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Revolutionary Probate Records in the Fairfax Court Slavery Index, 1767-1791

Peer-Reviewed Dataset Article

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Description

This dataset brings together enslaved and free people of color and indentured white servants who appear in Fairfax (Virginia) Circuit Court probate records during the period prior to, during, and immediately following the American Revolution. It is part of the wider Fairfax Court Slavery Index project, housed at the Fairfax Circuit Court Historic Records Center in Fairfax, Virginia. This ongoing initiative, begun by court archivists and genealogists in 2015, seeks to index all enslaved people, free(d) persons of color, and indentured white servants who can be found in the Clerk's Office's historic records from the years 1742 to 1870.

Researchers interested in this dataset are encouraged to first read Heather Bollinger, Georgia J. Brown, Katrina Krempasky, and Maddy McCoy, "Colonial Probate Records in the Fairfax Court Slavery Index, 1742-1767," *Journal of Slavery and Data Preservation* 4, no. 1 (2023): 32-40, <https://doi.org/10.25971/80ce-ex05>.

This dataset includes 2,700 people across 260 probate records, and is derived from Fairfax Will Books C-1, D-1 and E-1, covering the period 1767-1791. Across the colonies and in the Early Republic, county court clerks recorded wills, inventories, and other probate records in ledgers, which were kept at county courthouses. Unfortunately, during the Civil War, many clerks in Virginia sent probate records to Richmond for safekeeping, where they were destroyed when the city was burned in 1865. However, Fairfax's probate records largely survived since they were kept in the county, making them a rare source for historians of the period.

In wills recorded in Fairfax and other counties, testators (those making the will) offered a brief preamble and then detailed the division of property among their heirs. The value of possessions, including each enslaved person, to be bequeathed was assessed and recorded in an inventory. For enslaved people, descriptors such as a name, nickname, and race were often noted to ensure the distribution of this human property according to a testator's wishes upon their death.

This dataset features the probate records of wealthy Virginia landowners and Fairfax County public servants, including Thomas Colvill, brother of John Colvill and cousin to Charles Bennet, the 3rd Earl of Tankerville; Fairfax County Clerks of Court John Barry and Peter Wagener, Sr.; County Justices Hugh West and Daniel French; Sheriffs Lewis Ellzey and John West, Jr.; George Washington's attorney, George Johnston; and Scottish merchants John Carlyle, John Dalton, and William Ramsay. Most notably, the dataset contains the inventories of enslaver John Parke Custis's four plantations in Virginia. Custis, stepson of George Washington, who inherited most of his land and enslaved people from his late father, Daniel Parke Custis, served as one of Washington's aides-de-camp during the American Revolution. Custis died intestate in November 1781, after the Battle of Yorktown, of "camp fever," at the age of 26. Custis's inventories account for 276 enslaved persons found in this dataset, as he was one of Fairfax County's largest slaveholders during the period of slavery.

Although Fairfax County was home to many wealthy, landed Virginia gentry who enslaved several dozen people, this dataset demonstrates that this was the exception, not the rule. The majority of the county's enslavers held five to ten enslaved persons, reflecting Fairfax County's truly rural eighteenth-century society and economy. In eighteenth-century Fairfax County, landowners typically named their farms, manor homes, and plantations in a style similar to those of their ancestors in England and Scotland. Manor or plantation names have been included in the dataset if specified in the probate record.

In this dataset, descriptors for persons under involuntarily servitude are taken from the sources and include *negro*, *slave*, *mulatto*, *servant*, and *orphan*. The descriptor *mulatto* – those born of enslaved Caucasian/Indian or Caucasian/African mothers – had a specific legal definition that changed over time. After October 1765, male *mulattos* were to be free at the age of 21, and female *mulattos* free at the age of 18. After 1785, the mandatory emancipation of *mulattos* was struck from the Acts of Assembly, but in the same legislative session, the General Assembly codified how *mulattos* were identified: a *mulatto* had one *negro* grandparent and three white grandparents; or, those with “one-fourth part or more” *negro* blood.¹

The descriptor *servant* or *servitude* indicated indentured servant status. Mostly white women and men, indentured servants could also be children and *mulattos*, as reflected in this dataset. In the years leading up to, and during, the American Revolution, indentured servants appear in wills and inventories, but largely disappear after the American Revolution. In this dataset, 27 indentured servants can be found in the probate records between the years 1767 and 1783; after 1783, just one indentured servant, William Smith, appears in a 1786 inventory. Although Virginia law continued to allow indentured servitude after the American Revolution, it seems that few Fairfax County enslavers entered into these contracts.

