-HOUSE. STATE OF THE ROADS. FORAGING BY THE SOLDIERS. VIRGINIA MILES. THE FEELING OF THE CITIZENS OF THE TOWN. THE CONTRABANDS. SYKES' DIVISION ARRIVED ON MONDAY," *The New York Times*, August 20, 1862.

On the wall of the clerk's office someone wrote, "I blush for my country when I see such a wanton and sacrilegious destruction and profanation of these venerable premises and most important county records."³⁶



Figure 3: Charles City Courthouse courtyard with papers strewn on lawn, Charles City, Virginia, June 13, 1864, Library of Congress.

Some courthouses, such as those in Winchester, Culpeper, and Fairfax, had to endure a sustained occupation which resulted in the leisurely or routine looting, defacing, and destruction of the court records. Sometimes, the occupation was interrupted as the courthouse changed hands, going back and forth between Confederate and Union control, affecting the records in more of a piecemeal fashion. And as with the ill-fated York County Courthouse, the buildings themselves were often repurposed for use by the invading army. The Winchester City Courthouse, which is reputed to have changed hands over 70 times, served as a hospital and a prison.³⁷ The Culpeper County Courthouse was used as a jail for Confederate prisoners, and among its uses, the Fairfax County Courthouse interior was gutted and served as a storehouse.³⁸ This

³⁶ "Vandalism Rebuked," *Richmond Examiner*, September 19, 1862. Many thanks to Charles City County historian and Director of the Richard M. Bowman Center for Local History, Judy Ledbetter for her help with this citation. Judith Ledbetter, e-mail message to author, May 15, 2017.

³⁷ "History," Shenandoah Valley Civil War Museum, accessed March 21, 2017, <http://civilwarmuseum.org/about-the-museum/history/>.

³⁸ John O. Peters and Margaret T. Peters, *Virginia's Historic Courthouses* (Charlottesville, Virginia: University Press of Virginia, 1995), 36-37; Edward C.

extended use and abuse of the courthouses was never good for the court records.

Some localities, such as New Kent, Warwick, and Henrico Counties divvied up their records, storing some in their courthouse and some in Richmond. This met with mixed results as the fate of the records in Richmond was sealed. The Henrico County Courthouse, also located in Richmond, which housed the county court records also lost nearly everything. In a 1916 correspondence with the state archivist, Morgan P. Robinson, clerk Samuel P. Waddill wrote that the Henrico County circuit court had been holding its sessions at the State Courthouse in Richmond, “which was located on the Capitol Square, just opposite the rear of the State Library at the head of lower Franklin Street.” Those records “were destroyed at the Evacuation of the City on the 3rd day of April 1865.”³⁹

Others had better luck dividing their records. In a 1915 letter to Robinson, Hanover County circuit court clerk George P. Haw wrote that during the war, as a precaution against their destruction, the county court records were removed to Richmond where they were “deposited in the Court Bldg., which then stood on the Capitol Square just in front of the Franklin Street entrance from the east, just about where the fountain now stands.” That building and the records were destroyed during the evacuation. However, the records of the Hanover County circuit court, which had its own clerk and shared the same courthouse were not transferred to Richmond and remained at the “Hanover C. H.” and even though it “was several times raided and the Clerk’s Office opened, and some few papers probably lost ... no papers of value were taken or destroyed.”⁴⁰

Records Saved

Sometimes it was who you knew, while in other instances it was what you knew, that was responsible for the preservation of a locality’s courthouse records. It was said that when Union General and Virginia native George Thomas signed on to stay with the

Trexler, Jr., “Changing Hands, Fairfax Court House,” *The Fare Facs Gazette: The Newsletter of Historic Fairfax City, Inc.* 9:3 (Summer 2012), 8.

³⁹ Robinson, “Virginia Counties,” footnote 31, 80-81; Morgan P. Robinson, “Report of the Special Committee to Co-operate With the State Library Board” (Richmond, Virginia: Virginia State Library, July 29, 1929, footnote 88, 13.

⁴⁰ Robinson, “Virginia Counties,” footnote 30, 79-80.

Northern army, he stipulated that no fighting would occur in Southampton County, where he and his family were from.⁴¹ Whether this is actually true or not is uncertain, but the fact is no fighting took place in Southampton County and as a result, their court records are nearly complete. Because of this the court papers surrounding the 1831 Nat Turner slave insurrection survive today.

