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THE COLONIAL COURTHOUSES OF YORK COUNTY, VIRGINIA

by

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THE COLONIAL COURTHOUSES OF YORK COUNTY, VIRGINIA

Following the destruction of the York county courthouse by fire on the night of December 30, 1946, the National Park Service was granted permission by the authorities of the county to conduct an archeological investigation of this historic site. The information found by means of archeological and historical research presents a fairly complete history of the four courthouses, and their associated buildings, erected on this one lot in Yorktown since 1697.¹ Instead of considering all of these buildings, however, this article deals with the public structures which served the county during the colonial period.

Although York county was established as one of the eight original shires of Virginia in 1684, many years passed before a definite location was fixed for the meeting of the county court.² For a quarter of a century after the meeting of the first court on

¹ The archeological excavation of the site was under the supervision of Junior Archeologist Conrad B. Bontsen of the staff of Colonial National Historical Park. The writer was placed in charge of the historical research.

² See the act establishing the original shires in William Waller Rening, editor, The Statutes at Large: Being a Collection of all the Laws of Virginia, from the First Session of the Legislature, in the Year 1619, I, 224. The county was at first called Charles River, but the name was changed to York county in 1648. Ibid., 249.

July 12, 1633 at "Utinaria," the home of Captain John Utie, the justices continued to gather at the homes of their fellow members. Finally in 1658 the house of Captain Robert Baldray at old York on Wormeley's creek was hired as a courthouse for the sum of one thousand pounds of tobacco a year. During the next few years the court ordered the erection of a prison, a ducking stool, and a stock and pillory near the courthouse. ³

The court continued to meet at old York until after Bacon's Rebellion. The justices at that time became displeased with the situation since they felt that the county should own its courthouse. They complained to the governor, and that gentleman ordered the court to hold its sessions "in the house lately belonging to Thomas Hansford, whose estate for his rebellion and treason is forfeited to his sacred majesty." ⁴

This order was later countermanded by the commissioners sent over by the king to investigate the condition of the colony. The county then purchased in 1661 the house of Andrew Reader at the French Ordinary. The court was moved to this house and a prison

³ Lyon G. Tyler, "History of York County in the Seventeenth Century," Tyler's Quarterly Historical and Genealogical Magazine, I (April, 1920), 237. "Utinaria" was located on the York River near the site of "Pingfield" about five miles above present-day Yorktown, while old York was at the mouth of Wormeley's creek about three miles below the town. The latter is now within the boundaries of the Naval Mine Warfare School.

⁴ Ibid., 255.

was erected nearby. ⁵

The location of the court at the French Ordinary was very inconvenient for a great part of the inhabitants of the county, for "divers inhabitants of York county" petitioned the General Assembly to have the court moved. The founding of a port town on the York river in pursuance of the provisions of the Act for Ports in 1691 suggested to the legislature an appropriate location for the court. In September, 1696 the Assembly ordered the justices of York county to "take care that an house suitable and fitt to hold courts in and as bigg in dimension att least as the present court house now is" be built within the limits of Yorktown by the last day of October, 1697. If the justices did not comply with this order, each of them was to forfeit the sum of fifty pounds sterling. ⁶

This rather brusque order of the General Assembly forced the county to act. On November 24, 1696 the court ordered the sheriff, Captain William Buckner, to notify the justices that they were to meet at his house on December 14 to agree about the building of the new courthouse. ⁷ At the same court a letter from the former governor, Francis Nicholson, was read in which he promised five pounds

⁵ The French Ordinary was located in the interior about half way between the sites of the later towns of Yorktown and Williamsburg. During the eighteenth century another famous ordinary, the Halfway House, stood in the same location. *Ibid.*, 237.

⁶ Henning, *op. cit.*, III, 146-47.

⁷ York county, *Deeds, Orders, Wills, etc.*, No. 10 (1694-1697), 341.

sterling to aid in the construction of the new courthouse. ⁸

The justices met as ordered and selected Lot 24 in the town as the site of the new building. ⁹ This choice was logical as the lot faced the main street near the center of the town. On the following January 25 the court ordered the justices to meet again at the sheriff's home on February 1 "to agree with any Person or Persons that will undertake the building a Co^{rs} house Att Yorkv Towne." ¹⁰

The contractor selected by the justices at this meeting was Henry Cary. He agreed to build the new courthouse for 28,000 pounds of tobacco and cask, or a total of 80,240 pounds. ¹¹ Cary completed the building within the specified time, and on September 24, 1697 the court was adjourned to meet two months later in Yorktown. ¹² After meeting in the new courthouse for some months, the

⁸ Ibid., 344.