Enslaved persons - *negros* or *slaves* as designated in the sources - were bound to a life of servitude unless otherwise freed by their enslaver. Between 1723 and 1782, it took an act of the General Assembly to emancipate an enslaved person. In 1782, the General Assembly codified

¹ See An Act declaring what persons shall be deemed mulattoes, Virginia Acts of Assembly, c. LXXVIII (October 1785), in William Waller Hening, *The Statutes at Large: Being a Collection of all the Laws of Virginia from the First Session of the Legislature, in the Year 1619*, vol. VII (Richmond: George Cochran, Printers, 1823): 184. The authors speculate that the mandatory emancipation of *mulattos* codified prior to the American Revolution was done away with once the General Assembly passed An Act concerning Slaves, first proposed as A Bill concerning Slaves, in 1779, and codified into Virginia law in October 1785. This act deemed that “no person henceforth shall be slaves in this Commonwealth except such as were so on the first day of this present session [of Assembly].” The act does not reference *negro* or *mulatto* status, only *slave* status. Thomas Jefferson authored A Bill concerning slaves, and several differences exist between the bill as authored and the act as passed. For commentary on this, see “51. A Bill concerning Slaves, 18 June 1779,” *Founders Online*, National Archives, <https://founders.archives.gov/documents/Jefferson/01-02-02-0132-0004-0051>. [Original source: *The Papers of Thomas Jefferson*, vol. 2, 1777–18 June 1779, ed. Julian P. Boyd. Princeton: Princeton University Press, 1950, pp. 470–473.] See also Hening's *Statutes at Large*, vol. VII: preface, 182.

emancipation by deed of manumission or by last will and testament into law.² During the American Revolution and immediately after, a few Fairfax County enslavers emancipated enslaved people in their last wills and testaments. In nearly all instances, however, the enslaver set free just one individual, leaving other persons enslaved.

One element of the dataset to pay particular attention to is names, nicknames, or other descriptors used to differentiate between enslaved people with the same name who were enslaved by the same person. The most commonly used were “Old” and “Young,” as in “Old Moll” and “Young Moll.” Some descriptors may reflect skin tone, as in “Yellow Daniel.” For enslaved women who had the same name, one might be described as a “negro wench” (indicating that she had children) and “negro girl” or “negro child” to denote younger age. Unique descriptors found in this dataset may indicate place of origin, such as “Guinea Nan” or “French Nan.” A woman named “Quaker Suck” was listed in John West, Jr.’s 1779 inventory, but the meaning of “Quaker” here is unknown. Decedents often had multiple probate records, so the same enslaved person may be named different ways, with a nickname or phonetic spelling; for example, “Hannah” and “Hanner,” “Sarah” and “Sall,” “Jemima” and “Mima,” “Sue” and “Sukey,” or “Henny” and “Henrietta.” As it relates to enslaved surnames, it is important to note those identified in this dataset do not share the surname of their enslaver.

Another element of the dataset to consider is the values given to enslaved persons, indentured servants and orphans. The currency used in this dataset was Virginia pounds sterling (£), shilling (s or /), and pence (d). The denominations were separated by two dots [.] in the original record if used by the appraiser and copied by the Clerk of Court; in most instances, only the pound (£) value was given. This dataset contains one instance in which enslaved persons were valued in pounds by weight of tobacco.

Virginia’s eighteenth-century planters relied on bonded labor; thus, laborers were monetarily valued in probate records. Valuation was largely dependent on an enslaved person’s age and health, with young men capable of hard labor valued more highly than elderly men or boys. Skilled enslaved men, such as joiners or blacksmiths, were assigned an even higher value. Women of child-bearing age, or those who had born children, had greater monetary value than young girls or elderly women. Women were also often valued together with their child or children, or husbands and wives with their children, resulting in a higher valuation for a “family group.” For example, see Fan (FFX-10214-Enslaved-17670119) and her two sons, Allen (FFX-11825-Enslaved-17721221) and Billy (FFX-11834-Enslaved-17721221), valued together in the inventory of Thomas Colvill (Fairfax Will Book C-1 page 144), or Jasper (FFX-11895-Enslaved-17760219) and Mary (FFX-12042-Enslaved-17760219) sold out of Mercy Chew’s estate as “man and wife” (Fairfax Will Book D-1, page 72). Disabled, sick, or elderly enslaved were assigned little to no value at all and were sometimes considered a charge upon the estate if they were “past labor.”

