

The Administration of Justice in the Counties of Fairfax and Alexandria (Arlington) and the City of Alexandria

Part I

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NOTE: The purpose of this article is to point out the courts of law that would have been available to a person residing in the area now known as Arlington County at any period of time from Colonial days to the present. Hence the narrative stops as far as Fairfax County is concerned when jurisdiction was taken by the Federal Government over the Virginia portion of the District of Columbia in 1801 and as far as Alexandria City is concerned when a court house was erected in Alexandria County (now Arlington) in 1898, thereby locating the County's judicial center within its own borders. Other than the courts that existed in the Virginia portion of the District of Columbia, this article is not intended to cover the Federal courts.

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In the year 1634, twenty-seven years after the landing of the English colonists at Jamestown, the various settlements that had been made over the new territory were by an act of the General Assembly of the province organized into eight distinct shires, or counties, as follows: The Isle of Wight, west of the James River; Henrico, Warwick, Elizabeth City, James City, and Charles City, between the James and Rappahannock Rivers; York; and Northampton on the eastern shore of the Chesapeake Bay. In 1648, the isolated settlements that had been made at Chicacoan,¹ on the shores of the lower Potomac, were organized into another county, named Northumberland,² the boundaries of which were defined as embracing all that territory lying between the Potomac and Rappahannock Rivers and extending from the Chesapeake Bay to the headwaters of such rivers high up in the Allegheny Mountains. This was known as the "Northern Neck," and by inheritance became the sole possession of Thomas, Sixth Lord Fairfax, through a royal grant of Charles II to his grandfather, Thomas, Lord Culpeper.

With the rapid accession of immigrants from the mother country, the tide of colonization advanced steadily up the rivers and their tributaries. As a natural consequence of the geography of the territory and the amphibious habits of the 17th-century Virginians, the earliest population soon separated into two

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¹ The earliest reference to the Chicacoan Colony is in Conway Robinson's note from the Virginia Council Journal of June 1643 (*Virginia Magazine*, Vol. 8, p. 69; Cf. Hening, Stat. at Lar. I, 294). The name is taken from the Chicacoan tribe of Indians on the west shore of the Potomac, opposite St. Mary's.

² *Industrial and Historical Sketch of Fairfax County, Virginia*, The County Board of Supervisors, 1907, pp. 35-37; Fairfax Harrison, *Landmarks of Old Prince William*, 1924, p. 38; Hening, Stat. at Lar. I, 337, 352.

communities on the Potomac and the Rappahannock. This was necessarily followed by political separation also. In 1651, that part of Northumberland fronting on the Rappahannock was set off in a new county—Lancaster.³ Thereafter, as the settlements extended northward, other counties were in turn cut off from Northumberland and Lancaster, fronting always on the Potomac and Rappahannock, respectively. In this way were erected successively the Potomac counties of Westmoreland (1653)⁴ and Stafford (1664)⁵ and the Rappahannock counties of Rappahannock (1656 and after 1692, Richmond)⁶ and King George (1721).⁷

When the seating of the piedmont began, after 1722, the spread of population in Stafford soon occasioned a demand for the carving of a new frontier county, from its vast area. In May 1730 this demand had become so insistent that the Assembly felt obliged to yield and Prince William was organized,⁸ and from Prince William on June 19, 1742, by reason of a similar spread in population there was established the county of Fairfax.⁹ This county, when first formed, was one of the frontier counties of the State. It then extended from the Potomac and Occoquan Rivers to the Blue Ridge Mountains and included within its boundaries the present counties of Loudoun and Arlington (first known as Alexandria).¹⁰

In 1742, when Fairfax County was formed, civil and criminal jurisdictions in Virginia were administered principally by county courts in the first instance, with appellate jurisdiction in the General Court of the Colony.¹¹ The justices

³ The act is not in Hening, but see Robinson, *Virginia Counties*, p. 83; *Landmarks of Old Prince William*, 1924, p. 311.

⁴ Hening, Stat. at Lar. I, 381.

⁵ Robinson, *Virginia Counties*, p. 87; Hening, Stat. at Lar. II, 239.

⁶ Hening, Stat. at Lar. I, 427; III, 104.

⁷ *Ibid.*, IV, 95; Robinson, *Virginia Counties*, p. 199.

⁸ Hening, Stat. at Lar. IV, 303.

⁹ *Ibid.*, V, 207.

¹⁰ *Industrial and Historical Sketch of Fairfax County, Virginia*, The County Board of Supervisors, 1907, p. 37.

¹¹ The first 12 years of existence of the colony of Virginia was a period of discipline and suspension of constitutional rights. This abridgement of the personal rights of the colonists was due partly to the character of the settlers, and the difficulties which a parent state always encounters in founding distant colonies, and partly to the mistaken policy of the faction controlling the London Company. But in 1619, when Yeardley became Governor, the colony was established on so firm a basis that the need for first the oligarchical and next the militaristic rules which had been in effect in the colony ceased and Virginians began to enjoy the rights of other Englishmen. On July 30 of that year there assembled in the church at Jamestown the first representative legislative body to convene in English America.

With the year 1619, the Virginia Constitution began to crystallize into its permanent form. Soon the executive, legislative, and judicial forms of the government began to be distinguished and assigned to three departments, though the separation in the beginning was only partial and never approached completeness during the entire colonial period. The institutional growth of the colony had not gone far before three channels were developed for the administration of justice, namely, the Assembly, the Quarter or General Court, and the monthly or, as they were later known, the county courts. For a good many years these were the only courts of justice in Virginia.

At first the Assembly was the supreme court of the colony. However, its jurisdiction was, for

of the county courts¹² were appointed by the Governor with the consent of the Council, from among the "most able, honest and judicious" citizens of the county, and subsequent vacancies were filled in the same way. These justices

some years at least, both original and appellate and extended to both civil and criminal cases. After 1641 its civil jurisdiction was limited mainly to appellate cases. However, at the time of the Commonwealth period criminal cases that were punishable by loss of life or member were tried in the Assembly, or Quarter Court, whichever should first convene after the offender had been apprehended. The Assembly transacted its judicial business through a Committee of Justice composed of members of both houses of the legislature. The decisions of the Committee were not binding until they had been confirmed by the whole Assembly.

Appeals to the Assembly continued to be allowed until about 1682, when they were stopped by order of the king. However, the Assembly, even prior to 1682, was not the highest court to which the Virginians had access. The right to appeal to England in important cases (to the Virginia Company prior to 1624, when it was deprived of its governmental rights, and thereafter to the king and the Privy Council), was one of the privileges enjoyed by them from the earliest period. See Oliver Perry Chitwood, *Justice in Colonial Virginia*, 1905, pp. 9-17, 17-19, 21, 23, 24, 28-32.

¹² The monthly or county courts were the most important inferior courts in colonial Virginia, and during the greater part of the 17th century they were the only ones in the colony. Their creation was the necessary outcome of the rapid growth of the colony which began in 1619.

The first monthly courts, so called because it was ordered that they be held every month, were organized not later than 1624 in the corporations of Charles City and Elizabeth City. It was then provided by law that the judges of the monthly courts should be the commanders of the places and such others as the Governor and Council shall appoint by commission. See Hening, *Stat. at Lar.* I, 125. When the colony was divided into shires, or new counties were organized, a separate court was at once appointed for each. In 1643, the monthly court was given the name of county court.

The jurisdiction of the county courts was at first limited to petty cases coming up from the precincts immediately adjacent to them, and thus the judicial authority of the Governor and Council was, for a considerable part of the country, left unimpaired. It was not long, however, before the growth of the colony demanded an extension of this branch of the judiciary.

The jurisdiction of the county courts extended to both civil and criminal cases. Chancery cases were also cognizable in them, and the justices were required to take separate oaths as judges of chancery. Once a year at least the judges held an orphans' court. When the monthly courts were first established their jurisdiction in civil cases was limited to suits involving amounts of not more than 100 pounds of tobacco. By the end of the 17th century, however, all the intervening restrictions had been removed, and from that time on all civil cases except those of less value than 20 shillings could be determined by the county courts.

At first the criminal jurisdiction of the county courts was limited to petty cases, but it seems that later it was increased so as to include important criminal offenses. However, in 1655, by an act of the legislature, this power was taken from them, and it was ordered that offenses "touching life or member" should thereafter be referred to the Quarter Court or the Assembly, whichever of them should first be in session. From this time until the Revolution no offenses punishable by loss of life or member, unless they were committed by slaves, were cognizable in the county courts.

In 1645 the grand jury found its way into the county court, where it joined with the churchwardens in acting the role of public accuser. From 1677 until the end of the colonial period the grand jury was a permanent part of the county court system. By 1642 the practice of calling in petit juries to try cases had been introduced in the county courts and from then the county courts referred important cases to juries for trial. There was no lack of variety in the punishments that the early justices inflicted on criminals. To name only a few, fines were imposed and often resort was had to the lash to induce offenders to repent of their misdeeds. By laws passed late in the 18th century it was provided that ducking-stools, stocks, and pillories should be erected in every county.

As noted above, the judges of the monthly courts were at first appointed by the Governor and Council. However, from the Restoration to the end of the colonial period they were commissioned

were not lawyers, but were usually chosen from the principal land owners of the county. The commission appointing the justices named certain of them, not less than four, as the quorum, and no valid court could be held without the presence of one of the quorum. The jurisdiction of the court resembled the combined jurisdiction of the principal courts of England, and, as noted in footnote 12, trial by jury could be demanded in any case in which a jury trial was accorded by common law.¹³

The General Court¹⁴ was held at Williamsburg and, as stated in footnote 14, was composed of the Governor and the whole body of the Council. The

by the Governors, though they were often, if not generally, appointed with the advice and consent of the Council. They were not chosen for any definite period of time.

The judges were at first known as commissioners of the monthly courts, but afterward they were given the title of justice of the peace. The office of justice of the peace was one of dignity.

The number of justices appointed for the county courts varied at different times and in different counties but usually ranged from about 8 to 18. They had many duties to perform in addition to those of trying cases, such as determining rates of local taxation, registering legal documents, licensing inns, and directing the building and repair of roads.