According to one account, none other than George Armstrong Custer was responsible for the safekeeping of the records in the Amelia County Courthouse. On the afternoon of April 5, 1865, while in pursuit of Lee's retreating army, "An officer with flowing auburn hair rode up to the courthouse and inquired for the clerk. Mr. E. H. Coleman, then clerk of the court, was pointed out to the officer." Then, Custer is reputed to have instructed the clerk to, "Go into your office, sir. Open the doors and remain there. I will put a guard around the building and it shall not be destroyed."⁴²

In a correspondence with Morgan P. Robinson, Brunswick County circuit court clerk Robert Turnbull attributed the wartime preservation of that locality's records to Freemasonry and Brotherhood. In late June 1864, when his father Edward Randolph Turnbull was the clerk, the Wilson-Kautz Union cavalry raided the courthouse on its circuit through south central Virginia. According to the younger Turnbull, who was 12 or 13 at the time, in anticipation of the troopers arrival, he and his father "took a Masonic flag that was in the office and spread it out on the office table" before they left. After the raiders moved on, the father and son returned to find

⁴¹ Elwood Street, "Old Southampton's Courthouse: This Is the Forty-Ninth in the Series Titled 'Wellsprings of Democracy in Virginia,'" *Richmond Times-Dispatch*, August 2, 1942; Southampton County circuit court clerk, Rick Francis confirmed this local legend. Rick Francis, e-mail message to author, May 10, 2017. George Thomas's biographer, Christopher J. Einolf, suggests that the genesis of the local legend regarding no campaigning in Southampton was from Thomas's advice to Ulysses Grant regarding the commanding general's scheme to invade Virginia at Suffolk. Grant was advised by Thomas to avoid the "county's swamps and rivers," in favor of a New Bern, North Carolina landing. Einolf believes that Thomas was showing no favoritism toward his native county, but was giving an honest tactical assessment of the situation. Grant scrapped the invasion idea. Christopher J. Einolf, *George Thomas: Virginian for the Union* (Norman, Oklahoma: University of Oklahoma Press, 2007), 236.

⁴² Philip E. Chappell, comp., *A Genealogical History of the Chappell, Dickie, and Other Kindred Families of Virginia* (Kansas City, Missouri: Hudson-Kimberly Publishing Company, 1900), 39.

the courthouse ransacked, with the floor of the office “about a foot deep in papers.” However, “upon careful examination we found nothing was injured that was of any value.” As a result, with the exception of some early loose papers, “the records are still intact beginning with 1732, and down to the present time.”⁴³ Similarly, the records in Westmoreland County were not removed or damaged during the war because the clerk at that time, “J. Warren Hutt was a good Mason and so was the Yankee captain who was stationed there.”⁴⁴

Sometimes, however, the survival of the records was for less mystical reasons. A 1942 newspaper article recounts a tale told by John L. Yates, who served as Lunenburg County clerk from 1878 to 1934, that the old men who remained in the locality during the Union occupation, “fed the Yankees,” and as a result, their commander “instructed his men to treat the villagers courteously.” No damage came to the records during the war.⁴⁵

Occasionally, it was only the odd or random deed or will book that was defaced, lost, or carried away. The court records for Greene County are nearly complete, except for deed book number one, which was taken.⁴⁶ In Goochland County where almost all of the records survived, a Union soldier hacked up a birth record book with his sabre, which the clerk scooped up and saved in a box. Years later, the clerk’s children, who would both go on to serve in clerkships in the same county, pieced the records together, typed them up, and had them bound.⁴⁷ Richmond County lost one will book during the war, and the same was true for King George County, where one will book was carried off by a Union soldier during the

⁴³ Robinson, “Virginia Counties,” footnote 11, 75-76; “Lost Records Localities,” Library of Virginia, 5.

⁴⁴ Elwood Street, “Westmoreland Home of Great Americans: Courthouse of This County Along the Potomac Guards Records of Fascinating Events,” *Richmond Times-Dispatch*, May 3, 1942.

⁴⁵ Elwood Street, “Lunenburg County Courthouse: Namesake of Hanoverian Rulers Threatened To Secede If Virginia Didn’t War on North,” *Richmond Times-Dispatch*, February 22, 1942.

⁴⁶ Elwood Street, “Courthouse for Greene County,” *Richmond Times-Dispatch*, March 15, 1942.

