

1973

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Recommended Citation

A Letter of Lewis Burwell to James Burrough, July 8, 1734 405-414 (William Hamilton Bryson, 1973).

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A LETTER OF LEWIS BURWELL TO JAMES BURROUGH, JULY 8, 1734

edited by WILLIAM HAMILTON BRYSON*

Nor long ago while rummaging through the record office in Bury St. Edmunds, I came across a letter¹ from Lewis Burwell (1710-1756) of Gloucester County, Virginia, to James Burrough (1691-1764), his cousin and former tutor at Gonville and Caius College, Cambridge, which sheds some light upon the Burwell family and the education of colonial Virginians in the mother country.

The letter, written on a single sheet of paper, with chain lines but no watermark, is now in rather poor condition. The message, which covers both sides, is written in a legible hand, which is neat though neither elegant nor self-conscious. The letter was folded twice and put inside a heavier sheet of paper which served as a cover. This second sheet has a "Pro Patria" watermark; therefore we know that it was manufactured in the Netherlands.² The cover was sealed with red wax, but the seal is now missing. Addressed: "To James Burrough Esqr in Caius College Cambridge," the letter is docketed in a different hand: "July 8, 1734 Mr. Burwell & a Copy of my Answer." Unfortunately the answer has been lost. The complete provenience of the letter cannot be traced. In 1939 it was transferred to the Bury St. Edmunds and West Suffolk Record Office from the Moyses Hall Museum in a box labelled "Suffolk Institute of Archaeology Library 1903." The document is now in a logical depository, for James Burrough was born in Bury St. Edmunds, and his family lived there for several generations. The letter is published with the kind permission of the Bury St. Edmunds and West Suffolk Record Office.

This introduction is not the place for an extended sketch of Lewis Burwell, the writer of this letter. However, since there were at least eight prominent Virginians with this name before the Revolution, a few details must be given in order to identify our man. Our Lewis Burwell was the eldest son of Nathaniel Burwell (d. 1721), who was the eldest son of Lewis Burwell II (d. 1710), the only child of Lewis Burwell, the immigrant (d.

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¹ Bury St. Edmunds and West Suffolk Record Office, MS. E1/29/22.

² W. A. Churchill, *Watermarks in Paper* (Amsterdam, 1935), pp. 28-33, 40, 43, 44, 71, 72, examples 149, 153; Edward Heawood, *Watermarks, Mainly of the 17th and 18th Centuries* (Hilversum, 1950), pp. 26, 27, 145, 146, example 3700 plate 492.

1653). Thus by the rules of primogeniture he was the head of the Virginia branch of the family in the fourth generation. Our Lewis Burwell was born in Gloucester County, Virginia, in 1710.³ In September 1736, he married Mary Willis.⁴ He became a member of the Council of the Colony of Virginia on August 4, 1743, and president of the Council on November 21, 1750;⁵ thus he is usually referred to in modern works as "Lewis Burwell, president of the Council." He died in May 1756.⁶

The Burwell family in the eighteenth century was quite wealthy, politically active, and related by blood or marriage to most of the other significant families in Virginia. The contents and the circumstances of the letter reflect this. Therefore, it will be necessary to discuss briefly the family and fortune of Lewis Burwell in order to put the letter into its historical context.

The letter begins with business, a discussion of a pending lawsuit or legal claim. Burwell's claims to the property in England were inherited from his paternal grandmother, Abigail (Smith) Burwell. It was also through Abigail that the Burwell family acquired the basis of its great wealth. Lewis Burwell, the immigrant, and his son, Abigail's husband, were successful men, it is true, but they had lacked the necessary capital which she brought. Abigail was the niece of Nathaniel Bacon, the elder, a man of great wealth and political prestige. He was president of the Council and was acting governor from 1688 to 1690.⁷ When Bacon died in 1692 without issue, Abigail and her children were his only relatives in Virginia, and he left, with the exception of a few small monetary legacies, his entire estate to them.⁸ (This relationship is shown on the genealogical chart of the Bacon

³ George Harrison Burwell, *Sketch of Carter Burwell (1716-1756)* (Millwood, Va., [1961?]), p. 33; see also the genealogical chart.