Out of the county court there developed in each county, probably by the end of the 17th century, and certainly by the beginning of the 18th (1705), a special court for the examination of criminals charged with grave offenses. In 1692, provision was also made for the organization in each county of a special court for the trial of slaves accused of capital crimes.

As a result of the increase in trade and commerce a few towns began to develop in what was otherwise rural Virginia. The first of the towns to grow into such importance as to require a court of Hustings (name derived from a court held in various English boroughs or cities which still survives in London) was Williamsburg, the capital. In 1722 Williamsburg received a charter from the king which constituted it a city and gave it a separate government. The management of the city's affairs was entrusted to a mayor, recorder (who was to be learned in the law), 6 aldermen, and 12 councilmen, the latter to be elected by the others. The mayor, recorder, and aldermen, all of whom were appointed by the king, were the judges of the court of Hustings and were also justices of the peace in Williamsburg. The meetings of the Hustings court were to be held monthly, and it had about the same powers as the county courts. In 1736 Norfolk was granted a charter which contained about the same provisions as the one given to Williamsburg. These were the only cities in which corporation courts were organized before the Revolution.

Court martials were held once a year or oftener in each county by which militia men were tried for delinquencies and insubordination at muster.

This completes the list of the inferior courts as they existed in the colony prior to the Revolution. See Chitwood, *Justice in Colonial Virginia*, 1905, pp. 17-18, 74-75, 77-93, 95-107.

¹³ Charles W. Stetson, *Four Mile Run Land Grants*, 1935, pp. 17, 18.

¹⁴ Next to the Assembly (see footnote 11) in the order of jurisdiction came the Quarter or General Court, which was probably first instituted in 1619. It was composed of the Governor and his Council. Councillors were appointed by the Virginia Company before its charter was annulled and after that time by the king on the recommendation of the intermediary boards. A full Council was usually composed of 12 or 13 members, though the number was sometimes greater and sometimes less.

During the first years of which there appears any record of them the meetings of the Council for the trial of cases were held at irregular intervals. It was not many years, however, before a system of regular quarterly terms had been evolved. When that stage was reached by the court, the name Quarter Court could be properly used. By 1632 the Quarter Court had gone far enough in its development to receive statutory recognition. Hening, Stat. at Lar. I, 174. In 1659 the sessions of the Quarter Court were by law reduced to three a year. Hening, Stat. at Lar. I, 524. The term Quarter Court by this legislation had become a misnomer, and in a few years that of General Court was substituted for it. Hening, Stat. at Lar. II, 58. It was afterward considered unnecessary for the court to convene as often as three times a year, and in 1684 the sessions were made

councillors too were not lawyers but were men of wealth accustomed to the management of important business. The greater number of them had been justices of the county courts before being appointed to the Council and had acquired there some knowledge of legal procedures.¹⁵ The Council was also the upper house of the colonial Assembly, but its legislative and judicial functions were exercised separately.

The books containing the first minutes of the Fairfax Court are missing, and there is thus no surviving record of the details of the organization of the

semiannual. From that time on the court met regularly in April and October. Hening, *Stat. at Lar.* III, 10, 289; V, 319, 320; VI, 328.

The Quarter or General Court took cognizance of both civil and criminal cases, and its jurisdiction was both original and appellate. At first the Governor and Council decided cases of all kinds, but they were relieved of much of the judicial business of the Colony after the county courts had grown into importance. It was not many years, however, before the appellate, like the original jurisdiction of the Quarter Court, began to be narrowed down to the more important cases. The Quarter Court was the most important criminal court in Virginia, and for about three decades after appeals to the Assembly were discontinued it was the only regular tribunal that could try freemen charged with offenses punishable by loss of life or member.

There were never any separate chancery courts in Virginia during the colonial period, but both General Court and the lower tribunals sat on chancery cases.

The Virginia courts were governed in their decisions by the common law of England and by the Parliamentary statutes enacted before the colony was settled in 1607, and by the statutes enacted by the Virginia Assembly.

The General Court usually held its sessions at Jamestown, the capital of the colony, during the 17th century, and at Williamsburg during the remainder of the colonial period. In the early years there seems to have been no state-house in Virginia, and the business of government was transacted at the house of the Governor. After Williamsburg became the colonial capital, a costly state-house was built, the finest, it is said, that could be seen in the British possessions in North America. It took some time to complete the new capitol, and during the period of waiting the Assembly and probably the General Court held their sessions in the College of William and Mary. Hening, *Stat. at Lar.* III, 189, 197, 200, 204, 218, 224, 227, 419. In the restored capitol at Williamsburg, the Council chamber is on the second floor, with accommodation for its members only. The General Court chamber is a larger room on the first floor. A raised gallery for the judges extends across the back of the room. Desks and tables for attorneys are in front of it, with benches for witnesses and spectators, and a small gallery is built into it on the east wall.

After the sessions of the General Court were reduced to two a year, criminals were sometimes necessarily kept in prison six months before they could be tried. It was not long before the need for a more speedy administration of justice began to be felt, and this led to the formation of a new criminal tribunal, the Court of Oyer and Terminer. The permanent establishment of this court dates from the first quarter of the 18th century, but before this time special courts of oyer and terminer were occasionally held in the colony. After the Court of Oyer and Terminer had become established its sessions were held twice a year, in June and December, and the intervals between the terms of the General Court were thus equally divided. By the middle of the 18th century (1755) it was customary for the Oyer and Terminer Courts to be composed exclusively of councillors.

In both the General Court and the Oyer and Terminer Courts important criminal offenses were tried by a petit jury after indictments had been made by the grand jury. Hening, *Stat. at Lar.* IV, 403; V, 543. The right to be tried by a jury of their compeers was one of the privileges that the first settlers brought with them from England.

This completes the list of the superior courts as they existed in the Colony prior to the Revolution. See Chitwood, *Justice in Colonial Virginia*, 1905, pp. 17, 34-35, 37-42, 45-50, 65-66, 123; Dinwiddie Papers, I, 384; Stetson, *Four Mile Run Land Grants*, 1935, p. 18; A. Lawrence Kocher and Howard Dearstyne, *Colonial Williamsburg—Its Buildings and Gardens*, 1949, p. 68.

¹⁵ Stetson, *Four Mile Run Land Grants*, 1935, p. 18.

county. As William Fairfax¹⁶ qualified as the first County Lieutenant and Presiding Justice in the county court, the date of organization may be deduced from the Northern Neck grant books, where it appears that he began to describe land as in the county of Fairfax with a grant dated November 2, 1742.¹⁷ Lewis Elzey was the first sheriff and Catesby Cocke, transferred from Prince William, the first clerk.¹⁸ County clerks were usually appointed by the Secretary of State of the colony and were regarded as his deputies. The appointments were not made for any definite period but were revocable at the pleasure of the Secretary. This patronage not only extended the influence of the Secretary throughout the colony but also proved a source of considerable revenue to him, as it was the custom for all the clerks to pay him a fee every year.¹⁹

The exact place Fairfax County was organized does not seem to be known, although²⁰ it is probable it took place on the Occoquan Creek. The justices who had been included in the last previous Prince William Commission and who were then resident of Fairfax, viz, William Fairfax, John Colvill, Richard Osborne, Jeremiah Bronaugh, Lewis Elzey, William Payne, Thomas Pearson, and John Minor, probably had a part in it. The first commission for Fairfax, which was not issued until November 4, 1742 (C. O., 5; 1423, p. 215) desig-

¹⁶ William Fairfax (1691-1757) was born in Yorkshire, son of a younger brother of the fifth Lord Fairfax. After a subaltern's career in the Navy during the war of the Spanish Succession, he resigned in 1712 to embark in the colonial service. After serving in a number of posts in 1733, he arrived in Virginia to be Collector of Customs for the South Potomac. The purpose of this last transfer was to enable him to act as agent for the Northern Neck proprietary in succession to Robert Carter under a power of attorney from Lord Fairfax dated February 21, 1733. On his arrival in Virginia he established himself in Westmoreland, where he was added to the commission of the peace in September 1734. His inclusion also in the King George County Commission in March 1736/7 recorded the removal of his residence from Westmoreland to the vicinity of Falmouth, where he occupied Charles Carter's house, "Stanstead." In like manner his inclusion in the Prince William Commission in 1741 marked his definite establishment in the house he had meantime built for himself at Belvoir on the Potomac, and from then on he took an active hand in the affairs of Prince William. After service as Burgess from 1741 to 1743 he was advanced to the Council as the successor to old Commissary Blair. By seniority he succeeded as President of the Council at the beginning of Governor Dinwiddie's proconsulship.

¹⁷ Fairfax Harrison, *Landmarks of Old Prince William*, 1924, p. 321.

¹⁸ Dr. William Cocke (1672-1720), an English physician born at Sudbury in Suffolk and educated at Queen's College, Cambridge, married a sister of Mark Catesby, the naturalist, and emigrated to Virginia, where in Spotswood's time he became Secretary of State and died dramatically on the bench of the General Court. His son, Catesby Cocke (1702-1762), was bred in the Secretary's office and as soon as he could qualify was preferred to a clerkship. It was thus that about 1728 he came to live on the Potomac as clerk of Stafford County. On the organization of Prince William (1731) and Fairfax (1742) he was successively transferred to the same function in those new counties. His last official service was in 1746, when he resigned his clerkship to live out the remainder of his life in retirement. During all the years of his active life (1728-1746) he was an energetic speculator in Northern Neck lands, principally in the region of Goose Creek, but his residence was on the upper shore of the Occoquan, near the ferry landing opposite the first Prince William courthouse (see his name on Robert Brooke's Potomac map of 1737). Toward the end of his life, however, he moved to Dumfries, where he died after 1762. Harrison, *Landmarks of Old Prince William*, 1924, pp. 155, 156, 329.

¹⁹ Chitwood, *Justice in Colonial Virginia*, 1905, p. 114.

²⁰ Harrison, *Landmarks of Old Prince William*, 1924, p. 321.

nated these gentlemen as a quorum of the county court, which also included William Henry Terrett, John Gregg, Gerard Alexander, Edward Barry, Daniel Jennings, and Thomas Arbuthnot.