⁴⁷ Elwood Street, “Wellsprings of Democracy in Virginia: Goochland County Courthouse,” *Richmond Times-Dispatch*, November 16, 1941.

war. To insure that no more were lost, the clerk for King George County hid the remaining records in a tavern across the highway.⁴⁸

Records Hidden

Frequently, as with York and King George Counties, it was through the extraordinary efforts of the clerks and other residents that the records were preserved. One of the most famed instances occurred in Middlesex County, where, after receiving permission from a circuit court judge, the clerk Philemon T. Woodward packed up and stole away with the “valuable books and papers,” hiding them deep in the “Dragon Swamp,” located at the headwaters of the Piankatank River.⁴⁹ In a 1916 letter to Robinson, the clerk then, who happened to be Woodward’s son, wrote that when the Union soldiers arrived at the courthouse they, “pulled down many old worthless papers, cut the strings and scattered them a foot deep on the brick floor. These papers were afterwards burned by order of the court.”⁵⁰

Hiding the records at the Spotsylvania County met with mixed results. There they were buried in a wooden box behind the courthouse, where water seeped in and worms followed.⁵¹ An October 10, 1862, *Richmond Daily Dispatch* article observed that the Spotsylvania County Courthouse “record room exhibited the marks of the vandals. The room was more than knee-deep with papers and records, mutilated, torn up, and destroyed.” This may have been after the bulk of records were buried as the correspondent noted that it was believed that, “all the important papers from 1812 to the present time had been removed before the Federal visited the county.”⁵² Today, the records are fairly complete, only having lost one deed book, one order book, and two will books.⁵³

⁴⁸ Elwood Street, “Richmond County Courthouse,” *Richmond Times-Dispatch*, April 12, 1942; Elwood Street, “The Nape of the Northern Neck,” *Richmond Times-Dispatch*, May 10, 1942.

⁴⁹ Larry Chowning, “Important Middlesex Historical Documents are Being Restored,” *Southside Sentinel*, March 20, 2013, accessed March 26, 2017, http://www.ssentinel.com/index.php/news/article/important_middlesex_historical_documents_are_being_restored/.

⁵⁰ Robinson, “Virginia Counties,” footnote 49, 85.

⁵¹ Elwood Street, “Wellsprings of Democracy in Virginia: No. 8, Spotsylvania County Courthouse,” *Richmond Times-Dispatch*, October 19, 1941.

⁵² “Virginia Items,” *Richmond Daily Dispatch*, October 10, 1862.

⁵³ Street, “Spotsylvania.”

In 1862, with Union forces on the Peninsula, Isle of Wight County clerk, Nathaniel P. Young directed his slave Randall Boothe to load the court records on a cart and take them into hiding. The records spent the rest of the war concealed on farms in Greenville and Brunswick Counties. After the war, Boothe retrieved the records and returned them to the courthouse. Boothe went on to serve as courthouse caretaker and today the Isle of Wight County clerk's office records room is named in his honor.⁵⁴ In that year, and in expectation that Leesburg, the county seat of Loudoun County, was about to be invaded, the presiding justice ordered clerk George K. Fox to remove the court records to safety. As a result, the court records spent the remainder of the war somewhere in seclusion in Campbell County. A July 1865 court order had them returned to the courthouse and today, the court records of Loudoun County are nearly complete.⁵⁵

Culpeper County clerk Fayette Mauzy went above and beyond the call of duty. As mentioned, during the war the Culpeper County Courthouse changed hands several times and when occupied by the invading army was reused for various purposes. Mauzy became enraged when he saw Union troops tearing pages from the record books to start their fires. As a result, late one evening he snuck into the courthouse and retrieved the court records, loaded them on a cart, and took them to the home of a tanner, Henry Hitt, where they were buried under tanbark until the end of the war.⁵⁶

There are numerous stories of how court records were hidden and saved. When the enemy threatened Fluvanna County, the records were taken into the woods for safekeeping and as the Union troops closed in on Richmond, Chesterfield County clerk Nathan Hale

⁵⁴ James Thomas Jr., "Painting Honors Man Who Saved Isle of Wight Court Records," *The Virginian-Pilot*, December 13, 2015, accessed March 26, 2017, <http://pilotonline.com/news/painting-honors-man-who-saved-isle-of-wight-court-records/>.

⁵⁵ "George K. Fox Saves the County Records," *The History of Loudoun County, Virginia: Loudoun County and the Civil War, a History and Guide*, accessed March 26, 2017, <http://www.loudounhistory.org/history/loudoun-cw-court-records.htm>.