² See An act to authorize the manumission of Slaves, Virginia Acts of Assembly, c. XXI (May 1782) in Hening’s *Statutes at Large*, vol. XII, 39.

This dataset reflects how the American Revolution affected the exchange of commodities, including enslaved persons. Due to the British blockade of the American colonies, followed by the General Assembly's passage of an act prohibiting the further importation of enslaved people (the trade in enslaved was largely conducted by British vessels), the valuation of enslaved persons skyrocketed.³ Prior to the Revolution, a woman of child-bearing age might be valued at 45 to 50 pounds Virginia sterling. That value doubled to about 80 to 100 pounds sterling in 1778, and by 1780, enslaved women were valued at 1500 to 2500 pounds sterling or more. Enslaved men were valued at 80 to 100 pounds Virginia sterling before the war, increasing to over 500 pounds sterling in 1778, to 2000 pounds sterling in 1780, to John West, Jr.'s sale of Ben, Charles, Dick, and George for over 10,000 pounds Virginia sterling *each* in 1781. The dataset shows that almost immediately following the end of the American Revolution, the appraised value of enslaved people returned to that typically seen before the war began. This was likely due to the resumption of interstate commerce, as British blockades had ended and the importation of enslaved people from Africa and the West Indies remained outlawed in Virginia.

Dates of Data Collection

2015-2022

Dataset Languages

English

Geographic Coverage

Fairfax County, Virginia, Loudoun County, Virginia, Fauquier County, Virginia, King William County, Virginia, New Kent County, Virginia, Northampton County, Virginia, Dunmore County, Virginia, Berkeley County, Virginia [West Virginia], Warren County, North Carolina

Temporal Coverage

1767-1791

Document Types

Inventory or Probate Record
Will and Testament

³ See An Act for preventing the farther [sic] importation of slaves, Virginia Acts of Assembly, c. 1 (October 1778), in Hening's *Statutes at Large*, vol. IX, 471.

Sources

Fairfax Will Books C-1, D-1, and E-1, Fairfax Circuit Court Historic Records Center, 4000 Chain Bridge Road, Suite 1600, Fairfax, VA, 22030. [Finding aid:

<https://www.fairfaxcounty.gov/circuit/historic-records-center/finding-aids/wills.>]

Methodology

In June 2015, Fairfax Circuit Court Historic Records Center staff began the process of creating a master index of enslaved people, indentured servants, and free African Americans found in the records of the Fairfax Circuit Court between the years 1742 and 1870. The Fairfax Court Slavery Index began with extracting data from the probate and land records, capturing the names of the enslaved, enslavers, hirers or employers, and free African Americans on individual index cards. Each index card contains descriptive information found in the court record, such as age, skilled trades, family relationships, and monetary value, the record's citation, as well as the date of the document's recording at the court. The index cards were scanned into the court's document management system and physically filed in a card catalog. For detailed information regarding the data extraction process, see "Colonial Probate Records in the Fairfax Court Slavery Index, 1742-1767," *Journal of Slavery and Data Preservation* 4, no. 1 (2023): 32-40, <https://doi.org/10.25971/80ce-ex05> and the project website.

In the fall of 2021, the Fairfax Circuit Court Historic Records Center partnered with Enslaved.org to prepare the data from Will Books C-1, D-1, and E-1. The data from the court's document management system was exported into an Excel spreadsheet and shared with MSU undergraduate student Justin Crouch, who compared the data as first entered in 2015 with digital images of the will books. As the court's document management system only allows for simple metadata fields, such as name and source, additional columns were added to the Excel spreadsheet to record additional fields such as age, race, and relationships. Heather Bollinger from the Fairfax Circuit Court Historic Records Center verified the data as entered by Crouch and created unique identifiers for each person to allow for linked data across records.

As of January 2023, the Fairfax Court Slavery Index contains over 40,000 records, including Fairfax Circuit Court probate records discussed here, land records, personal property tax records, and the *Registration of Free Negroes*. The index will continue to expand, incorporating civil, criminal, and chancery cases in the future.

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Data Links

Project Website: [Fairfax Court Slavery Index](#)

Dataset Repository: Harvard Dataverse <https://doi.org/10.7910/DVN/MD2YRB>

Linked Data Representation: Enslaved.org [Summary Visualization](#)

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