The place of the first meetings of the Fairfax Court is also surrounded with uncertainty. They could have been held in the original Prince William Court House below the Occoquan ferry,²¹ or at the Pohick Church, which then stood on the stream of that name, or at the house of Catesby Cocke, above the Occoquan ferry, where Colchester was subsequently to arise.²² At any rate, the Council, on June 19, 1742, the very day the act creating Fairfax was approved, ordered that "the Court House of Fairfax County be built at a place called Spring Field, situated between the New Church and Ox Roads, in the Branches of Difficult Run, Hunting Creek, and Accotink."²³

The "place called Spring Field," which consisted of 1,429 acres,²⁴ was located at the headwaters of Accotink, Wolf Trap of Difficult, Pimmit's, and

²¹ Capt. John Smith found the mouth of the Occoquan to be the site of the "King's howse" of the Doeg tribe of the neighborhood. Here were surveyed the earliest English land patents in old Prince William. From then until the American Revolution there never was a time when the Occoquan did not harbor a comparatively numerous and closely seated population. See Harrison, *Landmarks of Old Prince William*, 1924, p. 420. Robert Brooke's map of the Potomac in 1737 showed Mr. Brenaud, Mrs. Cofer, Catesby Cocke, James Baxter, and Mr. Gregsby as constituting the Occoquan society at that time.

²² The history of the Occoquan community (i.e., of the first English settlers on that river) is largely the record of its individual economic effort in trade with the back country and in the development of local industries. When the public warehouses were being built, under Governor Gooch's tobacco law of 1730, one of them was authorized "for the ease of the inhabitants of Prince William County . . . at the copper mine landing upon Occoquan." This warehouse was built at the terminus of the Ox Road which led between the Occoquan Creek and Pohick Creek to the copper mines established by King Carter some 25 miles to the northwest on a small run known as the Frying Pan, which empties into the Horsepen, which in turn is a branch of Broad Run. Through this channel the Occoquan men made a strong bid for the back-country trade in competition with the Scots at Quantico and Hunting Creek. At this time the Occoquan had a real opportunity to become the metropolis of all Prince William and indeed nearly anticipated Dumfries and Belhaven in laying out a town. But local jealousy temporarily blocked this movement, and as a consequence it was not until 1753 that anything was accomplished. Until then the fight had been to establish a town on the Mason land (originally owned by the second George) on the south shore, which was the site of the original Prince William Court House established in the spring of 1731. The objections of the Scots that the Mason site was too close to Dumfries was finally overcome when Peter Wagener proposed as a compromise that the Occoquan town be laid out on his land on the north shore. The result was Colchester. The authorizing act (Hening, Stat. at Lar. VI, 396) observed that a town there would be not only "very convenient for trade and navigation" but would also be "greatly to the ease and advantage of the frontier inhabitants." Peter Wagener headed the list of trustees, the others being Daniel McCarty, John Barry, William Elzey, and Edward Washington. The name was that of the shire town of Essex in England of which Wagener cherished youthful memories.

The establishment of Colchester, however, came too late. For five years Dumfries and Alexandria had already been launched on their respective careers, and through their greater manpower and influence they succeeded in blanketing the infant town on the Occoquan. Although Colchester eventually became the headquarters of several Scot factors and down to the time of the Revolution continued to share in the exports of Old Prince William, it remained little more than a station on the Potomac path.

²³ C. O., 5: 1423, p. 98; *Virginia Magazine*, Vol. 15, 384.

²⁴ On November 6, 1740, John Colvill took a grant of land (N.N., E: 182) for 1,429 acres on the branches of Accotink, Wolf Trap, Pimmit's and Scott's Runs, and by deed dated December

Scott's Runs. The tract included a portion of the valley between the eastern and middle ridges of Fairfax and extended to the northern plateau of the former, now known as Freedom Hill, and there the court house was built.^{24a} The site was a fortunate one, being near what in 1742 was the main highway of the new county, i.e., the New Church (or eastern ridge) road,²⁵ which led from Hunting Creek, via Falls Church, to the northernmost gap in the Blue Ridge, which may then already have been known as "Key's" but was later to become "Vestals." With this favorable location the settlement on Goose Creek and Catocin Creek could be served as well as the inhabitants of the eastern portion of the county. Here the Fairfax Court House²⁶ remained for ten years.²⁷ At least four courts a year were required to be held in Fairfax by an act of the Assembly.²⁸ No doubt more frequent courts were held as the population of the county increased.²⁹

2 following (Prince William D.B., E:214) conveyed this property to William Fairfax, designating it as "known as Springfield." By deed dated September 20, 1745 (Fairfax D.B., B:493), William Fairfax conveyed 6 acres of this tract to the Justices of Fairfax, described as "where the Court House is now erected and built," limiting the estate to the time that the court shall continue to be held thereon, but no longer. By his will, dated February 6, 1755, William Fairfax devised unto his son William Henry "all my tract of land containing 1400 acres and called in my deed by the name of Springfield, together with the late Court House of this county, the ordinary and other houses erected and improvements thereon by lease or otherwise."

^{24a} A gallows was also constructed at the site, and death sentences were carried out promptly. Even after the court was moved to Alexandria in 1752 (see *infra*) the gallows remained at its early location. When a death sentence was passed the prisoner was taken out the Little River Turnpike from Alexandria to Annandale, thence along "Court House Road" to the gallows. Eventually the name "Court House Road" was changed to "Gallows Road," which name a portion of the road bears today. Jeanne Johnson Rust, *A History of the Town of Fairfax*, 1960.

²⁵ The Ox Road mentioned in the Council order of June 19, 1742, establishing the site of the new Court House followed the middle road all the way from Occoquan to the Carter's "Frying Pan" mine on the Horsepen of Broad, and so was generally parallel with the New Church (or eastern ridge) road. It seems quite obvious that the crossroad which leads from the present-day Fairfax Court House to Tyson's Corners and thus connects the two ridge roads was opened soon after 1742 to afford those who dwelt on the lower reaches of the Ox Road a convenient access to the Court House.

²⁶ Catesby Cocke (see footnote 18) served as clerk of the court until 1746 when he was succeeded by his son-in-law, John Graham (1711-1787).

John Graham was a native of Perthshire but came to Virginia about 1740 from the ancient burgh of Dumfries located on the Solway Firth some 80 miles from Glasgow. Graham established himself on Quantico Creek as a representative of a house of merchants, but while maintaining that residence to the end of a long life he soon abandoned commerce probably by reason of a disaster suffered by his Scottish principals.

John Graham was married twice, his second marriage being to Elizabeth, daughter of Colonel Cocke in 1746. By a family arrangement Graham now changed the course of his life and in the same year succeeded his new father-in-law as clerk of Fairfax. He continued nevertheless to reside on Quantico and was instrumental in the establishment of the town of Dumfries in May 1749. However, Peter Wagener, who was then clerk of Prince William, was contemporaneously living in Fairfax. Accordingly an exchange of posts was effected in 1752, and Graham thereafter officiated as clerk of Prince William until 1777. See: Harrison, *Landmarks of Old Prince William*, 1924, pp. 339, 342, 385-387, 394.

²⁷ *Landmarks of Old Prince William*, pp. 321, 322.

²⁸ Hening, Stat. at Lar. VI, 201.

²⁹ Stetson, *Four Mile Land Grants*, 1935, p. 18.

The town of Alexandria had its origin in the establishment above Hunting Creek of one of the warehouses authorized by Governor Gooch's tobacco inspection act of 1730.³⁰ This new trading center soon attracted a group of young factors for Scottish merchants among whom were James Pagan, John Carlyle, and William Ramsey. These men established residence adjacent to the Hunting Creek about 1740 and promptly gave the name of the Scottish hero Belhaven to their little community. It was these three also, supported by Hugh West, the owner of the warehouse, who enlisted the backing of Lord Fairfax when he arrived in Virginia in 1747 after his final trans-Atlantic voyage and promoted that "petition of the inhabitants of Fairfax, praying that a town may be established at Hunting Creek warehouse on Patowmack River," which was submitted to the Assembly on November 1, 1748. Certain opposition developed to this petition, but with the final assent of Governor Gooch a

³⁰ On October 21, 1669, Robert Howsing, a Welsh sea captain, sued out a patent for 6,000 acres described as "upon the freshes of Potomack River on the west side thereof above the dividing branches of ye same." On November 13, 1669, Howsing transferred his patent to the surveyor John Alexander of Chotank, whose descendants kept it alive into the 18th century (despite prior claims of Margaret Brent, "Gentleman"), when it became the site of the Hunting Creek warehouse and ultimately of the City of Alexandria.

During February 1694 the patented land was surveyed by Theodorick Bland, a surveyor of Stafford County. The north boundary of the patent was the line later bounding Arlington Cemetery and Fort Myer on the north. The southerly boundary is Great Hunting Creek. John Alexander entertained the mistaken notion that the Potomac River flowed in a southwesterly direction between Analostan Island and Hunting Creek which led to the error of assigning a greater length to the northern boundary than to the southern. This made the western line of the tract run N. 15° W. instead of N. 6° W. This error in turn was reflected in Bland's survey and resulted in a claimed area of 8,438 acres instead of 6,000 acres mentioned in the patent. No grants west of the Howsing Patent had been made in 1694. Accordingly there was no one at that time to challenge the legitimacy of Bland's survey, but it was to lead to prolonged litigation over the boundaries of the Howsing Patent.