⁹ Lot 24 had been purchased by Thomas Jefferson, planter, in 1691, but he had apparently forfeited his title to it by not complying with the building requirements of the Act for Ports of 1691.

¹⁰ Ibid., 350.

¹¹ Ibid., 465.

¹² Ibid., 468. The fact that the justices were not made to forfeit the fifty pounds sterling by the General Assembly is additional proof that the courthouse was completed within the specified time.

justice on March 24, 1697/8 ordered the sheriff to move to Yorktown within the next month "the Standard of this County" and every other article possible to move from the old courthouse to the new. The prison stocks and millery were also to be moved. ¹³

Very little descriptive information has been found concerning this first courthouse in Yorktown. The fact that no evidence of its foundation was discovered during the archeological investigation of the lot indicates that it was not a pretentious building. Available evidence points toward a wooden structure or one built of marl blocks. The cost of the building would not compare in any way with the cost of its successor, which was built of brick. The church of the parish, erected at about the same time in Yorktown, was built of native marl blocks, and this might indicate that the first courthouse was also constructed of the same material. On the other hand, the brief span of its existence might signify a wooden building. The humid climate of Yorktown is especially injurious to wooden buildings, while marl tends to harden under exposure. It is evident that the building was small. Not only the small cost of its construction, but also the fact that only six thousand shingles were required to cover the courthouse in 1703 corroborate this statement. ¹⁴ The lack of space in the building

¹³ Ibid., No. 11 (1698-1702), pt. 1, p. 4.

¹⁴ Ibid., No. 12 (1702-1706), 137 and 153.

caused the court to pay 15,120 pounds of tobacco to William Buckner in 1713 for building additions onto the courthouse, tarring them, and mending the windows of the original building.¹⁵ Almost every year found the justices faced with the expenditure of varying sums to repair the building. Finally in 1725 the door of the courthouse had to be replaced, and Robert Ballard, a local carpenter, did the work for only thirty-seven pounds of tobacco.¹⁶

The reason for the abandonment of the first courthouse at Yorktown has not been determined, but apparently the rapid growth of the population and wealth of the town created a demand for more commodious quarters for the court. It is also possible that the deterioration of the building had made its condition beyond repair. Whatever the reason, the county court on December 21, 1730 appointed certain of its members to "receive Proposals from proper workmen to undertake the erecting a new Courthouse" ¹⁷ Nothing appears to have been done by this committee, and so its membership was altered a few months later. The new committee was composed of the following justices: Lawrence Smith, Thomas Nelson and Richard Ambler. They were empowered to accept bids and draw up an agreement with a contractor to build a "brick Courthouse forty eight feet

¹⁵ York county, Orders, Wills, etc., No. 14 (1702-1716), 298. The size, location, and purpose of these additions have not been ascertained.

¹⁶ Ibid., No. 16 (1720-1729), pt. 2, p. 364.

¹⁷ Ibid., No. 17 (1729-1732), 124.

long and twenty four feet wide in the clear." 18 It is evident that the court planned to erect a rectangular brick building of these dimensions.

The three gentlemen appointed as a committee to arrange for the new courthouse had ideas of their own concerning the proper type of building. In March, 1731 they reported "a new draught of the same," and added that they had contracted to have it built for six hundred pounds. Their report was accepted by the court and articles of agreement were ordered drawn up. 19 Although these articles have been lost, the change in the plan apparently called for a T-shaped building rather than the rectangular one ordered by the court. This new plan followed the example of a number of the county courthouses of Tidewater Virginia built at about the same period. 20 The new building was placed in the southwestern corner of the lot, near the intersection of main street with a cross street.

The contractor, Robert Ballard, completed the building a short time before July 16, 1733. On that date the court ordered

18 Ibid., 151.

19 Ibid., 158. This sum was undoubtedly money rather than tobacco, for thousands of pounds of the latter had to be raised to meet the obligation.

20 The courthouses of Charles City and King William counties are very similar in plan to the second courthouse at Yorktown.

the members of the building committee to examine the new courthouse and determine if the contractor had fulfilled the articles of agreement. ²¹ The committee must have approved of the structure, for no protest was entered against Ballard's work.

The cost of the new courthouse was defrayed by a series of annual levies beginning in 1728 and continuing through 1732. ²² The total sum collected amounted to 122,657 1/2 pounds of tobacco. This amount of tobacco, even at the low prices prevailing at that time, must have brought a very sizeable sum when sold by the sheriff. A building to cost that much must have been imposing. A British visitor to the town in 1736 seems to have been impressed by it, for he said that "The Courthouse is the only considerable publick Building, and is no unhandsome structure." ²³ That a building in the colonies could have been considered worthy of mention by an Englishman is indicative of some elegance.