⁴ Burwell, *Sketch*, p. 36; *Virginia Gazette* (Williamsburg), October 29, 1736; for Mary (Willis) Burwell, see Lyon G. Tyler, "Willis Family," *William and Mary Quarterly*, 1st ser., V (1897), 172; Maud Potter, *The Willis of Virginia . . .* (Mars Hill, N. C., 1964), p. 65; Byrd Charles and Richard Henry Willis, *A Sketch of the Willis Family of Virginia and their Kindred in Other States* (Richmond, 1898), pp. 16, 123, 124.

⁵ *Executive Journals of the Council of Colonial Virginia*, edited by Wilmer L. Hall, V (Richmond, 1945), 129, 345; Burwell, *Sketch*, pp. 37, 38.

⁶ Burwell, *Sketch*, p. 40.

⁷ J. Luther Kibler, "Early Colonial Governors of Virginia," *Tyler's Quarterly Historical and Genealogical Magazine*, XXXII (1950-1951), 156; Margaret Vowell Smith, *Virginia, 1492-1892 . . . with a History of the Executives . . .* (Washington, 1893), pp. 128-129; for the relationships see the chart.

⁸ John L. Blair, "The Rise of the Burwells," *Virginia Magazine of History and Biography*, LXXII (1964), 316, 317; Bacon's will is transcribed in Charles Hervey Townshend, "The Bacons of Virginia and their English Ancestry," *New-England Historical and Genealogical Register*, XXXVII (1883), 194-196; "Letters of Wm. Fitzhugh," *VMHB*, II (1894-1895), 125-129 note; see also York County Deeds, Orders, Wills, 1691-1694, IX, 116, microfilm Virginia State Library.

family.) Thus was the future prominence of the Burwell family assured. It may be of interest to note that Lewis and Abigail named their oldest son Nathaniel. Their pride and gratitude is also evident in that on both their tombstones they mention the Bacon connection.⁹

The small legacies by Bacon to his English kin are valuable evidence as to who might have been the opponents in Burwell's English lawsuit. These sums were bequeathed to his niece Elizabeth (Smith) Sheriff,¹⁰ his brother-in-law Thomas Burrough(s),¹¹ his sister Anne (Bacon) Wilkinson and her husband. Since his sister Elizabeth (Bacon) Burrough(s) was omitted, it is likely that she had died before 1682 when Bacon made his will. Because his nephew George Smith was not mentioned, it is assumed that he had died without surviving issue. This assumption is corroborated by the fact that Abigail could not have been a coparcener, as she is described in the letter, if George or his issue had survived, for they would have inherited by the common law the entire claim.

Therefore, the situation of Lewis Burwell in regard to the English property, whatever it might have been, which was the subject of the lawsuit, was as follows. Being the eldest son of Nathaniel Burwell, who was the eldest son of Abigail (Smith) Burwell, he was the sole heir at law of any common-law rights in real property which she might have had. Abigail and her sister Elizabeth (Smith) Sheriff were coparceners of any property heritable from or through their parents or their brother George Smith. Martha (Bacon) Smith and her sisters Elizabeth (Bacon) Burrough and Anne (Bacon) Wilkinson or any two of them were coparceners of any property heritable from or through their parents, their brother Nathaniel Bacon, or one of themselves.¹²

Since Elizabeth (Bacon) Burrough was the grandmother of James Burrough, the recipient of this letter, then the "woman to whom the Possessor is Heir" referred to in the letter would have been one of the others, i.e., Elizabeth (Smith) Sheriff, Anne (Bacon) Wilkinson, or her daughter Mrs. Burkitt. It cannot be determined from the letter whether the suit had been begun or whether Burwell's English lawyers were gathering evidence in

⁹ *Epitaphs of Gloucester and Mathews Counties in Tidewater, Virginia, Through 1865* (Richmond, 1959), p. 20; "Inscriptions on Old Tombs in Gloucester County, Virginia," collected by Lyon G. Tyler, *William and Mary Quarterly*, 1st ser., II (1894), 221.