The first of the resulting suits was also one of the first to be filed in the new Fairfax County Court and presumably was the first affecting title to what is now Arlington County land. About 1742 an ejectment action was brought by John and Gerard Alexander (descendants of the first John) through their fictitious tenant Aminidab Thrustout against a feigned defendant whose designation has not survived. The actual defendant was Henry Awbrey, infant son and heir of Thomas Awbrey, and the land in dispute was a triangular parcel along the Potomac River containing 33 acres. The only surviving record of the suit is the survey of the Howsing Patent made by Daniel Jennings, surveyor of Fairfax County on March 31, 1746, in obedience to an order of the General Court. Annexed to the survey is Jennings' report in the first Fairfax Survey Book, p. 11. The land in controversy was far away from the western line of the Howsing Patent, but it was deemed necessary to lay off the whole Patent. The report states that the plaintiff produced an attached copy of the Patent to Howsing for 6,000 acres and a survey and plat of Theod. Bland, surveyor of Stafford County dated February 26, 1693-94. The way in which Bland laid off the tract is indicated in Jennings' report. The records of the General Court at the old Capitol and of the County Court of Fairfax show further proceedings in this suit are missing, but the report (pp. 101-119 of the Fairfax County Land Suit Book No. 1) of Robert Brooke, surveyor, in *Alexandria v. Birch* made in the year 1785, states that the plaintiff in the later suit required that the western line of the survey be run N. 18¾° W., which line, the plaintiff states is the bounds of the Howsing Patent as fixed at a General Court at the Capitol November 1751 on trial of a suit by John and Gerard Alexander against Awbrey.

So it appears that the Alexanders won in their first suit involving the Howsing Patent. See Stetson, *Four Mile Run Land Grants*, 1935, pp. 4, 18, 20. See also C. B. Rose, Jr., "A Glimpse of Arlington in the Eighteenth Century," *Arlington Hist. Mag.*, Vol. 1, No. 2, p. 15.

bill introduced by Lawrence Washington and Richard Osborne entitled "An Act for erecting a town at Hunting Creek warehouse in the county of Fairfax" became law on May 11, 1749, and the town to be "called by the name of Alexandria" was born.^{30a}

For a number of months the trustees of the new town were primarily concerned with the disposal of the lots thereof, and "advertisements were set up for that purpose" in gazettes.³¹ Sales were numerous, and houses began to go up speedily. By January 1750, 80 lots had been sold, with two lots (Nos. 43 and 44) set apart for the town house and market square.³²

After Alexandria had been established, that enterprising and growing community launched a movement to draw to it the seat of county administration. This action was of course opposed by the inhabitants of the upper part of the county, but the leaders of the town offered to build a new court house by subscription and so save the county any expense that would be involved in such a move. This proposition was irresistible, and at meetings of the Council in March and April 1752 the proposal was in due course approved, witness the following resolutions found in C. O., 5: 1423, pp. 529, 539—

1752, March 23—A petition subscribed by many of the principal inhabitants of Fairfax County for removing the court house and prison of that county to the town of Alexandria, which they propose to build by subscription, was this day read, Ordered that the justices of the said County be acquainted therewith and required to signify their objection against such removal, if they have any, by the 25th of next month, on which day the Board will resume the consideration thereof.

April 25—Upon the petition of many of the inhabitants of Fairfax County for removing the court house and prison of said county by subscription to the town of Alexandria, the Board being satisfied that it is generally desired by the people, and on notice given, no objection being made to it, Ordered that the court house and prison be removed accordingly to the town of Alexandria.

Similarly, on March 10, 1752, a Committee reporting to the House of Burgesses resolved "that it is the opinion of the committee that the proposition from the county of Fairfax, in opposition to the proposition from that county, for appointing the court of the said county to be held at the town of Belhaven (later Alexandria) be rejected—a somewhat complicated manner of ordering the court to be held at Alexandria."³³

Governor Dinwiddie thereupon issued his proclamation, and the transfer became an accomplished fact. The *Virginia Gazette* of April 30, 1752, reported that "His Honour the Governor has been pleased to issue a Proclamation ad-

^{30a} The town was organized on July 13, 1749, with John West, Jr., as clerk. Its first Board of Trustees was composed of Thomas Lord Fairfax, William Fairfax, George Fairfax, Richard Osborne, Lawrence Washington, William Ramsay, John Carlyle, John Pagan, Gerrard Alexander, Hugh West, and Philip Alexander. In 1763 George Washington was chosen one of the trustees. Brockett and Rock, *A Concise History of the City of Alexandria, Va.*, 1883.

³¹ Minutes of the Trustees of Alexandria, 1749-1767.

³² Gay Montague Moore, *Seaport in Virginia*, 1949, p. 9.

³³ Journals of the House of Burgesses of Virginia, 1752-55; 1756-57, p. 27; Moore, *Seaport in Virginia*, 1949, pp. 11-12.

journing the county court of Henrico to the town of Richmond at the Falls of James River and the County Court of Fairfax to the town of Alexandria on Potowmack."³⁴

While the minutes of the Fairfax Court for this period are missing, a contemporary deed³⁵ contains a recital that its first session to be held at Alexandria took place on May 3, 1752,³⁶ and there it remained for nearly half a century.

By 1753 a village had become a town with the market place located exactly in the middle. A court house of frame was being built on the east side of lot No. 43 at the intersection of Cameron and Fairfax Streets. South of the court house on Fairfax Street stood the jail, stocks, and whipping post for the use of those who failed to keep the law.³⁷ Directly behind these buildings the market square or green occupied all of lot No. 44. Here the town militia drilled, here were held the carnivals and public gatherings, and here was the larder of Alexandria. To this day the market square caters to the appetite of hungry townsmen.³⁸ In the jail, Jeremiah Moore was allegedly imprisoned for preaching the Gospel without a license, and here also were incarcerated the prisoners of the French and Indian Wars.

There was some delay in completing what was thus Fairfax's second court

³⁴ *William and Mary Quarterly*, Vol. 12, p. 215.

³⁵ Fairfax D. B., C:314.

³⁶ As noted (footnote 26), in 1752 Peter Wagener (1717-1774), who was then clerk of Prince William but living in Fairfax, exchanged posts with the incumbent John Graham and became clerk of Fairfax.

This Peter Wagener, the son of the parson of Stisted (Essex County, England), appeared in Virginia in 1738 to practice law. He married a daughter of President John Robinson of "Piscataqua" on the Rappahannock and in 1742 on the organization of Fairfax and the transfer of Catesby Cocke as clerk was, by the interest of his wife, named clerk of Prince William. When he became also clerk of Fairfax in 1752 he established himself on the north shore of Occoquan and a year later (1753) emulated the example of John Graham in founding a town (Colchester) on his own land. As "Major Wagener" he appears in Washington's diaries, attending Truro vestry meetings and generally taking part in county business. The Truro vestry book records his death in 1774. See Harrison, *Landmarks of Old Prince William*, 1924, pp. 433-434.

³⁷ The whipping post and pillory were used until 1835, when they were removed to the new jail on the corner of Princess and St. Asaph Streets. The post was formed of two stout uprights about 2 feet apart, connected by a platform below and another above. Some 2 feet on the outer side of each upright were iron clamps to receive the hands of the culprit, and a like contrivance for the feet. Above the platform was another cross piece with a half circle cut in it at a convenient distance, and above this was another piece, which moved up and down in a groove in the posts, that had cut in it the other half circle, forming holes to fit the prisoner's neck. Many were whipped, white and black, male and female; they were stripped, and the cowhide began its music, accompanied by the yells of the culprit. The boys attended in large numbers and on these occasions stood in great dread of the executioner of the law, particularly of a man known as "Bobtail Bowie" and also of one named Neale. His custom was to pause between every three or four strokes and administer a lecture which made the ceremony very interesting to spectators. (See Mary G. Powell, *History of Old Alexandria*, 1928, p. 40.)

An English magazine of 1768 describes the execution at Alexandria of certain slaves who had poisoned their master and the display of their heads on pikes placed on the chimneys of the jail and court house—as at an earlier day on Temple Bar and London Bridge. Davis and Dorsey, *Alexandria Houses*, 1946, p. 10.

³⁸ Moore, *Seaport in Virginia*, 1949, pp. 12-13.

Theatre
A few doors
away

Royal George Tavern



Cadshys Tavern

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McKnight's Tavern



Bank of
Alexand

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CAMERON



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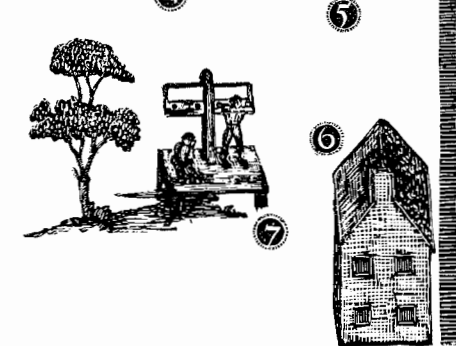
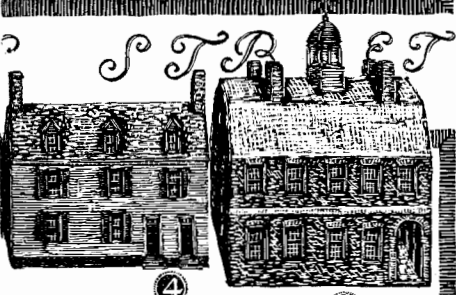


SHARPSHIN ALLEY

Rainbow Inn



R O A D S T R E E T



MARKET SQUARE
-and Environs
 ALEXANDRIA, VIRGINIA
 Late 18TH Century

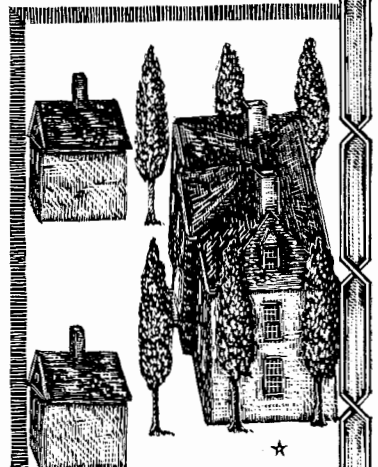
Key:

1. Friendship Fire Company
2. Huslings Court House
3. Sun Fire Company
4. Town House and School
5. County Court House
6. Jail
7. Stocks and Pillory

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To Carlyle & Dalton's Wharves



Carlyle House



A Cartograph by Worth Bailey 1949

A CARTOGRAPH OF 18TH CENTURY MARKET SQUARE, ALEXANDRIA, VA., DRAWN BY WORTH BAILEY IN 1949 AND FORMING THE END PAPERS FOR MRS. GAY MONTAGUE MOORE'S *Seaport in Virginia*. COURTESY OF MR. BAILEY. (ORIGINAL 10½" x 14".)