One feature, a floor of imported stones, was added after the completion of the building. This must have enhanced the elegance

²¹ York county, Wills and Inventories, No. 18 (1732-1740), 60.

²² The annual levies for the courthouse raised the following sums: 1728 - 8,640 pounds of tobaces; 1730 - 23,460 pounds; 1731 - 55,737 1/2 pounds; and 1732 - 34,820 pounds. Apparently there was no levy in 1729. York county, Orders, Wills, etc., No. 16 (1720-1729), pt. 2, p. 553; Ibid., No. 17 (1729-1732), 123, 243 and 335.

²³ "Observations in Several Voyages and Travels in America in the Year 1736," William and Mary College Quarterly Historical Magazine, XV (First series; April, 1907), 222.

of the courthouse. Presumably the floor was at first constructed of wood, which apparently rotted within six years. On July 18, 1739 the court ordered Thomas and William Nelson, the leading merchants of Yorktown, to "send to England for Stone to lay the floor of the Court house and of the two offices and for one Yard and one Ell according to the Standard of England" ²⁴ Upon delivery of the stone, the county paid the Nelsons the sum of £ 40 sterling. That the county would go to the trouble and expense of importing stone from England for the floor was evidence of the great pride with which the local authorities regarded the courthouse.

The sturdy construction of the courthouse is proven by the lack of any major repairs having been made to it until after the Revolution. In 1746 and again in 1776 minor repairs, such as the mending of broken windows, were made, but these were the only mention of repairs to the structure prior to the Siege of Yorktown in 1781. ²⁵

During the eighty-one years of existence of this courthouse (1733-1814), there were only brief periods during which it did not serve in its intended capacity. Two of the great scourges of mankind, war and pestilence, forced the court to convene elsewhere on

²⁴ York county, Wills and Inventories, No. 18 (1732-1740), 503.

²⁵ Ibid., No. 19 (1740-1746), 435; York county, Order Book No. 4 (1774-1784), 121, 123 and 132.

several occasions. Although there is evidence that smallpox forced the court to be held outside the town on a previous occasion.²⁶ the inhabitants of the county thought it necessary to petition the General Assembly during the epidemic of 1758-1759 to permit them to move the court. They probably deemed it necessary as the act of 1696 had established the town as the only place for the convening of the county court. The General Assembly, therefore, was required to pass another act repealing this provision before the court could be legally moved. Upon due consideration of the petition the Assembly repealed the act of 1696, and the inhabitants of York county could again hold court without fear of becoming infested with the dreaded smallpox.²⁷

The Revolutionary War did not require the evacuation of the courthouse by the court until the town had been actually occupied by the British forces under Lord Cornwallis in the summer of 1781. After a long period of care and protection by the county authorities, the courthouse was grossly maltreated by the British forces.

²⁶ In 1748 Francis Jerdone complained in a letter of the prevalence of smallpox, which had caused the shops of the town to be closed, and the court adjourned to a place twelve miles off. "Letter-book of Francis Jerdone," William and Mary College Quarterly Historical Magazine, XI (First series; January, 1903), 154. Presumably the court met at this time in the house of William Corridon, who was paid the sum of five hundred pounds of tobacco at the levy of 1750 "for the Use of his House to hold Courts." York county, Judgments and Orders, No. 1 (1746-1752), 376. Corridon operated an ordinary in the county at this time.

²⁷ Henning, op. cit., VII, 320-21.

To what use the building was put by the troops of Lord Cornwallis has not been ascertained, but inasmuch as they pulled down the American hospital to clear the way for their fortifications, it is possible that the courthouse was appropriated for hospital service. Whatever the use, the interior of the building and the windows were destroyed by the British. The extent of the damages was estimated by the county at \$ 100.²⁸ As the courthouse stood in an area in the town to which the shellfire of the allied batteries did little damage, the injuries to the building must be attributed to the British.

The capitulation of the British army did not end the indignities which the building had to endure. When the French troops entered into winter quarters in the town after the siege, the courthouse served as a hospital for their sick and wounded. Although apparently no extensive damage was done the building during this time, it was impossible to use it as a court. In January, 1782 the magistrates of the county attempted to hold court there, but "the variety of disorders therein, and the disagreeable smell of the House deter'd the Gentlemen from going in"²⁹

²⁸ "Public Losses in York County from the invasions of the Enemy in the year 1781" in York county, Claims for Losses of York County Citizens in British Invasion of 1781, claim no. 31.