¹⁰ "Sherry" in the will.

¹¹ "Burras" in the will.

¹² Sir Edward Coke, *The First Part of the Institutes of the Laws of England; or, A Commentary upon Littleton* (London, 1628) ff. 163-165, 170; Sir William Blackstone, *Commentaries on the Laws of England* (Oxford, 1766), II, 187.

preparation for a suit. No record of the lawsuit itself can be found among the public records because the form of action would have been ejectment and the indexes give only the names of the fictitious litigants, not the real parties in interest. The results of a search through the bill books of the chancery and the exchequer were negative.

The next point for consideration is the circumstances of Lewis Burwell's having studied at Cambridge. He was at Eton from 1722 to 1729 and then at Gonville and Caius College, Cambridge, from 1729 to 1733.¹³ Both his grandfather, Lewis Burwell II and his father, Nathaniel Burwell, expressed a desire in their wills that he should be educated according to his quality and estate, and they both set aside funds for this special purpose.¹⁴ When his father died in 1721, Robert "King" Carter, his maternal grandfather, became his legal guardian and assumed the management of his estate.¹⁵ Carter had been sent to London as a boy to be educated.¹⁶ He was aware of the value of an English education and directed in his will that his own son should be sent to Cambridge.¹⁷

Soon after his father died, Burwell was sent to Eton and after that to Caius where he was admitted a fellow-commoner on June 18, 1729, at age seventeen. The fellow-commoners were the highest social class of student and were "generally young men of family." They dined with the fellows at the high table and paid higher fees for the better board and privileges.¹⁸ They seldom took degrees, and there is no record of Burwell's having received one. By dining with the master and fellows of the college, he was able to get to know them personally; this letter and the reference to his correspondence with the master indicate that he continued these friendships after returning home to Virginia. The mark of distinction showing the influence and attitudes of primogeniture is that, while the sons of Nathaniel Burwell were given an education, the eldest son was sent to England; but

¹³ Richard Arthur Austen-Leigh, *The Eton College Register, 1698-1752* (Eton, 1927), p. 56; John Venn, *Biographical History of Gonville and Caius College, 1349-1897* (Cambridge, 1897-1898), II, 30; John Venn and J. A. Venn, *Alumni Cantabrigienses* (Cambridge, 1922), part I, I, 269; "Americans at Eton in Colonial Days," *VMHB*, XIII (1905-1906), 209, 210; "Some Virginians Educated in Great Britain," *VMHB*, XXI (1913), 197.

¹⁴ These two wills are transcribed in Mary A. Stephenson, *Carter's Grove Plantation, A History* (Williamsburg?, 1964), pp. 195-203, 211-216, especially 199 and 213.

¹⁵ Stephenson, *Carter's Grove*, pp. 6-10, 17, 25, 232-247 *passim*.

¹⁶ Louis B. Wright, *Letters of Robert Carter: The Commercial Interests of a Virginia Gentleman* (San Marino, Calif., 1940), p. vii.

¹⁷ His will is transcribed in "Carter Papers," *VMHB*, V (1897-1898), 408-428; VI (1898-1899), 1-23, especially p. 17.

¹⁸ Venn, *Biographical History of Gonville and Caius College, 1349-1897*, III, 271, 272.

immigrated to Virginia, married Burwell's widowed mother, and become the personal physician of Governor Gooch.²¹

In September 1732 Governor William Gooch wrote to Thomas Gooch suggesting that Lewis Burwell should return to Virginia to manage his affairs since he was of age and his guardian, Robert Carter, had recently died.²² In May 1733 the governor in another letter to his brother mentioned that Burwell had recently returned to the colony.²³

In reference to Burwell's comment on his law studies, it should be pointed out that in the first half of the eighteenth century no formal organized instruction in the common law was available in England or America. The universities taught only civil law, and the inns of court had ceased to be teaching institutions.²⁴ Therefore the only way a lawyer learned his profession was by independent reading and apprenticeship. It is unknown whether Burwell had any experience in the office of an older lawyer, but this letter shows that he was intent on following a course of reading. He seems, however, to have been unable at the moment to obtain any advice as to what he should read.