house building. On December 19, 1754, the trustees of Alexandria entered an order that the court house lot be "paled in with Posts and Rails in a workmanlike manner," and John Carlyle, John Dalton, George Johnston, and William Ramsay were appointed to see what further was to be done toward finishing the court house.³⁹

The minutes of the trustees for 1755 announced that by this time the frame court house had been fenced in—it had taken two years, and the gentlemen justices of Fairfax County sitting on November 17, 1756, ordered John West, John Carlyle, and William Ramsay, Gentlemen, to be paid 5,000 pounds of tobacco; John Doonas, Alexandria's first policeman, was to receive 120 pounds for patrolling 12 days.⁴⁰

The prodigious development of the new port was accompanied by a growing civic pride and demand for better public buildings. A story-and-a-half brick town hall was erected in 1759 by funds raised by lottery, tickets selling at 10 shillings each, the trustees making themselves responsible for a sum adequate for the purpose. At the trustees' meeting of April 1767 John Dalton and John Carlyle produced an account of moving the court house amounting to £52 7s 5½d; while William Ramsay presented his account for a "scheme of a lottery to build a Church and Market House" in the amount of £11 12s. The new town house with its assembly room stood near the northeast corner of the square, and it soon became a historic center.⁴¹ The ground floor was devoted to the Alexandria school. Near the town house on Cameron Street stood the Fairfax Court House, which town promotion had brought to Alexandria. The church and market did not materialize so early.⁴²

In the next few years the American Revolution was fought and won, and the treaty of peace with Great Britain was signed (1783). With a change in sovereignty it is natural that there would be a change in the judicial system existing under the old. On June 29, 1776 (five days before the Declaration of Independence), delegates and representatives of the several counties and corporations of Virginia in Convention assembled at Williamsburg adopted "the first written constitution of a free state in the annals of the world." This form of government provided that the "two Houses of the Assembly shall by joint ballot, appoint Judges of the Supreme Court of Appeals and General Court, Judges in Chancery, Judge of Admiralty . . . to be commissioned by the Governor. . . ." Also the Governor with the advice of the Privy Council shall appoint justices of the peace for the counties. The present acting secretary of Virginia

³⁹ Records of the Meetings of the Trustees of Alexandria, 1749–68, ms.; *Seaport in Virginia*, 1949, p. 14.

⁴⁰ *Ibid.*, p. 17; On July 18, 1771, the freeholders of town and county assembled in this court house. At this meeting George Washington presided and George Mason drew up the celebrated Fairfax County Resolutions protesting against British tyrannies.

⁴¹ In this assembly hall on March 22, 1785, was held the first Conference between Representatives Alexander Henderson and George Mason of Virginia and Mayor Daniel of St. Thomas Jenifer, Mr. Chase, and Mr. Stone of Maryland. This Conference resulted in the framing of the Constitution of the United States.

⁴² *Seaport in Virginia*, 1949, p. 21; Davis and Dorsey, *Alexandria Houses*, 1946, p. 9.

George the second by the grace of God of Great Britain France &
Ireland King Defender of the Faith &c. to the sherriff of Fairfax
County greeting we command you that you summon
William Mitchell to appear
before our Justices of our County Court of Fairfax at the Court
house thereof on the third Tuesday in next month to answer
the Petition of *Robert Burgess Merchant*
and have then there this writ with you Peter Wagener Clerk of
our said Court the xxixth day of August in the xxixth year
of our reign 1755.
P. Wagener

SUMMONS ISSUED AUGUST 26, 1755, IN NAME OF KING GEORGE II TO APPEAR IN THE COUNTY COURT OF FAIRFAX AND SIGNED BY THE FIRST PETER WAGENER, CLERK FROM 1752 TO 1774. (ORIGINAL 4" X 5¾".)

and clerks of all the county courts shall continue in office. (See *A Collection of all Such Public Acts of the General Assembly*, etc., Richmond, 1785, p. 35; Hening, Stat. at Lar. IX, 112-119.) By the adoption of this form of government, the old General Court of the Colony was abolished; however, the county courts were retained.⁴³ (See Hening, Stat. at Lar. XII, 32, 467; *ibid.*, XIII, 449; Acts of 1819, Revised Code 1819, Ch. 71, 244.)

⁴³ Following the adoption of the new form of government, the General Assembly during the next three years proceeded to implement the provisions thereof. First, it established the High Court of Chancery, one of the principal courts of judicature for the Commonwealth and consisting of three judges. Acts of Oct. 1777, ch. XV; Hening, Stat. at Lar. IX, 389. Next, at the same session, a General Court consisting of five judges chosen by both houses of the Assembly was created, this court being also one of the principal courts of judicature for the Commonwealth. Its jurisdiction extended over all persons, and in all cases at common law whether brought before the court by original process or by appeals from any inferior court. Suits that had been pending in the old Colonial General Court were transferred to it. Acts of Oct. 1777, ch. XVII; Hening, Stat. at Lar. IX, 401. By Acts of the Assembly of Oct. 1778, ch. XII, and May 1779, ch. XXII, the judges of the High Court of Chancery, General Court, and Court of Admiralty were constituted the judges of the Court of Appeals charged with finally determining all suits and controversies. Any five of the judges constituted a court. Appeals from the late General Court to the King in Council not decided were transferred to the Court of Appeals. Also at the May 1779 session of the General Assembly, ch. XXVI, an Admiralty Court consisting of three judges was created with jurisdiction over all maritime causes.

Consistent with the removal of the seat of government from Williamsburg to Richmond, the October 1779 session of the General Assembly, ch. XVII, ordered "that the first meeting of the Court of Appeals, High Court of Chancery, and General Court in the year 1780, shall be at the town of Richmond. Hening, Stat. at Lar. X, 152.

In 1788, in addition to the Court of Appeals, the General Court and the High Court of Chancery, Virginia established a system of district courts to be held throughout her territory⁴⁴ by judges of the General Court. (Hening, Stat. at Lar. XII, 532, 644, 730.) One of the districts was made up of the four counties, Fairfax, Fauquier, Loudoun, and Prince William, and the seat of the District Court was established at Dumfries in Prince William County.⁴⁵ Approximately ten years later, or in 1799, it having been urged upon the Assembly that Dumfries was "not only remote from the centre of the District but inconvenient to suitors," Commissioners were named to establish, at the expense of the four counties, a more convenient common forum. (See Acts, 1799, ch. 56, p. 29; Shepherd, ii, p. 242.) Haymarket was picked by the Commissioners as the site (Acts, 1804-05, ch. 50, 38; Shepherd, ii, 432; *ibid.*, iii, 168), and there on the lands of William Skinker, a court house, clerk's office, and jail were built.⁴⁶ These were occupied until 1807, when the District Court was converted (Revised Code, 1819, I, 226) into a circuit (superior) court to be held periodically at every county seat, as is substantially the present practice. Thereafter, the Court House at Haymarket fell into disuse. It was finally sold (Acts, 1811-12, ch. 90, 12) and converted into the still (1924) standing church. (See Bishop Mead, *Old Churches*, Vol. 2, p. 215; Harrison, *Landmarks of Old Prince William*, 1924, p. 318.)

During the 30 years of the existence of the municipal government of the town of Alexandria under the charter of July 13, 1749, the citizens had no participation therein; the original trustees were named in the charter, and the trustees themselves filled all vacancies in their own body. This was, however, of no great importance as the power of the trustees was of the most limited character. During the Revolution, however, the town increased to an importance which justified new arrangements for its government, and it probably seemed that the time had come to give the citizens a voice in the government of the town. Accordingly, on October 4, 1779, the General Assembly passed "An Act for Incorporating the Town of Alexandria." (Acts, Oct. 1779, ch. XXV; Hening, Stat. at Lar. X, 172.)

Under the above referred to charter, 12 persons were elected a Common

⁴⁴ Earlier, by the Act of 1787, ch. 39; Hening, Stat. at Lar. XII, 532, the judges of the Court of Appeals (consisting still of the judges of the High Court of Chancery, General Court, and Court of Admiralty) were made judges of the newly established District Courts. This act, however, was declared unconstitutional by the existing Court of Appeals. At the next session of the Assembly, the Court of Appeals, the General Court, and the High Court of Chancery were separated and molded into their current form by the appointment of distinct judges for each court; the Court of Admiralty being discontinued in consequence of the adoption of the Constitution of the United States, Acts 1788, ch. 68, 69, 71, 72. By the Act of 1806, ch. 22, the number of the judges of the Court of Appeals was reduced to three, but by the Act of 1810, ch. 4, it was restored to five.

⁴⁵ The Minute Book (one volume) for the October term, 1793, and the Minute Book (one volume) for the period October 13, 1794, to October 29, 1798, of the District Court at Dumfries are in the custody of the clerk of court of Prince William County. See Harrison, *Landmarks of Old Prince William*, 1924, p. 684.

⁴⁶ Minute Books of the Court (two volumes) for the period from October 19, 1804, to May 23, 1817, are in the custody of the Prince William clerk of court. *Ibid.*, p. 684.

Council. These persons then selected from among themselves the mayor,⁴⁷ recorder, and four aldermen, the others constituting the Common Council. The entire 12 sat for legislative business in one chamber. The mayor presided and the aldermen and Common Council had each one vote. The mayor and the aldermen were given the power to hold a Court of Hustings for the town⁴⁸ and were its justices of the peace, the councilmen having no share in judicial functions.⁴⁹

Subsequent to the incorporation of the town of Alexandria and the establishment of the Hustings Court, a building for the court was erected (1782) on the northwest corner of the Market Square. It was a two-story brick building of massive arches and was afterward incorporated in the Market House which was completed in 1817. The erection of this latter structure began in 1816, and it was at the time one of the finest municipal buildings in this section of the country. It covered the east side of Royal Street from the corner to Sharpshin Alley and was a three-story brick building of plain colonial architecture. On the middle of the west front arose the tower which Wm. F. Carne, in one of his admirable sketches of Alexandria, says, "was very similar to the Bow Bells in London, with three balls aloft and a clock below which struck the hours that our city fathers believed were to usher in a time of great prosperity."⁵⁰

The upper floor of the Court and Market building was approached by a flight of steps at the south end of the court leading to a balcony which ran along two sides of the building and overlooked the court below. At the head of the steps were the mayor's office and chamber of the Common Council, then a number of rooms used as offices, and at the northwest corner was the chamber of the Board of Aldermen. The building joined the Masonic Temple on the east, from which a stairway descended to the market below.⁵¹

In the next ten years following the establishment of the Hustings Court for the town of Alexandria, i.e., from 1779 to 1788,⁵² the second Fairfax Court

⁴⁷ Robert Townshend Hooe (1780-1782) was chosen the first mayor. For a list of mayors from Hooe's term to the first year of the Civil War (26 all together) see Powell, *History of Old Alexandria*, 1929, p. 361.