²⁹ Letter of William Reynolds to Governor Harrison, January 23, 1782, in Wm. F. Palmer, et al., editors, Calendar of Virginia State Papers and Other Manuscripts, 1652-1869, Preserved in the Capitol at Richmond, III, 44.

The General Assembly could not act to relieve this situation until its May, 1782 session. It acted at that time, however, by passing a law empowering the justices of the county court to meet at any other place in the county that they considered proper, as long as the courthouse was occupied by the French.³⁰ The slowness of the assembly could be excused, but the court did not act in accordance with this measure until October 21, 1782, several months after the departure of the French. On that date the justices adjourned from the courthouse "to the House of M^r Gibbons," a leading ordinary of the town on the adjoining lot (Lot 30).³¹

After the departure of the French army, the county court on July 15, 1782 ordered William Gossley, William Reynolds and William Cary to engage workmen to repair the courthouse and the jail.³² Either the lack of funds or the slackening of interest prevented the work from being carried to completion for some time, as another committee was appointed by the court on April 15, 1787 "to treat with any Person or Persons to complete the repairs of the Court

³⁰ Henning, op. cit., II, 20.

³¹ York county, Order Book No. 4 (1774-1784), 308. Apparently the justices had been braving the "disagreeable smell of the House" until this date.

³² Ibid., 302. The French soldiers, with the exception of a small force under the command of Colonel Lavalette, left Yorktown on July 1, 1782.

house and prison" ³³

Itemized accounts of the work done by various workmen on the courthouse reveal the extensive nature of the damage which had been done, as well as provide information about the appearance of the colonial building. A total of 108 "sash lites" were made, which proved the veracity of the justices in claiming the total destruction of the windows in the courthouse. Thirty-six of these windows were listed as having "compass heads." Other architectural information concerning its construction and furnishing can be gleaned from references to paneled window shutters, dentil cornice, "A Circling Seat for the Jury to Set on," a "Balluster Rail in Circles," a "Righting Desk at the Bar 18 feet & half Long," "Two boxes for the Sherifs to Set in wainscoted with three Steps to Each," a lawyers' bench, and "the Chair wainscoted 7 feet High 4 feet wide two pilasters Dentle Cornish." A total of 22,000 shingles was needed to cover the building. ³⁴ While it is possible that certain articles of furniture were not exact duplicates of those destroyed in 1781, it is also possible that they were copied so as to return the building to its former elegance. There is no evidence to lead to a belief that the building was changed in any way during this work.

³³ Ibid., No. 5 (1784-1787), 442. William Reynolds, William Gooshey and Robert Shields formed this committee.

³⁴ York county, Loose Paper File.

These repairs were completed by the end of the eighteenth century, and the courthouse resumed its normal functions. The only other change made in the building occurred in 1806, when the court ordered the "Piazza" of the courthouse "enclosed."³⁵ After this renovation, the courthouse stood in the town until the disastrous conflagration of March 1814 destroyed it beyond hope of repair. The following newspaper account of the fire described its destructive power:

York, March 4

Yesterday about 5 p.m. Mrs. Gibben's house in this place took fire, and together with the county Court-house, the Church, the spacious dwelling of the late President Nelson, and the whole of the town below the hill, except Charlton's and Grant's houses, were consumed³⁶

Thus was consumed the courthouse which served the county of York during its period of greatest prosperity. Its ruins stood for several years before the county built its successor.

Much specific information concerning this building was discovered in the course of the archaeological excavation of the courthouse lot. The foundations of the structure were located in the south-

³⁵ The courthouse was whitewashed at this time. Both of these alterations were made at the cost of only thirty dollars. The work on the "Piazza" could not have been very extensive. York county, Judgments and Orders, No. 9 (1803-1814), 219.

³⁶ The Richmond Enquirer, March 9, 1814.

western portion of the lot in an excellent state of preservation. It was definitely established that it was built in the shape of a "T", the cross of which was fifty-nine feet, ten inches long and the stem was fifty-two feet. The arrangement of the rooms in the building was clearly shown by the interior walls. The courtroom was in the stem of the building with the judge's bench probably at the rear of the room, as in other similar courthouses. The western wing of the building contained two rooms or offices, while the eastern wing had only one. An open "piazza", probably supported by brick arches, stood in the center of the building, between the two wings, and served as an entrance way. This information, combined with the data in the historical records, indicate that the courthouse was an attractive, single-story, brick structure built in the style of the English Renaissance.

