

Additional Court Records for Genealogical Research

by Dee Gibson-Roles

In March, we discussed the Court of Pleas and Quarters which was in existence in North Carolina until 1868. Other courts were the Superior County and the State Supreme Court. We will also discuss some loose papers and court docket volumes of use in genealogical research.

In 1777 the state of NC adopted the first constitution, at which time the General Assembly was recreated and the state was divided into six districts, three of which fell in present day Tennessee. (The records for those districts can be found in TN, the others in NC State Archives.) The Superior Court was created in 1806 and was actually divided into two branches: the Superior Court of Law and the Superior Court of Equity. The Superior Court of Law acted in conjunction with the Court of Pleas and Quarter Sessions but handled the more complex and serious cases, such as murder, rape, larceny, house breaking, assault and battery, riot, forgery and the like and civil jurisdiction extended to suits involving \$100 or more (after 1868, \$200 or more). The Superior Court of Equity dealt with fairness issues and handled probate and land issues. Most of the time the heirs are listed in these cases involving probate, which are an invaluable resource for genealogists. While it may appear unpleasant that the family "aired their dirty laundry in public" so to speak, most family researchers are delighted to find an equity case as these provide wonderful information on family members and relationships. After 1868, these two courts were merged into one and continue to function today. The County Superior Court was held in the spring and fall and had six judges which rode the circuit.

The State Supreme Court came in to existence in 1800 and was first called the Court of Conference, later called the Supreme Court. This court handled both unsettled cases and new cases. If a case from a lower court was appealed to the State Supreme Court, one can usually find the entire record and outcome in the State Supreme Court Records in the NC State Archives. The search room contains a card file of all cases heard, and one can quite often find the transcript (word for word!) of the actual testimony from the trial in a lower court. A good example of this is a murder trial which took place in Madison County (NC) in 1895 in which one person was convicted of second degree murder and his two half-brothers were convicted of accessory to the crime. The case was appealed to the State Supreme Court. Family researchers recently were able to locate in the Supreme Court records in the state archives the entire transcript of the lower court trial testimony, which was very lengthy and very interesting. Family Search now has the State Supreme Court records (the actual images) on their website. Although not yet indexed, they are broken down into time spans covering a few years. They can be found at:

<https://www.familysearch.org/search/collection/show#uri=>

<http://www.familysearch.org/searchapi/search/collection/1878751>

Another type of court record records that can prove invaluable are the Civil Action Papers, the Civil Action Papers Involving Land and the Criminal Action Papers. These are loose papers filed by county and by chronological order within the county. The cases in the Civil Action Papers and Civil Action Papers Concerning Land may be ones involved in land ownership, unpaid debt, contract breaches, slander or libel, divorces, and even the legitimizing of illegitimate children. (The latter should not be confused with bastardy bonds, which we discussed in a past article.) One may on occasion find emancipation or naturalization documents, as well as cases involving timber and mines and actions involving county officials. As noted, the civil action papers involving land are filed separately. Again, Family Search is currently putting the actual images of the Civil Action on their website, and at this point papers for Buncombe and Burke Counties are among the fifteen counties whose papers available on the website. Again, they are not indexed, but must be browsed (they are broken down by county, however.) More are being added as quickly as they are available. Since these records have never been microfilmed, the only way to view and research them was in the state archives search room. This fact makes the collection on Family Search especially valuable to researchers. (The Civil Action papers can be found at

<https://www.familysearch.org/search/collection/show#uri=>

<http://www.familysearch.org/searchapi/search/collection/1930242>)

The Criminal Action Papers are another set of papers that are extremely interesting to researchers. Again, these are arranged by county and chronologically within the county. These may include warrants for arrest, summons and subpoenas for witnesses and what these witnesses were paid in travel expenses, statements by witnesses, and any number of miscellaneous documents pertaining to the case. These papers can be fascinating even if not connected to the researcher. Again, they have not been microfilmed and are available only at the state archives.

There are a number of types of docket books which bear researching. Indeed, they should definitely be researched to complete the research on any court case. We touched briefly on these in our previous article, but we need to mention more detail on some of them:

Appeal Dockets.

These contain the record of cases that were appealed to the Superior Court or in the case of Superior Court, those cases that were appealed to the State Supreme Court.

Appearance Dockets.

Contained in these volumes are issuances of summonses and subpoenas issued for defendants and witnesses. Other information found in these includes names of parties and attorneys, the form of action, disposition of writ, and any rule or action taken by the court, including confessed judgments.

Execution Dockets.

This volume includes the record of money due a successful litigant, court costs, fines, the type of recovery writ issued and the execution of the writ and if the judgment was satisfied. (This is not to be confused with the execution of a prisoner who was sentenced to death!)

Recognizance Docket.

This is a record of those expected and/or required to appear at the court term in criminal prosecutions.

State (or Crown) Docket, Court of Pleas and Quarter Sessions.

This was used in criminal cases to track the appearance and trial in state prosecutions. It was known as the Crown Docket in the colonial period.

Trial Dockets.

This was a record of cases that were expected to be tried during a given term. It shows the defendant's pleadings, any prior ruling by the court, the verdict, judgment and final orders.

Other Dockets.

These might contain levy, costs and allowance dockets; the clerk's account, fee and receipt book; the prosecution bond docket; witness fees docket, and writs and petition dockets.

Minute Dockets.

These volumes literally recorded the actions in the courts. The Courts of Pleas and Quarter Sessions met four times per year, while the Superior Court met twice per year. The functions of county courts may be categorized into three distinct areas - judicial, probate and administrative - that are reflected in the minute dockets. The Superior Court minute docket also included the jurors summoned and impaneled, the grand jury reports as well as the appointment

of clerks and their qualification. (See our article for March, 2012 for more detail on the proceeding of the Court of Pleas and Quarters.)

Equity Court Dockets.

These were generally the same as for the Superior Court of Law prior to the merger of these two courts in 1868.

It is easy to see that to thoroughly research a court case, one must check all the different docket books as well as the appropriate civil or criminal action papers. We have seen cases where charges were brought, then reduced or dropped and were not in any papers except the docket books.

When any family seems to completely disappear from the county records, it certainly pays to thoroughly check all the court records including the docket books and loose papers. Many a researcher has found answers as to why the family left and where they relocated by studying these records.

We must also add that even when not connected to the persons involved in the cases, the reading of these records provides some of the best entertainment to be found!