⁵⁶ "Culpeper County Courthouse," *The Journey Through Hallowed Ground, Gettysburg to Monticello*, accessed March 26, 2017, <https://www.hallowedground.org/Explore-the-Journey/Historic-Towns-Villages/Culpeper-VA/Culpeper-County-Courthouse>.

Cogbill also took to the woods with his records.⁵⁷ The records in the occupied counties of Nansemond and Princess Anne, as well as the town of Suffolk, were stored in the Customs House in Norfolk.⁵⁸ The clerk in occupied Portsmouth hid the Lower Norfolk County records in the Great Dismal Swamp, and the clerks in Orange, Madison, and Mecklenburg Counties were all ordered to remove their court records out of the courthouse and to safety.⁵⁹ As a result, these localities suffered no significant loss of records during the war.

However, it was not always because of the extraordinary efforts of the clerks that the records were preserved. In late 1864, prior to the Battle of Marion, the county seat of Smyth County, the clerk William C. Sexton, learning of the imminent engagement, rode to the courthouse to save the court records. After loading the records on a wagon and hiding them under bales of dry goods, he left the town. However, he soon found the Union forces hot on his trail and was forced to flee, leaving the records behind. The enemy troops,

⁵⁷ Elwood Street, "Wellsprings of Democracy in Virginia: Fluvanna County Courthouse," *Richmond Times-Dispatch*, November 30, 1941; Beth Landi, "Our County Records and Clerks," *The Messenger of the Chesterfield Historical Society of Virginia* 3 (April 1983), 2.

⁵⁸ Virginia H. Rollings, "Fires Plagued Nansemond," *Daily Press*, September 4, 1999, accessed May 7, 2017, http://articles.dailypress.com/1999-09-04/features/9909040048_1_northern-troops-virginia-county-civil-war; Elwood Street, "Wellsprings of Democracy in Virginia, No. 44: Princess Anne Courthouse," *Richmond Times-Dispatch*, June 28, 1942. One account has the records from the Princess Anne Courthouse being seized by Federal soldiers who provided an itemized receipt for the records that they removed. It is likely that the court records in these other localities which were under Union occupation during the war also had their records removed and stored in the Customs House in Norfolk. Frederick Johnston, Comp., *Memorials of Old Virginia Clerks, Arranged Alphabetically by Counties, with Complete Index of Names, and Sates of Service from 1634 to the Present Time* (Lynchburg, Virginia: J. P. Bell Company, 1888), 324; Rogers Dey Whichard, *The History of Lower Tidewater Virginia* (New York: Lewis Historical Publishing Company, Inc., 1959), volume 2, 152.

⁵⁹ Charles B. Cross Jr., *The County Court, 1637-1904, Norfolk County, Virginia* (Portsmouth, Virginia: Printcraft Press, 1964), 89-90; William H. B. Thomas, "Courthouses of Orange County," *Virginia Cavalcade* 19:1 (Summer 1969), 36; William H. B. Thomas, "Courthouses of Madison County," *Virginia Cavalcade* 19:4 (Spring 1970), 21; "Mecklenburg County Courthouse & Confederate Monument on Courthouse Square," Understanding Our Past, Embracing Our Future: Civil War 150 Sesquicentennial, accessed October 24, 2016, http://sovahomefront.org/_site_MecklenburgCourthouse.php.

learning the contents of his wagon, set it on fire and moved on. The Union soldiers then turned their attention to a nearby house where one of the residents, 24-year-old Katherine Killinger, noticed the burning wagon. Killinger and a servant raced to the wagon where they unloaded the remaining records and hid them in the woods. Today, some of the court documents are charred as evidence of their ordeal, and on page 499 of Order Book No. 12 there is a statement of appreciation for her efforts in saving the records.⁶⁰

Stealing away with the records did not always have the desired outcome. In June 1864 the records of Rockingham County (mostly volumes) were loaded on a wagon to be taken to a secluded place in or west of the Blue Ridge Mountains. Unfortunately, the wagon was overtaken by Union troops near Port Republic and set on fire. Local residents eventually extinguished the fire with newly mowed green hay and water, but not before the bulk of the records were lost. Today, ten books, some of them charred, remain.⁶¹ In a 1929 survey of all the courthouses, the Rockingham County clerk noted that records left in the office were not harmed.⁶²

Records Looted (and Returned)