The courthouse was not the only building standing on this lot during the colonial period. The prison was always closely associated with the courthouse. The construction of a new court building was practically always followed by the erection of a new prison. Thus it was that the construction of the first courthouse in Yorktown in 1697 was followed shortly by the erection of a new jail contiguous to it. For some years prior to the move from the French Ordinary to Yorktown, the county sheriffs had entered their protests in court against the "insufficiency" of the old prison. ⁵⁷ Finally

⁵⁷ York county, Records, Orders, Wills, etc., No. 10 (1694-1697), 186 and 427.

on November 25, 1697, the second day of the first court session in the new building, the court ordered the justices to meet at the courthouse on the following December 20 to "agree with any Person that will undertake the building of A prison Adjacent to the Said Co^{ty} house and such other instruments of Justice as will then [be] found necessary" ³⁸

Either the justices failed to meet, or if they did, no decision was reached, for the same order was repeated by the court on March 24, 1697/8 asking the justices to meet on April 11, 1698. ³⁹ At this meeting they contracted with Robert Harrison, a carpenter, to build the jail for the sum of ten thousand pounds of tobacco and oak, a total of 10,800 pounds. Work on the prison must have begun at once, for the building was completed prior to November 24, 1698. On that date the court paid the specified sum to Harrison, except two thousand pounds of tobacco which they withheld until the bar and lock were mended and the prison tarred. ⁴⁰ This action by the court indicates poor workmanship, a supposition which is corroborated by the complaint of the sheriff in the very next year about the "insufficiency" of the new jail. ⁴¹ The court was forced to order

³⁸ Ibid., 480.

³⁹ Ibid., No. 11 (1698-1702), pt. 1, p. 3.

⁴⁰ Ibid., 127.

⁴¹ Ibid., 172.

repairs to be made. Almost every year after this saw the disbursement of varying sums for mending the prison. ⁴²

Very little information of a tangible nature has been found regarding the construction, location, or appearance of this early prison. The low cost of the construction indicates that it was built of wood rather than brick. Additional proof of this supposition was the sale of this building on October 12, 1738 to Colonel Lightfoot for ten pistoles, provided he would remove it from the lot within twelve months. ⁴³

The only direct reference pertaining to the construction of the prison in the county records is the following mutilated fragment dated August 22, 1722: " ...ent prison a ... room of 16 feet ... lined with oak plank wth ... other Conveniencys ... each ... the old prison." ⁴⁴ Evidently this order dealt with an addition to be built onto the jail.

⁴² Payments were made by the county to various individuals for repairs to the prison in 1702, 1706, 1707, 1708, 1711, and 1712. As early as 1708 it was necessary to replace the deer of the prison. Ibid., No. 12 (1702-1706), 73; Ibid., No. 13 (1706-1710), 24, 71, 181-82. Yerk county, Orders, Wills, etc., No. 14 (1702-1716), 46-7, 209. Additional repairs were made in 1718, at which time Robert Ballard was paid for covering the building. Ibid., No. 15 (1716-1720), 351.

⁴³ Yerk county, Wills and Inventories, No. 18 (1732-1740), 454. The first jail was still standing after the completion of its successor.

⁴⁴ The omissions indicate torn and missing passages. Yerk county, Orders, Wills, etc., No. 16 (1720-1729), pt. 1, p. 189.

The archaeological excavation of the lot found no trace which might be definitely identified as the first jail. Some fragments of masonry to the west of the foundations of the second jail might possibly have been the footing for the building. This conclusion cannot be verified, however, as there is insufficient evidence in regard to the size and location of the structure.

This first prison continued to serve the county for several years after the new courthouse was built. It apparently became "insufficient" to meet the needs of the county, for on June 20, 1737 the court ordered five of the justices to "agree with Some Sufficient Workman to build a prison for the use of this County" ⁴⁵ These gentlemen made arrangements with William Rogers, a local brewer and merchant, to build the prison for the very sizeable sum of £150. At the county levy for the same year, this sum was set aside and the sheriff was ordered to raise it by a special tax of twenty pounds of tobacco or two shillings for each tithable in the county. ⁴⁶ This sum was raised and after the justices had inspected the new building and approved of it in August, the court paid Rogers the money. ⁴⁷

The excellence of Rogers's work was attested by the total lack

⁴⁵ York county, Wills and Inventories, No. 18 (1732-1740), 377.

⁴⁶ Ibid., 394-95.

