THE LAW LIBRARY AS A GENEALOGICAL & HISTORICAL SOURCE

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Compiler's Note: This is only a brief overview of a source which has produced a very massive amount of records. The total number of surviving, published cases is staggering. The new series of South Carolina Reports starting with cases decided in 1868 currently consists of 331 volumes--a number which is growing yearly. Vol. 1 of South Carolina Reports covers the years 1868 and 1869. The year 1930 contained three volumes, 1960 five volumes, and 1998 has thus far produced three volumes (and we are only up to July). As you can see, the number of volumes, and consequently the number of cases varies from year to year. I feel that despite the difficulties encountered, this is a resource any serious researcher should look at.

WHAT IS IN THE LAW LIBRARY?

The Law Library is located on the third floor of the Spartanburg County Court House on Magnolia Street across from the Donald Stuart Russell Federal Court House and the Cleveland Law Range. The Law Library is open to the general public Mon.-Fri., 8:30 a.m.-5:00 p.m. The telephone number is 864-596-2511. The collection consists primarily of the law codes and statutes of South Carolina (there is a difference between the two--see below), the published acts of the General Assembly, case reporters for all of the states (however, the volumes including California and New York have for many years contained only the Supreme Court cases for their respective states due to the large volume of cases appealed), and legal practice aids. The latter are not germane to our topic and will not be discussed here.

CODES AND STATUTES

Statutes are bills passed by the General Assembly and enacted into law. A code is a topical arrangement of all the current public laws of a jurisdiction in force at the time of the compilation of the code. In general, private laws (i. e. those directed at individuals, small groups, or specific matters rather than general policies) are not included nor are resolutions or bills which failed to be passed. The Acts of the General Assembly include all laws and resolutions. (Bills which fail to become laws aren't archived at all. You must look at the legislative journals and papers to find them.) However, since there is no cumulative index, you must search the index in each volume. Unless you are interested in public acts such as the opening of a public road or the chartering of a church, the information you desire will be found in private acts. So, the Acts of the General Assembly will be your most important resource of these three. Be aware that the indices of these and all other legal volumes leave much to be desired. Therefore, you must use creative thinking when using an index. Also, individual names, such as the Trustees of Liberty Springs Presbyterian Church in the act to incorporate that church aren't indexed at all. Only the church name is indexed. Attached are copies of examples of public and private laws. The act "to establish and regulate domestic relations of persons of color" is a public law. The acts incorporating Liberty Springs Church and change Edwin Harrison's name are private laws.

CASE LAW: AN UNEXPLORED GOLD MINE

With the exception of Louisiana, all the 50 states of the United States are common law states. This means that legal precedent (i.e. the decisions of judges in similar case and/or fact situations helps determine the law in a case before the bar of justice) is one of the cornerstones of our legal system. Very early on, the colonies published appeals court case opinions in order to guide fellow jurists. (These opinions include the court's decision, the legal reasoning, and the fact situation of the case.) This system has continued to this very day. The amount of material published is astounding. Prior to 1896, six thousand volumes reporting a half million legal decisions had been published. When you consider that the population of the United States in 1890 was just under 63 million and cases (with the exception of criminal cases) require at least one plaintiff and one defendant (they often have more), the odds are very good that at least one of your ancestors will have a reported case. It is certainly worth the effort of looking.

Each opinion is as different as the case it represents. Yet each of these cases share elements in common. All of them have plaintiff(s) and defendant(s), an original jurisdiction where the case was initially tried, and a decision was rendered which one or both parties was dissatisfied with. And they are written in a style all their own--legalise.

FINDING AND ABSTRACTING A CASE

Unfortunately, there is no centralized listing of all cases in the case law available in book form. Many cases appear on the LEXIS® and WESTLAW® databases. However, they tend to be the more recent cases and you have to pay the not so insubstantial search fee. So, most researchers are left with searching each index volume by volume. This process is compounded by the fact that since the index is structured towards lawyers and judges not historians or genealogists, it is not in a format we are familiar with. The index (if there is one) will be strong on concepts indexed in arcane terms and a "logic" which defies reason. The table of cases includes only the first plaintiff/appealant's surname and may or may not include the party which is not appealing the case. It will NOT include the names of any additional parties--either plaintiff or defendant. Earlier cases do not even tell where the case was originally tried only where the court of appeals was that heard the appeal. (Although this information may be gleaned from the text.) Despite all these difficulties, the case law as reported in the published records such as South Carolina Reporter are a significant source well worth the effort. For burned counties such as Orangeburg, Georgetown, Abbeville, Chesterfield, Lexington, Richland, etc. in South Carolina, these published reports are the only court records to survive. These reporters represent only a percentage of the cases heard in a jurisdiction. But, the case containing the information you desire might be there and these are the only records to survive. So, it is an especially important source for them. This is also true for burned counties in other states.

The following are samples of the types of material you can find. They were selected at random. When researching law books, keep the following in mind: Be patient. Read every word of the case. Use a good legal dictionary to find the definition of terms you don't understand so you will know what is really going on with the case. Chances are you will be rewarded for your effort. The cases are taken from the South Carolina Reporter which publishes all cases appealed since

1785. (Please note that the Law Library has case reporters for all the states and territories starting with the 1880s and 1890s. So, if your research interests are outside of South Carolina this collection is a local source you should check out.)