Coke upon Littleton was the obvious book with which to begin. This difficult volume, which constitutes the first and best part of Sir Edward Coke's *Institutes*, is a treatise on the law of real property. It is Coke's commentary on Sir Thomas Littleton's treatise on tenures; he brought Littleton up to date and enlarged the older book considerably. It is a monumental work which cannot be overestimated in its erudition or usefulness. By 1734 *Coke upon Littleton* was in its eleventh edition.²⁵ It was widely used in Virginia, and Burwell should have had no difficulty in obtaining a copy.²⁶ The law of real property in the eighteenth century was incredibly complicated, and the fact that Burwell had read this tome without becoming discouraged is a good indication of an aptitude for the law. Perhaps the fact that most of his wealth was in real estate provided an incentive. Perhaps he had developed a taste for it by having been involved in several lawsuits since he had returned to Virginia. In addition to the suit brewing in

²¹ Burwell, *Sketch*, pp. 11, 61.

²² Letter of September 4, 1732, a typescript in the library of Colonial Williamsburg.

²³ Letter of May 7, 1733, a typescript in the library of Colonial Williamsburg.

²⁴ William S. Holdsworth, "The Disappearance of the Educational System of the Inns of Court," *University of Pennsylvania Law Review*, LXIX (1921), 201.

²⁵ The eleventh edition was published in 1719 (W. H. and L. F. Maxwell, *A Legal Bibliography* [London, 1955], I, 450).

²⁶ In fact his uncle James Burwell had possession of a borrowed copy in 1716 ("Miscellaneous Colonial Documents," *VMHB*, XVII [1909], 147).

England referred to in this letter, there had been a suit against his brothers in the General Court in Williamsburg.²⁷ Also he had been sued in the same court in his capacity as executor of his father's will by his mother.²⁸ It is unknown whether in fact he ever practiced law; he certainly did not have to in order to make a living. As a councillor, Burwell was from 1743 until his death a member of the General Court. How often he sat as a judge is unknown because the records of that court have not survived.

In general the purpose of Burwell's letter was to advance the progress of his English lawsuit by sending information and the depositions. The letter also served to keep him in touch with his friends, who were teachers at Cambridge. It is an interesting letter from the modern point of view because it throws some light on the financial, educational, and social aspects of life in Virginia in the early eighteenth century. Furthermore, we have a glimpse at the personality of one of the more important persons in the colony at that time. We see in Lewis Burwell a gentleman of education and urbane humor, of moderate ambition and intellectual ability.

To James Burrough Esq^r²⁹ in Caius College Cambridge³⁰

Dear Sir

After a tedious length of time I have got the Depositions³¹ of two Old Men of Our parish³² & my Neighbors, who were personally acquainted with my Grandfather³³ Grandmother³⁴ & all their Children,³⁵ & I have

²⁷ Letter of Governor Gooch to Thomas Gooch, June 17, 1734, typescript copy in the library of Colonial Williamsburg.

²⁸ *Doctor Nicholas & his wife v. Lewis Burwell, surviving Exor. &c. of Nathaniel Burwell*, in *Virginia Colonial Decisions: The Reports by Sir John Randolph and Edward Barradall of Decisions of the General Court of Virginia, 1728-1741*, R. T. Barton, editor (Boston, 1909), I, R102-R108, II, B35-B37.

²⁹ James Burrough, M.A., was born on September 1, 1691, at Bury St. Edmunds. He was admitted at Caius College, Cambridge, was made a senior fellow in 1719, and succeeded Gooch as master of the college in 1754. He was knighted in 1759 and died on August 7, 1764 (Venn, *Biographical History of Gonville and Caius College 1349-1897*, I, 517, 518; II, 126-129; *Dictionary of National Biography*, VII, 444, 445).

³⁰ Gonville and Caius College, Cambridge, is still known colloquially as Caius College; Caius is pronounced "keys."