⁴⁷ Ibid., 441.

of repairs on the structure for the first twenty-nine years after its erection, as well as the long period of its service as a prison (a century and a quarter). There are no references in the county records to any other jail being built from 1738 until after the Civil War. ⁴⁸ As all construction calling for the expenditure of public funds was carefully recorded, it must be assumed that this jail was in existence until its recorded destruction in 1863. There is proof that the two great catastrophes which eradicated sections of the town, viz., the Siege of 1781 and the fire of 1814, did not destroy this building. It did suffer greatly in the first of these disasters. Shortly after the siege, a leading citizen of Yorktown wrote in regard to the large number of negroes in the town: "I wish something could be done with them. It would be useless for me to have them taken up, as we have no prison to confine them in, ..." ⁴⁹ He did not mean that the prison had been destroyed, for in the next year the court ordered a committee of its members to supervise its repair. This same order stated that "the Jail formerly the Public Jail [was] to be made use of till the Jail of York County

⁴⁸ A committee was named by the court on July 18, 1803 to arrange "for the building a brick Jail for the use of this County, two stories high, with two Rooms on each Floor." York county, Order Book, No. 7 (1795-1803), 206. No mention was made of any action by the committee.

⁴⁹ Letter of William Reynolds to Governor Harrison, January 23, 1782, in Palmer, op. cit., III, 44.

is repaired." 50

Although the fire of 1814 completely destroyed the courthouse, it apparently did little damage to the jail. An itemized account of the repairs to this building in 1814 amounted to only thirty-two dollars and eighteen cents. The largest single item, with the exception of labor, was the cost of eight hundred shingles. 51

By combining the information uncovered by historical and archaeological research, it is possible to obtain an excellent idea of the construction, interior arrangement, and appearance of the second jail. Despite the lack of a definite statement in the county records as to the type of material used in its construction, it is clear that it was built of wood. This was indicated in 1766 when the court considered the condition of the structure so poor that they contemplated rebuilding it. 52 The poor condition could not have been caused by a fire, which was the only justification for rebuilding a brick structure, and must, therefore, have been caused by the rotting of the wood. Conclusive proof was found in a fire insurance policy of 1818 which described the jail as being of wood entire." 53

⁵⁰ York county, Order Book No. 4 (1774-1784), 319. The "Public Jail" mentioned in this order was probably the prison in Williamsburg.

⁵¹ York county, Looms Paper File.

⁵² York county, Judgments and Orders (1768-1768), 76.

⁵³ Mutual Assurance Society, Richmond, Virginia, policy no. 1178.

The interior arrangement of the prison was described in a report of the jail inspectors on May 8, 1830.⁵⁴ They stated that the jail was about forty by twenty feet,⁵⁵ and contained a total of seven rooms. Four of these "apartments" were on the lower floor, and were designed for the criminals. One of these rooms was about fourteen by ten feet, while another was about fourteen by nine feet. The other two "apartments" on the lower floor were described as passages. One of these passages led to the "east Room," and was used as a "Dungeon." The other passage led to the upper story. The upper floor contained "three very clean and comfortable apartments, well ventilated, used for Debtors Rooms."

The foundations described in the records were discovered in the northeastern part of the lot, about fifty feet northeast of the foundations of the second courthouse. The walls, when uncovered, were found to be extremely thick - twenty-seven inches. In some cases nine courses of brick were found extending down to almost three feet below the present ground level. Very hard,

⁵⁴ The report of the jail inspectors was found in the Loose Paper File of the York County Records. Approximately the same descriptions were given in the reports of 1834 and 1842.

⁵⁵ The original jail was only thirty by twenty feet. The jail became so insecure that the court in 1823 ordered the construction of brick walls, two stories high, around the prison. York county, Order Book No. 9 (1815-1829), 250-51. These walls were built on two of the sides, but did not extend around the end of the building. The southern wall formed a yard thirty-seven and a half feet long and eight feet wide, while the northern wall was placed within three feet of the jail.

well-fired, brown bricks were used in the foundations. They were laid in English bond, using the typical oyster shell mortar. There is every indication that the jail was a very strong and well-constructed building.

After weathering disasters that obliterated surrounding structures, the colonial prison of York county was finally destroyed on the night of December 16, 1863 by the explosion of ammunition stored in the courthouse by the Union army.⁵⁶ The explosion, and the resulting fires, consumed all of the buildings on the courthouse lot, as well as those on surrounding lots.