⁴⁸ Any four or more of the mayor and aldermen were to have jurisdiction and on the second Thursday in every month hold pleas of actions, personal and mixt, arising within the town; not in excess of £ 10 or 1,000 pounds of tobacco and as a court of record give judgment and award execution thereon according to law. Also they were to exercise all powers out of court touching any crime or offense which any justice or justices of peace of a county then had and in the same manner to summons a court of justices of the county for the examination and trial of any criminal.

⁴⁹ Wm. F. Carne, *The Charters & Laws of the City of Alexandria, Va., and an Historical Sketch of its Government*, 1874, p. 10.

⁵⁰ Mary G. Powell, *History of Old Alexandria*, 1928, p. 58.

⁵¹ *Ibid.*

⁵² At this time Peter Wagener (1742-1798) was clerk, having succeeded his father who died in 1774 (see footnote 36). This Peter Wagener grew up on the Occoquan and was reared in the clerk's office. He married a daughter of Daniel McCarty of Pohick and appears frequently in Washington's diaries in the group of fox-hunting McCarty kinsmen who frequented Mount Vernon after 1760. Peter continued to serve as clerk until his death in 1798. During the Revolution he was county lieutenant of Fairfax. His will is recorded in Fairfax W.B., G:404. See Harrison, *Landmarks of Old Prince William*, 1924, p. 434.

The COMMONWEALTH of VIRGINIA

To the Sergeant of the Court of Hustings in the Town of Alexandria,

GREETING:

YOU are hereby commanded that of the Goods and Chattles of
John M. Moring and John Sullivan
in your Balliwick, you cause to be made the sum of *one hundred*
and five pounds *ten shillings*

which *Stephen Blunder*
lately in our said Court of Hustings recovered against *them* for debt,
also the sum of *five Dollars and eighty seven cents*
which the said *Stephen Blunder*

in the same Court were adjudged for *them* damages,
as well by reason of detaining the said debt as for *their* costs in that
suit expended, whereof *they are* convict, as appears to us of record,
and that you have the said *Stephen Blunder*

before the Justices of our said Court of Hustings, on the first day of
April to render to the said *Stephen Blunder*
of the debt and damages aforesaid; and have then there
this Writ.

Witness PETER WAGENER, Clerk of the said Court, this *4th*
day of *April* 1795.

P. Wagener

WRIT OF EXECUTION FOR DEBT ISSUED OUT OF THE COURT OF HUSTINGS IN THE TOWN OF ALEXANDRIA, APRIL 4, 1795, AND SIGNED BY THE CLERK, THE SECOND PETER WAGENER. THIS WAGENER WAS ALSO CLERK OF THE COUNTY COURT OF FAIRFAX FROM 1774 TO 1798. (ORIGINAL 7" X 12".)

House located nearby in the same square fell into considerable disrepair, and when the question of rehabilitating it was up for consideration George Mason, at the January court, 1789, objected for constitutional reasons to the County Court imposing a levy on tobacco for the cost of the work. The basis for his objection was that under the Virginia Bill of Rights the power of taxation in such cases had been taken from the County Court. The resolution of this issue was important because Virginia had then only recently become a sovereign Commonwealth and precedents were in the making. The County Court itself sustained Mason by the close vote of 12 to 10, and application was accordingly made to the Assembly for power to act.

In the interim and before the matter came before the legislature in December 1789, Virginia had by an act passed on December 3, 1789, ceded to the United States a site not exceeding 10 square miles for the seat of the General Government, and there was the possibility that Alexandria might be excluded from Fairfax County.⁵³ Accordingly, instead of providing for the repair and rebuilding of the old court house at Alexandria, the Assembly provided by statute for the erection of a new court house by Fairfax County in the vicinity of Ravensworth⁵⁴ “on the lands of William Fitzhugh, gentleman, or on the lands of any other person within one mile of the cross roads⁵⁵ at Price’s ordinary.” However, a tentative survey of the named location failed for a number of reasons to reveal a suitable location, among them being the lack of good water and the necessity of changing the course of the road. Accordingly, at the February and April courts of 1790, it was ordered that compliance with the Act of 1789 should be postponed until commissioners could report the result of a thorough study. At the May court this action was confirmed, and it was ordered that the entire problem be presented to the Assembly upon the report of the commissioners which had been rendered in the interim. However, the question of the removal of the court house continued to drag on.

In the meantime the condition of the court house became so poor that the court in November 1790 noted it to be “unfit to transact business in at this time” and “until a decision of the several applications to the Legislature of this State is known, respecting the removal of the Court House from the town of Alexandria” they felt it necessary to move into temporary quarters. Accordingly, the court did “accept of the new court house [Hustings Court] over the market on the court house lot, offered to the County Court of Fairfax by the co-operation of the town of Alexandria.”⁵⁶

⁵³ Hening, Stat. at Lar. XIII, 43; Revised Code, 1819, 44-45.

⁵⁴ “Act for altering the place of holding courts in the County of Fairfax,” Hening, Stat. at Lar. XIII, 79.

⁵⁵ The crossroads referred to were probably the junction of the east and west main road leading from Alexandria to Newgate (now called the “Braddock” Road) with either the Ravensworth Rolling Road leading south, or nearby with the “Guinea” Road leading north.

⁵⁶ Harrison, *Landmarks of Old Prince William*, 1924, p. 325.

Peter Wagener, son of the former clerk of Prince William and Fairfax and then clerk (see footnote 52), was in February 1791, during the mayoralty of Philip Marsteller, authorized by the mayor and Town Council to occupy the town schoolhouse as an office for the town and county records, and in February 1793 the court found the inconvenience of being separated from its records so great that the clerk was ordered to remove them to "the old Town House" adjacent to the market where the court was then sitting. The mayor and Common Council also resolved that Peter Wagener be given title to the brick of the county court house as indemnity for pulling it down. Thus was destroyed a little house which had been associated with the early and important history of the area.⁵⁷

By 1798 the Assembly finally had acted. After first restoring to Fairfax all that part of Cameron Parish in Loudoun which lay above "a line drawn from the mouth of Sugar Land run to Carter's Mill on Bull Run" the Fairfax Court was required "to fix a place for holding court therein at or near the centre thereof, having regard to that part of Loudoun hereby added to the said County of Fairfax."⁵⁸

Carrying out this injunction the Fairfax Court on June 27, 1799, took title⁵⁹ to 2 acres of land by conveyance of Richard Radcliffe on which to erect a court house and other buildings. This land was located at the junction of Ox Road and a new road to the valley being built by the "Fairfax and Loudoun Turnpike Road Company." After 1802 this road was to be known as the Little River Turnpike and was destined to become the main artery of the county leading out of Alexandria. The appropriate buildings were completed (George Deneale being then the clerk of the Fairfax County Court) and occupied in 1800,⁶⁰ and thus the third and still existing Fairfax Court House was established.⁶¹ All this took place in sufficient time to enable the Fairfax Court to

⁵⁷ Mary G. Powell, *The History of Old Alexandria from July 13, 1749 to May 29, 1861*, 1928, p. 37.

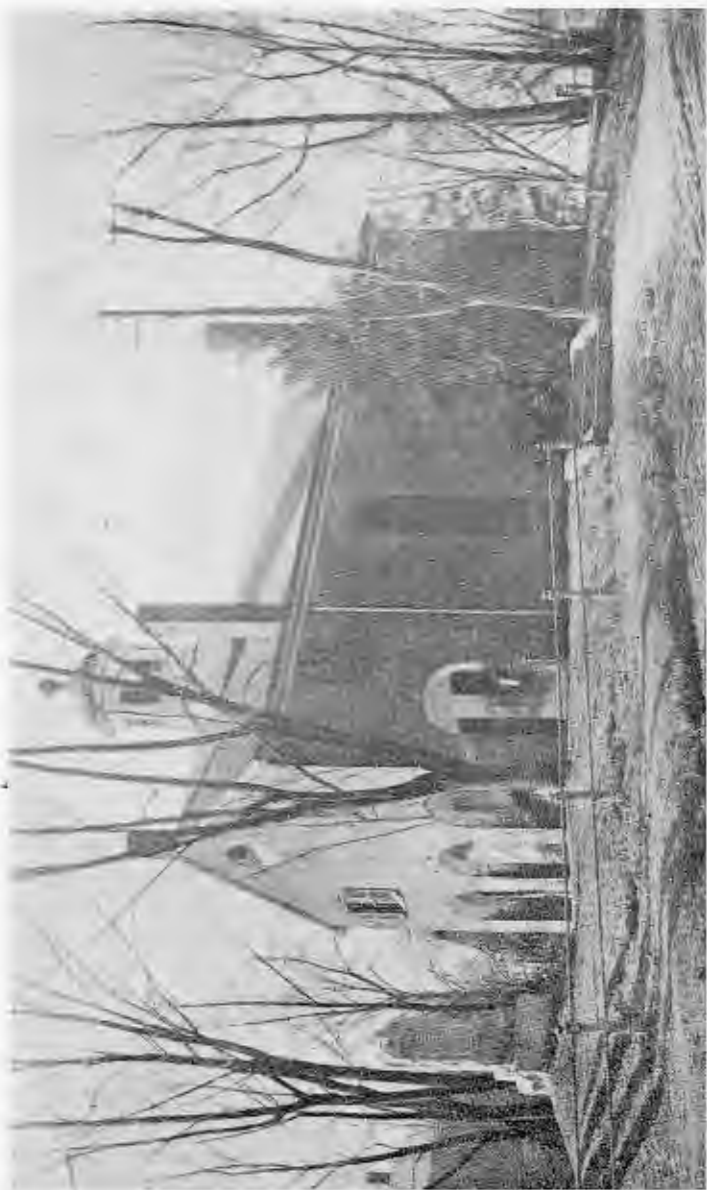
⁵⁸ Acts, 1797-98, ch. 37, printed in Shepherd, ii, 107.