³¹ Depositions are sworn statements made by witnesses in a lawsuit; the essence of a deposition is the right of opposing parties to cross-examine the declarant. Sometimes the word deposition was used to refer to an affidavit, which is simply a sworn statement unprotected by cross-examination. It cannot be known whether the word is used here in its strict sense or not.

³² Abingdon Parish in Gloucester County, Virginia (Blair, "The Rise of the Burwells," *VMHB*, LXXII [1964], 318, 319).

³³ Lewis Burwell, II (d. 1710).

³⁴ Abigail (Smith) Burwell (1632-1692).

³⁵ For these see Everard Kidder Meade, "The Children of Major Lewis Burwell II, of Gloucester County in the Ancient Colony of Virginia," *Proceedings of the Clarke County Historical Association*, IV (1944), 6-28.

likewise got a Copy of our parish Register;³⁶ but very unluckily neither my birth nor Christning is therein mention'd. The inclosd is the best Certificate³⁷ the Lawyer that I employ'd could procure. What tho this Certificate should be a proper testimony of my being heir to my Grand-mother Abigail, yet I am afraid there will be another proof as essentially necessary as this to obtain a judgment in my favour; which is, a proof of the above sd Abigail being a Coparcener³⁸ with the Woman,³⁹ to whom the Possessor is Heir; but if neither [yo]u nor any other person in England can prove this, I am apprehensive our Endeavour will prove abortive; but I am well ascertain'd no person here can prove it. If the inclosd Certificate is approv'd of, & if you can produce propper Testimonials of Abigails being a Coparcener with the person by whose right the Heir is possess'd, I desire you would speak to Mr Martin⁴⁰ to make all the dispatch that is possible in this Affair.

I yet continue Single, and from so Ardent an Admirer as I was of the Ladies in England, I am become a very dull tastless fellow; whether this proceeds from a change in my Constitution or whether our women are Less winning [?] fair, less amiably mild than your northern Girls, I won't determine. Juba says of Marcia, True, She is fair, O how divinely fair!⁴¹ And I say of the greatest beauty we have True, She is brown, O how devinely brown! Most Lovers consider only what is agreeable in the Matrimonial Scene, & hide all that is wretched. It is commonly affirmed, that truth well painted will certainly please the imagination; but it is sometimes convenient not to discover the whole truth, but that part which only is delightfull. We must some times only shew half an Image to the fancy; which if we display in a lively manner the mind is so dextrously deluded, that it doth not readily perceive that the other half is conceal'd.

I (after labouring under the paroxism of an ill fared love) have since surveyd the Matrimonial Scene, & have discover'd many Anxieties & cares as well as pleasures appendant to the most happy Scene that reason (& not fancy) can paint which is one reason why I am not so desirous at present to change the single for the Matrimonial State as I was some time ago.⁴²

³⁶ This register is now at the library of the Virginia Theological Seminary in Alexandria.

³⁷ This "certificate" is no longer with the letter; it was no doubt handed on to Burwell's English lawyer.

³⁸ A coparcener is a co-heir of an undivided estate.

³⁹ See discussion in the Introduction.

⁴⁰ A solicitor probably.

⁴¹ Joseph Addison, *Cato: A Tragedy* (1713), act I, scene 4, line 154.

⁴² Burwell married Mary Willis in 1736 (*Virginia Gazette* [Williamsburg], October 29, 1736). She died May 22, 1746 (*Virginia Gazette*, May 29, 1746).

I have had the misfortune to lose my Mother⁴³ since I return'd to Virginia whereby my Estate is pretty much increas'd; the greatest part of her dower falling to me & the trouble that I have had in settling my Affairs (which at last I have finish'd)⁴⁴ hath greatly retarded my progress in the Law; I have read Coke upon Littleton⁴⁵ with some diligence but when I got through that I did not know what next to proceed upon: and so for want of advice & proper Books I am afraid I shall make a very indiferent Lawyer; Jonee asked a Gentleman (the most Eminent in the Profession that we have) what method I should take in studying the Law, & what books I should send for & he very kindly told me that I must first lay out a hundred pounds in Books; but he left me to guess at the method, & what the books were that I must lay out the hundred pounds upon. Therefore from these many discouragements I again think with the Poet

Rura mihi & rigui placeant in Vallibus Amnes,
Flumina amem Sylvasque inglorius.⁴⁶

None of my friends in Cambridge has writ to me since I left the University except Yourself & the Master.⁴⁷ I for your kind letter return my sincere thanks & pray let the Master know that I receivd his & that I acknowledge myself his debtor & I shall be sure to answer it by the next opportunity.