Sometimes when the invading Union army ransacked a Virginia courthouse the soldiers took the old documents and books as souvenirs. The removal, or rather looting, of these items was part and parcel to the overall ransacking. Their removal turned out to be a blessing, however, if the records that remained were destroyed. Of course, when a courthouse or its contents were destroyed, the only way one learns that the looted records have survived is when they miraculously reappear. Not long after the cessation of hostilities, documents began to trickle back to their courthouses. That was the case with the Charles City Courthouse, where in an 1873 survey of city and county courthouse records, the clerk reported that the

⁶⁰ Sally Harris, "Courthouses of Smyth County," *Virginia Cavalcade* 30:1 (Summer 1980), 34; Clara Hill Carner, "Young Smyth Girl Saved Records from Destruction," *The Roanoke Times*, January 17, 1960.

⁶¹ "Lost Records Localities," Library of Virginia, 6-7; Avery Powell, "Civil War Mystery Solved in Rockingham County," WHSV, accessed March 27, 2017, <http://www.wHSV.com/content/news/Civil-War-mystery-solved-in-Rockingham-County--415337983.html>.

⁶² Robinson, "Report of the Special Committee," footnote 175, 14.

records had been destroyed during the war and “no papers or books saved.”⁶³ Three years later a 1737-1751 order book, which had been “removed and preserved” by a New York soldier, had reappeared.⁶⁴

Unfortunately, there is no systematic or accurate accounting for how and when records were returned to their respective courthouses, and other than those items returning in recent years, the information is anecdotal. It appears that by the turn of the century, however, the records were routinely popping up to be reunited with the courthouses.

The plight of the Charles City County court records offers numerous documented instances of this “ransacked, looted, and returned” scenario. In a blog post announcing the recent return of a portion of a record book that had been taken in August 1862, Library of Virginia Senior Local Records Archivist Vince Brooks was able to document at least ten instances of looted court records finding their way back to the Charles City County courthouse. In some of the cases, he has been able to identify the individual soldiers who made off with the records. For example, Samuel Read, a quartermaster in the 1st New Jersey Infantry, found a portion of a record book from 1694-1700 in the woods near his camp. At some point, these pages were returned to Virginia and they were ultimately reunited with the nearly 300 pages of the book that were returned to the locality in the summer of 2016. In August 1950, a portion of Charles City County Record Book, 1762-1764 that had been taken by Sergeant John H. Jack of the 8th Ohio Infantry, presumably while his unit was encamped at Harrison’s Landing, was returned. In addition to the returned order book, Library of Virginia records can trace the returns of some mid-eighteenth century bonds in 1905, county orders from 1685 which were purchased from a manuscripts dealer in 1920, seventeenth-century records returned in the late 1940s, and additional 1762-1769 bonds returned in 1975. Brooks was able to draw a correlation between the Union Army units listed in the order of battle during the Peninsula Campaign and the states where the

⁶³ Virginia General Assembly, Senate of Virginia, “Annual Report of the Joint Committee of the State Library,” *Journal of the Senate of the Commonwealth of Virginia*, Senate Document No. IX (1874), 10.

⁶⁴ William H. Gaines, Jr., “Courthouses of Charles City and Prince George Counties: Charles City County South of the James River was Divided into Twenty-Two Counties,” *Virginia Cavalcade* 18:1 (Summer 1968), 10.

returned records came from.⁶⁵ The 300 pages of the 1694-1700 records book were returned to the Charles City County Courthouse in a ceremony on August 15, 2016, marking what was presumed to be the 154th anniversary of the day the books were carried away.⁶⁶

Many Virginia localities have similar stories of courthouse records looted and returned. When the Confederates burned Hampton in August 1861 in order to prevent it from serving as winter quarters for the invading Union army, they lost a large portion of the Elizabeth City County court records stored there. Before the fire, however, a deed and will book from 1689-1699 was removed by a Northern soldier. After the war, his family sent it back and it now resides in the archives at the Library of Virginia.⁶⁷

It was a similar tale in Prince George County where, during the siege of Petersburg, all of the records except one volume were “destroyed or carried off bodily by Federal soldiers.” The remaining book, a “huge tome, measuring 18 x 14 x 6 inches, and weighing thirty-two pounds, was recovered from a deserted camp by a small boy.” Evidently, because of its size and weight, the Union soldier that walked off with it decided not to take it north.⁶⁸ However, at least one other volume was returned, when in 1990 Circuit Court Clerk Bishop Knott announced that a record book containing recorded deeds, wills, inventories and accounts from between 1710

⁶⁵ Vince Brooks, "The Return of Virginia's Lost History," *Out of the Box: Notes from the Archives @ The Library of Virginia*, Library of Virginia, August 17, 2016, accessed April 2, 2017, http://www.virginiamemory.com/blogs/out_of_the_box/2016/08/17/the-return-of-virginias-lost-history/.