⁵⁹ Fairfax Deed Books, BB:373.

⁶⁰ Owing to the fact that the court minutes are missing, there is no record of the first session held in the new court house; but incidental recitals in other records such as the probate here of the will of George Washington on January 20, 1800, recorded by George Deneale, then clerk of Fairfax, show that it was about January 1, 1800. Deneale served as clerk of Fairfax County Court from 1798 to 1801. Harrison, *Landmarks of Old Prince William*, 1924, 342.

George Deneale was born in Fairfax County in 1776. He made his home in Alexandria in the year 1790, and from that date he was one of its outstanding citizens. While he was clerk of the Fairfax County Court he also on May 20, 1800, was serving as clerk of the Hustings Court of the Town of Alexandria. Subsequent to the County and Town of Alexandria becoming part of the District of Columbia Col. Deneale was appointed Clerk of the Circuit Court of the District of Columbia. He was an active Mason. He also had command of the Militia at the funeral of George Washington and was active in the formation of the Washington Society of Alexandria, serving as its faithful secretary from its origin to the time of his death, which occurred in 1818.

⁶¹ The village which grew up around the new court in 1805 became the town of Providence (Shepherd, iii, p. 177). In 1842 this town was incorporated (Acts, 1841-42, ch. 196, p. 126) although it was commonly called Fairfax Court. After the war, the Fairfax shiretown was duly incorporated as "the town of Fairfax (Acts, 1874-75, ch. 47, 36; 1891-92, ch. 282, 464).



THIRD FAIRFAX COURT HOUSE, BUILT IN 1800. MONUMENT IN FOREGROUND INDICATES SPOT WHERE FIRST SOLDIER WAS KILLED IN BATTLE DURING THE CIVIL WAR.

remove from Alexandria before that town passed under the jurisdiction of the Federal Government and became a part of the District of Columbia.⁶² (See, *infra*.)

Alexandria (Arlington) County had its potential origin in the Act of the Assembly of Virginia passed December 3, 1789, offering "the cession of ten miles square, or any lesser quantity of territory within this state to the United States in Congress assembled for the permanent seat of the General Government."⁶³ By the Act of Congress approved July 16, 1790, as amended by the Act approved March 3, 1791, the President was authorized to lay out the District of Columbia so as to include the town of Alexandria and a portion of Fairfax.⁶⁴ Following the directions of President Washington,⁶⁵ the Federal District was laid off beginning at Jones Point at the mouth of Great Hunting Creek and enclosing the town of Alexandria and a portion of the county of Fairfax.⁶⁶ The cornerstone was set at Jones Point on April 14, 1791.

The compromise which had resulted in the selection of the Potomac as the site of the Federal Government included an agreement that the seat of the Government should be at Philadelphia for a period of 10 years. Accordingly, it was not until 1800 that Congress and the Government offices were moved to the new District of Columbia. By one of its acts approved February 27, 1801,⁶⁷ Congress assumed jurisdiction over the area and formed it into two counties. That part which lay on the west side of the Potomac which included within its boundaries the town of Alexandria, was given the name "County of Alexandria," which was derived from that of the town.⁶⁸ The area on the Maryland side was called "Washington County" and included Washington and Georgetown.

In the same Act of February 27, 1801, Congress established a court in the new District to be called the Circuit Court of the District of Columbia with the right of appeal to the United States Supreme Court in cases involving \$100 or more. The new circuit court was to have one chief judge and two assistant judges with all the powers of law vested in the Circuits of the United States. The court was to hold four sessions in each county annually and was to have

⁶² The Act of Congress extending jurisdiction over the District of Columbia was approved February 27, 1801 (U.S. Stat. at Lar. 2, 103) by President Adams.

⁶³ Hening, Stat. at Lar. XIII, 43. See footnote 53.

⁶⁴ U.S. Stat. at Lar. 1, 130, 274.

⁶⁵ Richardson, *Messages and Papers of the President*, i, pp. 100, 102.

⁶⁶ C. B. Rose, Jr., *The Boundaries of Arlington, Arlington Hist. Mag.*, Vol. I, No. 1, p. 11.

⁶⁷ U.S. Stat. at Lar. 2, 103.

⁶⁸ Even though the town of Alexandria passed under the jurisdiction of the Federal Government, the Charter of 1779 with subsequent acts of the Virginia Assembly in relation thereto were continued in force until February 25, 1804, when Congress enacted a new charter for the town. Under this charter, which continued without change until February 1843, the white freeholders and housekeepers elected annually 16 members of a Common Council (four from each ward), the Council in turn electing the mayor. On the date mentioned Congress amended the charter so as to also provide for the election of the mayor by the voters, and the Charter of 1804, as thus amended, continued in force until after the retrocession of Alexandria to Virginia in 1847. See William F. Carne, *The Charter and Laws of the City of Alexandria, Va.*, 1874, p. 13.

District of Columbia, to wit:



The United States of America,
To the Marshal of the District of Co-
lumbia Greeting;

We command you that you take
*Christopher Duffey, and
Henry Nicholson*

if they be found in the County of Alexandria, in your said District, or in
their sole help, so that you have their bodies before the honorable the
Judges of the Circuit Court of the District of Columbia, for the County of Alex-
andria, at the ~~Court House~~ in Alexandria, on the *Fourth* Monday in
September — to satisfy *The United States of America*
the sum of *Seventy Eight Dollars and Twenty Eight
Cents*

which the said *United States of America* — into its said
said Circuit Court of the District of Columbia, for the County of Alexandria,
brought against *them* her debt
of *Six Dollars and One Hundred and Ninety five
Pounds of Tobacco at Thirteen Shillings and four
Pence per Hundred Weight*

which to the said *United States of America* in the same Court
were adjudged for *them* — damages, performed as well by *them* of ill-
treatment of the said debt, as for *them* — well by *them* in their behalf
expended whereof *they* are convicted, as appears to us of record; and have taken
there this Writ. — Witness WILLIAM KILTY, Esq. Chief Judge of our said
Court, this *3^d* day of *August* in the year of our Lord 1804.

George Deneale

WRIT OF EXECUTION FOR DEBT ISSUED OUT OF THE CIRCUIT COURT OF THE DISTRICT OF CO-
LUMBIA FOR THE COUNTY OF ALEXANDRIA AUGUST 3, 1804, AND SIGNED IN THE NAME OF WIL-
LIAM KILTY, CHIEF JUDGE, BY GEORGE DENEALE, CLERK. (ORIGINAL 8" X 13".)

cognizance of all crimes and offenses committed within the District and of all cases in law and equity between parties. The Alexandria County branch of this court was at first referred to as "The Circuit Court of the District of Columbia for the County of Alexandria" and later as "The United States Circuit Court of the District of Columbia for the County of Alexandria."⁶⁹ Thus from 1801 to 1847, when Alexandria County including the town was retroceded to Virginia, the residents of this area were under the complete jurisdiction of the Federal Government.

On March 3, 1801, President Adams appointed William Kilty as chief judge with James Marshall and William Cranch⁷⁰ as assistant judges of the District's new Circuit Court. Chief Judge Kilty resigned in January 1806, and President Jefferson made Cranch chief judge, the latter serving in that capacity for 50 years, a period that extended beyond the period the former Virginia territory remained a part of the District of Columbia.⁷¹

The first session of the Circuit Court was held on the Virginia side of the river and in the old Hustings Court located on the north side of the Market Square in Alexandria. Cleon Moore was appointed clerk,^{71a} and a bar of attorneys took the oath. The first session on the Maryland side was held in Washington on March 23, 1801, in the old brick capitol occupying a room adjoining the Senate chamber which had been assigned to the Supreme Court of the United States.

Apparently some time elapsed before the Circuit Court acquired its own building in Alexandria County. The first step toward that end was the passing by Congress of an Act approved April 27, 1816, authorizing the Levy Court of the County of Alexandria to lay a tax "for the purpose of defraying the expense of erecting a jail and courthouse" (U.S. Stat. at Lar. 3, 318). Next, Congress by an Act approved July 7, 1838 (U.S. Stat. at Lar. 5, 262), appropriated \$15,000 for the building of a court house in Alexandria in the District of

⁶⁹ Thirteen volumes of the Minutes of this Court covering the period April 13, 1801, to December 20, 1817, and 20 volumes of the Orders and Minutes thereof for the period November 23, 1807, to October 31, 1846, are in the Clerk's Office of the present Arlington Court House. See Harrison, *Landmarks of Old Prince William*, 1924, pp. 691-694.

⁷⁰ Judge Cranch was a native of Weymouth, Mass., having been born there on July 17, 1769. His father was Judge of the Court of Common Pleas of Massachusetts. He entered Harvard at 15 and graduated three years later. He came to the seat of the Federal Government in October 1794 at the age of 25, having studied law with Judge Thomas Dawes of the Supreme Court of Massachusetts. He found no sufficient dwelling place at the unfinished capital and became a resident of Alexandria, where he practiced law. Having been named Judge of the Circuit Court, he began his judicial functions in Alexandria in April 1801. In 1847 Judge Cranch's jurisdiction over the south banks of the Potomac ended, and he continued his judicial work in the remaining portion of the District of Columbia. He died at his home on Capitol Hill in Washington September 1, 1855, being then in his 87th year. It has been said that during his long service as a judge not one of his decisions was reversed. See: Powell, *The History of Old Alexandria, Va.*, 1928, pp. 229-231; *Columbia Hist. Soc. Mag.*, Vol. 5, p. 294.