I did suppose before your letter came to hand that my friend Dr. Mott⁴⁸ had been married a long time and had got a Babe & two; but you observe

⁴³ Elizabeth Carter, the eldest daughter of Robert Carter ("King Carter"); after the death of Burwell's father, she married Doctor George Nicholas, the physician to Governor Gooch.

⁴⁴ On June 17, 1734, Governor William Gooch wrote to his brother Thomas Gooch that "The Doctor [Dr. Nicholas] formerly of St. John's [College, Cambridge], is dead. His Wife Mr. Burwell's Mother died about four months before him, so that young Gentleman since he came over took possession of a good Estate left him by his Father, had his mother's jointure fall in, and obtained a cause in our Supream Court against his brothers of about 400 pounds advantage to him" (A typescript copy of the letter in the library of Colonial Williamsburg; see also Burwell, *Sketch*, p. 61).

⁴⁵ Sir Edward Coke, *First Part of the Institutes of the Lawes of England, or, a Commentary upon Littleton*, (1st ed., London, 1628).

⁴⁶ Virgil, *Georgics*, book 2, lines 485, 486.

⁴⁷ Thomas Gooch, D.D., was master of Gonville and Caius College, Cambridge, from 1716 until his death in 1754; he was made a prebendary of Canterbury in 1730; in 1737 he was consecrated bishop of Bristol; in 1738 he was translated to the see of Norwich and in 1748 to Ely. In 1751 he inherited the baronetcy from his brother, Sir William Gooch, lieutenant governor of Virginia (Venn, *Biographical History of Gonville and Caius College 1349-1897*, I, 489, III, 115-125; *Dictionary of National Biography*, XXII, 109, 110; G. E. Cokayne, *Complete Baronetage*, V [Exeter, 1906], 91-93; J. LeNeve, *Fasti Ecclesiae Anglicanae* [Oxford, 1854], I, 57, 219, 346, II, 473).

⁴⁸ John Mott, M.D., was a fellow of the college; he was also steward of the college in 1730; in 1744 he changed his name to Thruston (Venn, *Biographical History*, II, 6).

that the Alterations among the fellows are, Dr. Snell's⁴⁹ Death & Mr. Dawney's⁵⁰ Succession; by which I now suppose the Dr. is still with you Bless his little Pluck I wish him good success, for I allways had a particular respect for him. I am afraid the Noble Captains Rival has carryed off his Mistress by not hearing of his removal.⁵¹

Pray pay my respects to the Master, Mr. Simpson,⁵² & the rest of my worthy acquaintance in your College.

I am with the greatest respect

Deer Sir your Friend & Servant

LEWIS BURWELL

Virginia Gloc^{tr} County⁵³

July the 8th 1734

⁴⁹ Edward Snell, M.D., was a fellow of the college; he died in September, 1733 (Venn, *Biographical History*, I, 521).

⁵⁰ John Dawney, M.A., was a junior fellow of the college from 1730-1733; he was ordained a priest in 1732; he was admitted to Dr. Snell's fellowship in the autumn of 1733 (Venn, *Biographical History*, II, 20).

⁵¹ Burwell notices that Dr. Mott is still a fellow of the college and therefore has not married. Fellows of colleges at Cambridge and Oxford were required to remain single; if they married, they had to resign their fellowships. Apparently the "Noble Captain," Dr. Mott, lost out to his rival.

⁵² Robert Sympson, M.A., fellow of the college (Venn, *Biographical History*, I, 517).

⁵³ This letter was written from Burwell's home "Carter's Creek" (also called "Fairfield") in Gloucester County, Virginia.