There are several interesting side-lights on the prisons and their regulation in colonial Yorktown. One of these concerns the establishment of prison rules or bounds. Although the colonial laws clearly specified that prison bounds should be established for the exercise of the prisoners, the county court neglected to mark them for several years. On February 24, 1700/1 the prisoners incarcerated for debts petitioned the court "that the rules to the Gaole may be laid out in order to some release from close con-

⁵⁶ A court order in May 1868 mentioned "the county Court-House which with the Record office, Jail, &c., while being used as Ordnance Storehouse by the United States forces, were destroyed by an explosion on the night of the 16th December, 1863." "York County Courthouse," William and Mary College Quarterly Historical Magazine, XIII (First series; October, 1904), 143.

finement" ⁵⁷ The justices considered the request reasonable and ordered the surveyor, with three of their own number, to lay out these bounds. On the following March 3 these gentlemen laid out twenty-two acres around the jail in which the prisoners could walk and exercise. ⁵⁸

In addition to a prison the colonial court required "other necessary instruments of justice." These included a pillory and stocks, a whipping post, branding irons, and a ducking stool. The first pillory and stocks were brought to Yorktown from the old prison at the French Ordinary in 1698. By 1701, however, it was necessary to replace them. ⁵⁹ Seven years later another set was built by Major William Buckner and branding irons were purchased for the use of the county. ⁶⁰ Probably the most common form of

⁵⁷ York county, Deeds, Orders, Wills, etc., No. 11 (1698-1702), pt. 2, p. 382. The prison rules or bounds was a peculiar colonial institution. According to an act passed by the General Assembly in 1684, the justices of each county were "to lay out a certaine space distance or parcel of land adjoyning or circumjacent to each prison, not exceeding eighty peles square to be a place of liberty and priviledge for each prisoner (not committed for treason or felony) giving bond ..., to walke and abide in for their health and refreshment" Hearing, op. cit., III, 15.

⁵⁸ York county, Deeds, Orders, Wills, etc., No. 11 (1698-1702), pt. 2, p. 523. These bounds were greatly reduced by the court on July 15, 1751, when they were made to include only six acres or twelve town lots around the jail. York county, Judgments and Orders, No. 1 (1745-1752), 435. On August 17, 1754 the court ordered the church and its yard included in the bounds. Ibid., (1753-1754), 481. Presumably there were complaints regarding the rules, for on October 21, 1755 the court doubled the size of the bounds. Ibid., (1755-1758), 41.

⁵⁹ York county, Deeds, Orders, Wills, etc., No. 11 (1698-1702), pt. 2, p. 525.

⁶⁰ Ibid., No. 15 (1706-1710), 71. The stocks and pillory were rebuilt every few years, perhaps because of their great use. For example, they were ordered rebuilt in 1717, 1720, and 1734. York county, Orders, Wills, etc., No. 15 (1716-1720), 192; Ibid., No. 16 (1720-1729), 418; York county, Wills and Inventories, No. 18 (1732-1740), 158.

punishment for minor crimes in the colonial period was the public whipping. The usual sentence was that thirty-nine lashes be "well laid on" the bare back. The whipping post was a prominent feature on the courthouse grounds, and received a great deal of use. Another peculiar form of punishment employed in colonial Yorktown was ducking. The nature of this punishment prevented the erection of its instrument on the courthouse lot, as it was necessary that it be accessible to a body of water. The first ducking stool, of which there is mention in the county records, was erected on Worneley's creek in 1682. It was not until 1726 that another was ordered built, and this was replaced twenty years later when the sheriff was ordered to erect a ducking stool "at some convenient place on the waterside....." ⁶¹

No traces of these "instruments of justice" were definitely located during the archaeological investigation of the courthouse lot. As none of them required substantial foundations, and as the ground had been greatly disturbed in the course of its history, this lack of information can be easily understood.

A third important building associated with the colonial courthouse at Yorktown was the county clerk's office. Here were stored

⁶¹ York county, Orders, Wills, etc., No. 16 (1720-1729), pt. 2, p. 207, and York county, Wills and Inventories, No. 19 (1740-1749), 97. The exact location of the ducking stool was not recorded.

the records of the activities of the court, as well as the deeds, wills, etc. of the inhabitants of the county. These records were presumably kept at the home of the county clerk at the time of the removal of the court to Yorktown, for in January, 1692 the clerk, William Sedgewicke, had received the permission of the court to remove his office and records from the courthouse to his lodgings in the home of John Myhill.⁶² Apparently this custom continued until brought to an abrupt end by the rascality of William Tunley, the county clerk early in the eighteenth century. On July 24, 1707 the county court ordered Tunley to return the records, but he refused to comply with the order, since a part of the records, he alleged, belonged to him.⁶³ The county was at last forced to send the sheriff to seize the records and return them to the courthouse. Shortly after this episode, the Secretary of the Colony, Edmund Jennings, sued Tunley for one hundred and fifty pounds sterling for the sum of eighty thousand pounds of tobacco due the county for fees and business done while serving as clerk. The court found Tunley guilty of misappropriating the county's funds and settled a fine of 3,367 1/2 pounds of tobacco on him.⁶⁴

This criminal action of a county clerk may have caused the

⁶² York county, Deeds, Orders, Wills, etc., No. 9 (1691-1694), 92.