⁷¹ *Ibid.*, p. 294; Powell, *The History of Old Alexandria, Va.*, 1928, pp. 229-231.

^{71a} Other clerks of this court in the order named included George Deneale (ca. 1803-1818; see footnote 60); Edmund I. Lee (ca. 1818-1840); Cassius F. Lee (1840-1847).

Columbia to be erected under the supervision of the Commissioner of Public Buildings in accordance with plans approved by the President.⁷²

COL. GEORGE DENEALE

Served at various periods as Clerk of the County Court of Fairfax, Court of Hustings in the Town of Alexandria, and the Circuit Court of the District of Columbia for the County of Alexandria. Silhouette from William B. McGroarty's *Washington First in The Hearts of His Countrymen*, 1932, p. 8. Courtesy Garrett and Massie, Inc., Richmond, Va.



This building was erected in the center of the half square of land situated on the west side of Columbus Street between Queen and Princess^{72a} which had been conveyed to the United States by John A. Dixon and wife by deed dated December 1, 1838.⁷³ The stated consideration for the land was \$800.00.⁷⁴

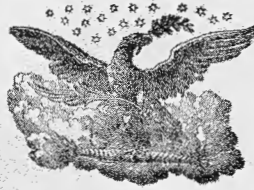
⁷² This statute further directed that the court house was to also accommodate the Orphans' Court for the County of Alexandria which Congress in assuming jurisdiction over the Virginia side had established. George Gilpin, Esq., one of the first justices of the peace for Alexandria (D.C.) (see footnote 75) County was judge of this court in February 1817. The minute books of the Orphans' Court covering the period May 1811, to March 1, 1847, may be found in the Clerk's office of Arlington County.

^{72a} A photograph of the building and a copy of the plat of land will appear in Part II of this article.

⁷³ Liber No 2. p. 150, Alex. Law Records.

⁷⁴ According to James R. Caton, in his *Jottings from the Annals of Alexandria*, 1933, p. 131, the new Court House "was a large and imposing structure, built of brick, of Colonial type of architecture, substantial in all its parts, and built with a view to accommodate the Courts of Alexandria, City and County, for years to follow. It was two and a half stories high, with a cupola, or bell tower, in the center of the roof and a large bell therein, which on Court days pealed forth notice to the people of the Town that Court was about to convene and, particularly, to all persons who had motions to make, suits to prosecute, or pleas to enter therein, to come forth and be heard. The court room was located on the second floor of the building and could be approached by a stairway leading from a large hall on the ground or first floor of the interior of the building, also from the exterior, by a large portico on the second story front, approached by stone stairways, protected by iron railings, on both sides of the portico. The ground floor hall was paved with brick, and on each side of the hall there were four rooms, practically fireproof, to accommodate the court officers and court records. The clerk's office of the County Court [necessarily after the retrocession] was located in the room at the southwest corner of the ground floor, and the clerk's office of the Circuit Court [also necessarily after the retrocession] at the southeast corner thereof. The court room was on the second floor in the center of the Columbus Street front of the building, and was large, with arched ceiling and ample ventilation. The

District of Columbia, TO WIT:



THE UNITED STATES
OF
AMERICA:
TO
The Marshal
OF THE DIS. OF COLUMBIA,
GREETING.

WE COMMAND YOU, That you take *Thomas S. Shaw*

if *he* be found in your said district, and *him* safely keep, so that you have *his* body before the honorable the Judges of the Circuit Court of the District of Columbia, for the county of Alexandria, at the court-house in Alexandria, on the fourth Monday in *January 1841* to satisfy *John J. B. Miller* the sum of *One hundred and fifteen dollars*, with interest *four shillings* day of *March 1839* *paid*

which to the said *John J. B. Miller* late in our said Circuit Court for the District of Columbia, for the county of Alexandria, recovered against *him* for debt. — Also, *Five dollars and ninety cents*

which to the said *John J. B. Miller* in the same court were adjudged for *his* damages occasioned as well by *seizure of the said debt*, as for *costs* by *him* in this behalf expended, whereof *he* is convict as appears to us of record; and have then and there this writ.

WITNESS, the Hon. WILLIAM CRANCH, Chief Judge of our said court, this *1st* day of *January* in the year of our Lord 1840
Cassius F. Lee Clerk of the Circuit Court of the District of Columbia, for the County of Alexandria.

WRIT OF EXECUTION FOR DEBT ISSUED OUT OF THE CIRCUIT COURT OF THE DISTRICT OF COLUMBIA FOR THE COUNTY OF ALEXANDRIA—WITNESS HON. WILLIAM CRANCH, CHIEF JUDGE, ON DECEMBER 1, 1840, AND BEARING THE SIGNATURE OF CASSIUS F. LEE, CLERK. (ORIGINAL 8" X 12".)

The Act of February 27, 1801, *supra*, by which Congress assumed jurisdiction over the new District of Columbia, in addition to establishing the Circuit Court also provided (section 11) for the appointment for each of the two new counties such number of discreet persons to be justices of the peace as the President should from time to time deem expedient, such justices to have "in all matters civil and criminal, and whatever relates to the conservation of the peace, . . . all the powers vested in, and shall perform all the duties required of justices of the peace, as individual magistrates, by the law hereinbefore continued in force in those parts." Under this statute the civil jurisdiction of the justices was limited to demands of the value of \$20 exclusive of costs, and so it continued down to May 1, 1823, when by an act approved on that date this figure was enlarged to \$50. The property exempt from seizure or execution under the 1823 act consisted of the necessary beds and bedding (not exceeding one bed and the bedding thereof for every two persons belonging to the family of every such debtor), wearing apparel, and one cow of each and every debtor and his family, and also the tools of the debtor's trade. Imprisonment for debt, which was not abolished in the District until 1853, existed in full force, except that no female in any case whatever and no male above 70 years of age should be arrested or imprisoned for any debt authorized to be sued for and recovered by that act. Acting under the authority of the organic act, President Adams on March 3, 1801, in the face of considerable criticism because of the expiration of his term of office, appointed 19 men in the County of Alexandria to be justices of the peace.⁷⁵ These first justices of the peace and their brothers in Washington County obtained historical distinction through the association of their names with the great case of *Marbury v. Madison*.⁷⁶

In 1846, Virginia and Congress agreed⁷⁷ on a retrocession, subject to a referendum among the residents of the County and Town, of that portion of the

judge's bench occupied the center of the court room, on the west side of the building, upon a platform about 3 feet above the main floor of the room. The clerk's desk was on the left and the sheriff's desk on the right of the judge and the jury box in front of and below the judge's bench: The witness stand stood to the left of the judge and clerk and so placed that he could face the judge, jury, and bar, as occasion required. On the southeast corner of the Court House lot was erected a small brick building known as the Cannon House. The front of the Court House was shaded by a row of large and beautiful trees standing near the curb line on Columbus Street."

Note: The Cannon House referred to by Mr. Caton was the result of an act of the General Assembly passed February 28, 1852, ch. 47, which authorized the Governor to cause to be laid off and set apart for a site for a gunhouse so much and such part of the Court House lot as may be deemed necessary and suitable therefor, and such gunhouse was restricted in use to the care and management of the ordnance and their equipment.

⁷⁵ William Fitzhugh, John Potts, Robert Townsend Hooe, Jonah Thompson, Richard Conway, William Harper, Charles Alexander, Jonathan Swift, George Gilpin, Abraham Faw, Francis Payton, Charles Alexander, Jun., George Taylor, John Herbert, Dennis Ramsay, Cuthbert Powell, Simon Summers, Jacob Haightman, and Cleon More.

⁷⁶ A history of the Office of Justice of the Peace in the District of Columbia, Charles S. Bundy, *Columbia Hist. Soc. Mag.*, Vol. 5, p. 259.

⁷⁷ Acts of Virginia, 1845-46, ch. 64, p. 50 (approved February 3, 1846); Act of Congress, approved July 9, 1846, U.S. Stat. at Lar. 9, 35.

TO THE MARSHAL OR KEEPER OF THE PRISON FOR ALEXANDRIA COUNTY,
IN THE DISTRICT OF COLUMBIA.

YOU are hereby commanded to discharge from imprisonment *Sam. W. Monroe*
an Insolvent Debtor, who has in all things complied with the requisites of the law in such cases made
and provided.

GIVEN under my hand this *4* day of *June* 18*27*.

W. Branch (seal)

I DO CERTIFY, That I have this day ordered the Marshal of the District of Columbia, to
discharge from imprisonment *Sam. W. Monroe* an Insolvent Debtor, agree-
ably to the Act of Congress, entitled "an Act for the relief of Insolvent Debtors within the District
of Columbia." — GIVEN under my hand this *4* day of *June* 18*27*.

W. Branch.

ORDER DISCHARGING FROM IMPRISONMENT AN INSOLVENT DEBTOR SIGNED JUNE 4, 1827, BY
CHIEF JUDGE WILLIAM CRANCH OF THE CIRCUIT COURT OF THE DISTRICT OF COLUMBIA FOR
THE COUNTY OF ALEXANDRIA. (ORIGINAL 6½" x 8".)

Federal City south of the Potomac,⁷⁸ and about a year later Virginia by an act passed March 13, 1847, resumed her jurisdiction over the area duly constituting the former federal County of Alexandria (which included the Town of Alexandria^{78a}), a county of Virginia with the same name.⁷⁹ This act provided "That the territory so retroceded and accepted comprising the county of Alexandria shall constitute a new county, retaining the name of the county of Alexandria, the court-house whereof shall be in the town of Alexandria where the court now sits."

⁷⁸ See Harrison Mann, Chronology of Action on the Part of the United States to Complete Retrocession . . . , *Arlington Historical Mag.*, Vol. I, p. 15, No. 2, p. 43; C. B. Rose, Jr., The Boundaries of Arlington, *Ibid.*, Vol. I, No. 1, p. 11.

^{78a} Caton, *Jottings From the Annals of Alexandria*, 1933, pp. 97, 114, 117.

⁷⁹ Acts of Virginia, 1846-47, ch. 53, 54, pp. 41, 48.

(To be continued in PART II.)