⁶⁶ Katherine Calos, “Charles City Records Taken by Union Soldiers During Civil War are Now Returned,” *Richmond Times-Dispatch*, August 3, 2016, accessed January 19, 2017, http://www.richmond.com/news/local/central-virginia/charles-city/article_146d2991-c9aa-506a-9d50-8cc8ff8eb69c.html.

⁶⁷ Mark St. John Erickson, "Hampton Archive: The Burning of Hampton: 'It Seemed as if Hell Itself had Broken Loose ...,'" *Daily Press*, August 3, 1997, accessed March 14, 2017, <http://www.dailypress.com/news/hampton/hampton400/dp-hampton400-archive-civil-war-fire-story.html>; Elwood Street, “Elizabeth City County and It’s ‘Firsts,’” *Richmond Times-Dispatch*, July 10, 1942. Elizabeth City County was incorporated into Hampton City in 1908.

⁶⁸ William H. Gaines, Jr., “Charles City and Prince George Counties,” 10; Prince George County Records,” *The Virginia Magazine of History and Biography* 4:3 (January 1897), 272.

and 1713 had been “discovered.” The discovery had been sent to Knott from Ohio in a “plain brown wrapper.”⁶⁹

In 1916, Louisa County Judge Frederick W. Sims related the story of the travels of one of the county’s deed books to Morgan P. Robinson. During the war, all of the records remained in the locality with the exception of a county court order book and a deed book, which were sent to the state capital for “safe-keeping.” With the evacuation of Richmond, both books were thought lost. On a trip to Baltimore, however, a Louisa County resident noticed the missing deed book on a table in a hotel and was “told by the hotel proprietor that he had bought the book from a negro for \$1.00.” With the county board of supervisors’ approval, the book was purchased and returned to the locality. On its return the clerk, Jesse J. Porter inscribed on the flyleaf, “This book was carried by yankees from Richmond, whence it had been sent to evade them, to Maryland and bought by the county of Louisa for the sum of \$25.00.” It was noted by Sims that the two books sent to Richmond were the only ones lost and that the other records that remained at the courthouse during the war “were not molested.”⁷⁰

As previously mentioned, over the years, surveys of the circuit court clerks’ offices across the state have been conducted for various reasons. In the early 1940s, an informal survey was performed by Richmond social worker Elwood Vickers Street. In 1941 and 1942, Street wrote a regular column chronicling his courthouse visits which was published in the Sunday *Richmond Times-Dispatch*. The series, entitled “Wellsprings of Democracy in Virginia,” spoke to the historical significance of the locality that he was surveying, with an emphasis on the public buildings, and in particular, the courthouse and the status of its records.

During his visits, he routinely made mention of the Civil War and its impact on the courthouse and the records stored there, and he frequently noted the returned records. On a visit to the Dinwiddie County clerk’s office, he mentioned a 1784-1791 common law order book that had been removed and defaced by a Union soldier during the Civil War. After it was returned to the courthouse, the volume

⁶⁹ “Press Release – November 21, 1990,” *The Virginia Genealogical Newsletter* 17:1 (January-February 1991), 4.

⁷⁰ Robinson, “Virginia Counties,” footnote 43, 83-84.

had been “handsomely restored by the Colonel John Banister Chapter of the Daughters of the American Revolution of Petersburg.”⁷¹

In the Warwick County records room, clerk George S. Deshazor, Jr. shared a “photostatic copy” of a 1748-1762 minute book with Street. The original book, which had been lost during the Civil War, was later found, returned, and restored “by the Newport News Chapter of the Daughters of the American Revolution and the Board of Supervisors of Warwick County.” The original was kept in the vault in the clerk’s office and “only brought out for very special occasions.”⁷² At least two other newspaper articles in 1882 and 2012 mention other Warwick County court records that were lost and later found.⁷³

Evidence pulled from various sources documents the status of looted Stafford County court records over the course of a century. The Stafford County Courthouse was occupied by troops from the Army of the Potomac from November 1862 to June 1863. A member of the 121st Pennsylvania Infantry recalled seeing the court records “scattered to the four winds of heaven, or lying loose for the hands of the first person who might care to possess them.”⁷⁴ As a result, few records survived and the locality is considered a “catastrophic loss.”⁷⁵ After the surrender, however, the records began to find their way back to the courthouse. A 1903 *Richmond Times-Dispatch* newspaper article noted that a county record book for the years 1664-1669, “recently discovered to be in the library of the State of New

⁷¹ Elwood Street, “History Rolls Over Dinwiddie,” *Richmond Times-Dispatch*, May 24, 1942.