⁶³ Ibid., No. 13 (1706-1713), 82.

⁶⁴ Ibid., 102, 144.

court to erect a clerk's office as a depository for the records. Whatever the reason, Major William Buckner on February 25, 1707/8 contracted to build such an office for six thousand pounds of tobacco. The articles of agreement have been preserved, and in them Buckner promised in return for the agreed sum

to build a good Substantial office of 13 feet Square to be weatherboarded with featheredged Plank or good Oak boards Lathed & Plastered to be Sealed with the Same wth good windows well glazed to be Set in Such place as by the Court Shall be appointed as also good Sticks & Pillery 7 other necessarys thereto with a Porch to the Court house Door of Seven foot Square & to joyn to the House w^{ch} he doth promise to perform as soon as nails and other Necessary may be had in order thereto. ⁶⁵

Buckner began the construction of the office and on December 24, 1708 the court accepted his work. On that date he was paid 6,800 pounds of tobacco and cash, or a total of 7,020 pounds. ⁶⁶ The reason for the increase over the agreed sum was not recorded.

This office, built in 1706, apparently served the county throughout the remainder of the colonial period. Despite its close proximity to the first courthouse, if the above agreement was followed, the office was not replaced with another such building when the new courthouse was built. No record has been found

⁶⁵ Ibid., 121.

⁶⁶ Ibid., 122.

of any damage done the building during the occupation of the town by the British during the Siege of 1781. In fact the only mention of the office was the order of the court in 1746 to repair its windows. ⁶⁷ None of the maps or plans of the houses in Yorktown in 1781 show any such structure on the courthouse lot.

Archaeology could add nothing to answer this problem. It was impossible to find even the foundations of this building. It is probable that they were destroyed at the time of the construction of the later courthouses. It is also possible that the office and records were moved into the courthouse some time after 1746, or that the order of that date pertained to the windows of the office in the courthouse. If this last assumption is true, the office was probably torn down at the time of the erection of the second courthouses, and no separate clerk's office existed until 1808. ⁶⁸

The records stored in this building, or in the keeping of the clerks, have had a most interesting history. Fortunately, they have been stored in places of safety every time that their destruction was imminent. Early in the year 1777 they were sent to Richmond for safe keeping. ⁶⁹ For some unknown reason they were later

⁶⁷ York county, Wills and Inventories, No. 19 (1740-1748), 488.

⁶⁸ In 1808 the court set aside the sum of \$540.00 to pay for the construction of a clerk's office. York county, Order Book No. 8 (1808-1814), 28, 82.

⁶⁹ Ibid., No. 4 (1774-1784), 144.

moved to Dinwiddie county, where they stayed until peace returned to the land. On July 15, 1782 the court ordered the records brought back immediately, but nothing was done. ⁷⁰ On the following January 20, the clerk was ordered to apply to William Sole for the records. ⁷¹ This order was obeyed, for John Nelson was paid in February 1783 for "13 1/2 Days Waggon Hire for removing the Records of the Court from Dinwiddie County" ⁷²

During the War of 1812 the records were removed to the house of the clerk of the court for safety as long as the British "infested York River". They were ordered returned to the clerk's office on August 21, 1815. ⁷³ Their absence in 1814 undoubtedly saved them from the destructive fire of that year.

The most fortunate event in the history of the travels of the court records took place during the Civil War. Instead of following the lead of the other counties in Virginia and sending the records to Richmond, the county clerk stored them on a nearby plantation. ⁷⁴ This action preserved not only the bound volumes, but also a large file of loose papers. The records sent to Richmond were destroyed

⁷⁰ Ibid., 302.

⁷¹ Ibid., 311.

⁷² York county, Loose Paper File.

⁷³ York county, Order Book No. 9 (1815-1820), 43.

⁷⁴ Plaque in York county Clerk's Office, Yorktown, Virginia.

by the fire which swept that city at the time of its fall in 1865.

The importance of the courthouse and its associated buildings in the life of the inhabitants of the colonial town and county of York is obvious. Not only the political, but also the social life of the people revolved around these buildings. Although life in Yorktown was not as isolated as the purely agricultural regions, the courthouse did serve as one of the principal meeting places for its citizens. On court days the people would gather on the grounds of the courthouse and discuss the crops, trade, and the current events of the day.

The sphere of influence of the colonial courthouse of York county was much wider than its county bounds. In its court room members of the Nelson, Lightfoot, Digges and other famous families received their first experience in the political sphere. This training enabled them to serve their homeland with perspicacity and ability in some of the highest offices in the colony.