

Court Records Can Provide a Wealth of Information

by Dee Gibson-Roles

Court records can prove to be invaluable to family history researchers. While sometimes family genealogists cringe at the thought of their ancestor(s) appearing in these records, we need to realize that court records contain much more information than just who assaulted whom or who was tried for horse stealing. Those who served as jurors or witnesses may be listed, land records and personal property transactions may be recorded, and civil matters may have been settled by the courts. We will discuss the North Carolina courts from colonial times through 1868 as all of these may have valuable family information in them waiting to be found. Those records surviving are held at the NC State Archives in Raleigh unless otherwise indicated. Most are available for researchers in the search room or on microfilm.

In colonial days, the court system reflected English common-law principles. These included the General Court (1670 – 1755), the Court of Chancery (an equity court), the Supreme Courts of Justice, Oyer and Terminer, and General Gaol Delivery (1755 – 1759), and District Superior Courts. Later the Court of Conference (1800–1939), was formed to reinterpret colonial legal practices and handle unsettled cases. This eventually was called the Supreme Court.

The General Court handled civil and land issues as well as probate matters. The Chancery Court dealt with land disputes and appeals from other courts. In 1755, the population had reached the point at which one central court was no longer able to efficiently handle all the legal matters, and the Supreme Courts of Justice, Oyer and Terminer, and General Gaol Delivery was created. The term “Oyer and Terminer” is an old English law term and comes from a French term meaning “to hear and determine.” Gaol is an archaic term for jail and is pronounced just as the word “jail” is pronounced today. This court existed for four years, then was replaced by the District Superior Court system in 1759.

The surviving records for the colonial courts are not complete by any means, but those that did survive are in the NC State Archives. In addition, many public and genealogical libraries hold one or more volumes of ten-volume set, *The Colonial Records of North Carolina* by William L. Sanders as well as other published abstracts of these records. Locally OBCGS has at least eight of these volumes. These volumes are more completely described in a finding aid from the archives which may be accessed at <http://www.archives.ncdcr.gov/FindingAids/Circulars/AIC14.pdf>.

The Court of Pleas and Quarter Sessions was born in 1738 as the precinct courts and was in existence until 1868. The court met four times per year (hence “Quarter Sessions”.) The minutes of these court sessions usually hold the information most valuable to genealogists by virtue of the fact that they handled both civil and criminal matters. This court heard both original cases and those that were appealed from magistrate’s courts. Deeds and wills were probated in this court, as well as estate matters such as issuing an order to “lay of a year’s support for the widow.” Appointments of administrators, guardians and executors were handled by this court as well as establishing the bond for the same. If an ancestor was “bound out” (assigned to a person to be educated and learn a trade) or was assigned a guardian, it will be recorded in these minutes. The name of the child, often his parent(s), and the person he was bound to is recorded as well as the terms of servitude in the case of apprentice bonds. (For example, one might discover that his ancestor was bound to a prominent man in the community who was to teach him to read and write and/or learn a trade, and to give him a new set of clothes and a bible when he reached legal age. One record in Macon County states that the child is a five year old mail [sic] child and is to be taught to “read and write and the art and mystery of figures as far as the single rule of three” and be given a horse, saddle and bridle worth \$75 and two decent sets of clothes over and above his general apparel up his release when he came of age.) If one or both of the parents are deceased, this may be noted and may include the name of the parent(s) and in some instances even the death date.

Some of the more interesting items in these records include the “lunacy inquisitions” – held to determine the sanity of an individual in question – and the bastardy cases. It is a rare family indeed that does not have this sort of record somewhere in the past!

In addition, these courts levied taxes, and granted licenses to peddlers, ferry operators and tavern keepers. It is not unusual to find a person being granted and license to “sell spirituous liquor by the small measure.” Nor is it unusual to find a case against someone for “selling spirituous liquor with a license.”

Another interesting function of this court was to register stock marks. This could be very important in a time when livestock was often allowed to roam freely. In addition to being recorded in the court minutes, these stock marks were usually also recorded in a separate book, which, if still extant, may reside either in the archives or in the county register of deed office.

No description would be complete without the inclusion of jury lists. These are lists of those called for grand or petit jury duty and were recorded in the court minutes. When a case was tried by a jury, the jurors are listed with the case in the minutes. At the end of most sessions, the jurors to be called for the next session were listed. Another type of jury was a “road jury.” This usually consisted of all able-bodied men who lived within the boundaries of the section of the road in question were required to work on the road a certain number of days. Those assigned to this duty were called a “road jury” and a supervisor was appointed from among these men. Those who were physically unable to fulfill the duty could appeal to be released from the duty. Failure to complete the obligation to work on the said portion of the road unless excused could result in a fine. These proceedings are recorded in the Court of Pleas and Quarter Sessions minutes. These records may give an indication of the location of the ancestor’s residence within the county and the names of neighbors, which can be very helpful in breaking “brick walls.”

Still other records to be found in the Court of Pleas and Quarter Sessions are manumission and emancipation records. These records can be vital to those researching black ancestry. (Manumission refers to voluntary release from servitude/slavery, such as an owner granting freedom to his slaves at his death per his will or freeing a slave for “meritorious service” such as saving a life. Emancipation refers to a more general release and may be done with or without the owner’s consent.)

There are a number of other records associated with the Court of Pleas and Quarter Sessions, such as Appeal Dockets, Execution Dockets, Trial Dockets and several more. The survival of these records/volumes varies greatly from county to county. Many counties have suffered court house fires or other destruction, particularly during the Civil War. It is advisable for the researcher to check the Guide to Research Materials in the North Carolina State Archives: County Records which is available online at http://www.archives.ncdcr.gov/FindingAids/co_guide.pdf for the existence of records in the county of interest. By examining all existing court records for the county at the time period in question, one is often able to assemble a complete overall picture of a court case involving an ancestor. Abstracts of these minutes have been published for many counties, and these may be available in the county of interest, in the state genealogical library, on interlibrary loan from a public library, or for purchase.

We should note that it is wise to check with the archives before traveling to Raleigh to determine the availability of the records and the form in which they are held. Some records are held off-site, and require at least a 24 hour notice to access them. Those records on microfilm may be copied by the researcher for the same fee as other microfilm records. However, because the books and records themselves are very old and fragile, photocopying of most, if not all, is prohibited. A copy may be ordered and the staff will photograph the pages desired, but the cost is much higher than a regular photocopy. Researchers are generally allowed to photograph these in the search room, using a digital camera with no flash. Many researchers have indicated that the quality of photos of the books taken with a good digital camera is as good as or better than any photocopy.

Next month we will discuss the release and content of the 1940 Census, which will be released April 2, 2012. An attempt in being made to form a group of persons familiar with local names and places to index the census for the

western NC counties, beginning as soon as it is released. This will assure greater accuracy of the spelling of names and places. It is hoped that persons familiar with the surnames and places in each of the thirteen western-most counties will volunteer to be indexers. Any reader who has an interest in participating in this project may contact info@obcgs.com or call 828-253-1894 and leave contact information. Inquiries will be promptly answered.

In May we will discuss the Superior Court and Supreme Court records and those generated after revamping of the court system after 1868.