⁷² Elwood Street, “Old Warwick is Little Changed by Time,” *Richmond Times-Dispatch*, July 26, 1942.

⁷³ “Old Virginia Records on Exhibition,” *Peninsula Enterprise*, October 19, 1882; Mark St. John Erickson, “Looted Court Records Return After 150 Years,” *Daily Press*, November 11, 2012, accessed May 18, 2016, <http://www.dailypress.com/features/history/dp-nws-old-warwick-records-20121111-story.html>.

⁷⁴ William W. Strong, *History of the 121st Regiment Pennsylvania Volunteers: An Account from the Ranks* (Philadelphia, Pennsylvania: Press of Catholic Standard and Times, 1906), 27.

⁷⁵ Rachael Keeney, “Travel Back in Time with LVA’s Lost Records Collection,” *Northern Virginia Magazine*, April 4, 2017, accessed April 27, 2017, <http://www.northernvirginiamag.com/travel/travel-features/2017/04/04/travel-back-in-time-with-lvas-lost-records-collection/>.

York,” was returned to the clerk’s office.⁷⁶ The Library of Virginia’s Local Records Service’s Locality Receipt Files contains correspondences and other documents related to the Virginia’s city and county court records and the Library of Virginia. The Stafford County files include correspondence that documents the return of the 1730-1748 will book from the Union County Historical Society in Elizabeth, New Jersey, in 1927. These records also include communications between the state librarian H. R. McIlwaine and Fredericksburg attorney Alvin T. Embrey over where the returned record book should reside. Embrey, who worked to recover numerous similarly looted records, felt that the will book should be returned to the Stafford County Courthouse, while McIlwaine preferred the fireproof vault at the state library. In McIlwaine’s defense, he felt that by pitching the idea of the book’s return to the secure state library to his contact at the Union County Historical Society, the chances of its recovery were better. Ultimately, the 500-page will book went to the courthouse.⁷⁷ Another file contains information regarding the return of a number of Stafford County loose records in 1937. The Minnesota resident, whose grandfather “rescued” the documents from “a bunch of papers that were thrown from the building & took them back home with him as souvenirs,” contacted the state librarian about their return. She was paid \$25.00 for the random assortment of seventeenth- and eighteenth-century wills and court records.⁷⁸ More recently, in 2011, another record book removed by Captain William A. Treadwell of the 4th New York Infantry was recovered from the Jersey City Free Public Library.⁷⁹ A couple of years later, more loose records believed to have been removed by a private in the 37th Massachusetts Infantry were

⁷⁶ “Big Camp Meeting – Immense Crowds at Wharton Grove Services. – The Stafford Records – Governor Montague Makes an Exchange with Governor Odell, of New York, for Books Taken During the War – Gossip.,” *Richmond Times-Dispatch*, August 4, 1903.

⁷⁷ 2/3/1927, Stafford County, Locality Receipt Files, Local Records Services, Library of Virginia.

⁷⁸ 10/9/1937, Stafford County, Locality Receipt Files, Local Records Services, Library of Virginia.

⁷⁹ Charles Hack, “Jersey City Library Returns the Spoils of War, a 220-Year-Old Book of Court Records, to Virginia County,” *The Jersey Journal*, October 20, 2011, accessed April 21, 2017, http://www.nj.com/hudson/index.ssf/2011/10/jersey_city_library_returns_sp.html.

discovered in an old trunk in an attic in Worthington, Massachusetts, and returned to the Stafford County circuit court clerk.⁸⁰

The return of these items has become so commonplace that the Fairfax Circuit Court Historic Records Center has designated a “Drawer X” index which consists of miscellaneous court records that have found their way back to the courthouse.⁸¹ Fairfax County, as it turns out, is home to the most celebrated of all the public record thefts that occurred during the Civil War: the looting and return of the Martha Washington will. When Union Brevet Brigadier General David Thomason noticed the will amongst court records that his troops were using to stoke the fire in their stove, he took it. After Thomason’s death, his daughter sold it to J. P. Morgan sometime in the mid-1890s. Upon learning that the will was in Morgan’s possession, the Fairfax County board of supervisors twice requested its return, but received no response. A few years later, after Morgan’s death in 1913, the local chapter of the Daughters of the American Revolution, in a letter endorsed by the county clerk, requested the will’s return from J. P. Morgan, Jr., but he refused. By this time, the tug-of-war over the will was beginning to garner national press coverage.

⁸⁰ Andrew Amelinckx, “Documents Taken from Virginia Courthouse During Civil War Found in Worthington,” *The Berkshire Eagle*, MassLive, November 13, 2013, accessed April 21, 2017,

http://www.masslive.com/news/index.ssf/2013/11/documents_found_in_worthington.html; Linda Wheeler, “Virginia Court Records Taken During Civil War Return Home,” *Washington Post*, November 14, 2013, accessed April 21, 2017, https://www.washingtonpost.com/blogs/house-divided/post/virginia-court-records-taken-during-civil-war-return-home/2013/11/14/7e574b30-4d6d-11e3-9890-a1e0997fb0c0_blog.html.

⁸¹ Fairfax Circuit Court Historic Records Center, *Found in the Archives* 22 (July 2016), 4.



Figure 4: "To Make J. Pierpont Morgan Disgorge His Stolen Will,"
Richmond Times-Dispatch, April 25, 1915.

The Virginia state legislature then passed a bill instructing the governor to make a formal demand for its return, and if Morgan refused, the attorney general was authorized to bring suit for its recovery. An informal request by Governor Henry C. Stuart in 1914 was rejected, with Morgan declaring that he did not trust the fireproofing at the Fairfax County Courthouse. Morgan then offered to donate the document to Mount Vernon so long as Fairfax County donated the will of George Washington to Mount Vernon as well. When that went nowhere, Morgan offered to give the will to the Library of Congress. In March 1915, with no solution on the horizon, the governor of Virginia made a formal demand, and when no answer was received, the state filed suit for the document's return. A few months later, Morgan sent a letter to the court of appeals stating that his attorney had assured him that the title of his father's estate to the will was "perfect and unassailable," but that he would forgo a trial and return the will to the Fairfax County Courthouse.⁸² In a *New*

⁸² J. G. De Roulhac Hamilton, "Three Centuries of Southern Records, 1607-1907," *The Journal of Southern History* 10:1 (February 1944), 22-23; Caitlin Conley, "The Battle for Martha Washington's Will," *Washington's Quill*, The Washington

York Times editorial that argued against the will being declared stolen property, it was rightly offered that the document would probably have been destroyed had it not been for its removal by Northern soldiers.⁸³

Conclusion

This review is not intended to, in any way, be a comprehensive history of Virginia court records during the Civil War. And undoubtedly, many clerks, local historians, and genealogists will have other historical tidbits and anecdotes that should have been included. This article is simply intended to be an overview, providing examples of Virginia localities, and their lost and saved court records. These preservation efforts have a long, storied past. Let us hope that their future will be somewhat less eventful.

Eddie Woodward began his career as a Local Records Archivist at the Library of Virginia in 1998. In 2007 he accepted a position as the Heritage Protocol Archivist at Florida State University where he remained for seven years. He later served as the Head of Special Collections at Norfolk Public Library in Norfolk, Virginia, before returning to the Library of Virginia in March 2016, where he is currently a Senior Local Records Archivist with the Circuit Court Records Preservation Program. In this role he travels across the Commonwealth of Virginia assisting circuit court clerks in the preservation of their records. He has authored a book on Florida State University history and has written articles about US history, libraries, donor relations, and archives and archival theory which have appeared in popular and professional magazines, newsletters, and peer

Papers, accessed April 23, 2017, <http://gwpapers.virginia.edu/the-battle-for-martha-washingtons-will/>

⁸³ *New York Times*, February 22, 1914, cited in Hamilton, "Three Centuries," footnote 49, 23.

reviewed journals. He holds a BA in history from Christopher Newport University, an MA in history from Florida State University, and an MLIS from Rutgers University. He also has certificates from the Modern Archives Institute at the National Archives and the Preservation Management Institute at Rutgers University.