Johnston and Henderson v. Dillard1 Bay 232 April 1792; heard in Ninety-Six District

An action to try and establish the freedom of a slave named Milley and her children. Johnston and Henderson, the plaintiffs, were Quakers who had "taken uncommon pains to procure this wench, and sundry others, their freedom." In fact, Mr. Johnston was so zealous that he had ridden 10,000 miles in the pursuit of freedom for slaves in South Carolina and Georgia. In court, a deed was produced dated 28 May 1778 stating that Charles Moorman, a Virginia Quaker, freed "a number of his negroes" including Milley when she turned 18. Also produced was a "proved and authenticated" copy of Moorman's will dated 2 Sept. 1778. (It was filed in Virginia.) It lent his slaves to his children until the male slaves turned 21 and the females 18. At that time, the slaves were to be freed. An act passed by the Virginia legislature dated 27 Aug. 1788 sanctioned the deed and Moorman's will, subject to the rights of individuals. Witnesses stated that Mary Moorman married James Taylor in 1769. The new couple established their home and Moorman let them take the girl Milley to help. In 1778, the Taylors sold Milley to the defendant in this case--Mr. Dillard. The plaintiffs argued that Moorman had merely loaned Milley to the Taylors and that legal title remained with him. Therefore, the terms of the deed and will applied. Dillard argued that whatever property went with a woman at marriage was a gift from her father. This position, coupled with the fact that Moorman never questioned the ownership of the Taylors during the nine years they had Milley, sealed her fate. The court voided the deed of manumission and will although she was specifically named in both (making a very strong case that Moorman felt he still owned her). Both Milley and her children remained slaves.

Anderson v. Gilbert 1 Bay 375 November 1794; heard in Ninety-six District

On 25 Mar. 1755, John Clark received a North Carolina land grant. On 1 Oct. 1755, he deeded the property to Abraham Anderson, who at the time of the case was deceased. His eldest son and heir-at-law (being the only heir given possibly means that Anderson died before the abolition of primogeniture which happened in South Carolina on 19 Feb. 1791) conveyed the property to the plaintiff making him the legal owner of the property. This action was to "try title" (i. e. determine the rightful owner) of the land--200 acres located in "Newbury county." The attorney for defendant Jonathan Gilbert argued that his father (who had conveyed the property to him) had "uninterupted possession" of the land having resided there since 1766. Therefore, he felt he owned the property. The plaintiff contended that Abraham Anderson in the presence of witnesses took his deed to "old Jonathan Gilbert" (the father) and ordered him off the land. But "Gilbert remained on it [the land] by force" and Anderson's attorney's said that "it would be unjust to suffer a man to take advantage of his own wrong." But, the jury found for the defendant and no new trial was granted.

Gwin and Wife, late Widow of Hicks v. The Executor of Hicks 1 Bay 503 1793

Mrs. Hicks owned the 120 acres in question at the time of her marriage to one Mr. Hicks. (It was her first marriage.) His slaves and he planted the land. Mr. Hicks "died in the latter end of May, or [the] beginning of June, after the crop was considerably advanced." The following winter, the widow Hicks married Mr. Gwin. But, the Hicks slaves continued to work the land. The Gwins brought suit against the estate demanding two years' rent on the land at $240.00 per year. The jury ruled "he that plants must reap". So, the estate only had to pay the second year's rent. The Gwins appealed and lost.

Smith v. Tanner 32 SC 259 (Page 259 of volume 32 of South Carolina Reporter)

This is a recovery action for real estate which reached the Supreme Court in November 1889. A widow in Spartanburg District named Mary Linder died intestate in 1854 leaving 10 adult children and 2 minor grandchildren (heirs of a deceased daughter) as her heirs at law. Prior to her death, Mary deeded all her property to her children reserving for herself a life estate. (That is, she could live and use the property until her death.) After her death, the children entered into an agreement with agents for the estate to sell the property and divide the proceeds. They did so. In order to make certain no question remained as to the title of the land, all of the children except Charity Smith (the plaintiff) signed deeds to the estate's property. Although she had taken her share of the money, thirty years after this transaction, Charity decided she wanted the property because she had neither signed a deed nor received dower on her interest in the property. She sued and the court dismissed her action. She appealed and lost. Among the facts mentioned as relevant to the decision are that Charity and her husband, A. E. Smith bought the property (you can't deed property to yourself) which consisted on two tracts. One was later sold at a sheriff's sale and the one Charity Smith was attempting to recover was sold by her husband (who had died in 1886) to a Mr. Tanner. But this was not the end of the matter. See Smith v. Oglesby below.

Smith v. Oglesby 33 SC 194 April Term 1890

Unsatisfied with the previous case's results, Charity sued the owner of the second tract which had been purchased by John Oglesby at a sheriff's sale in March 1870. Charity failed in this attempt also. The following information not in the previous case was found: A. E. Smith's first name was Abner. Charity and he had a daughter who married a Mr. Wood and Lee Linder (Charity's brother or nephew?) and John Oglesby didn't deliver on their promise to pay Mrs. Wood for her mother's dower interst in this property. Also of interest is the fact that John Oglesby died shortly after the suit was filed on 17 Feb. 1887. One wonders if the stress killed him.

State v. Edwards 13SC30 October Term 1878

In Oct. 1879, James Edwards, John Draper, Henry Draper, John Rodgers, Samuel Griffin, and Prince Donnough of Spartanburg were indicted for grand larceny and burglary. With the exception of Griffin (who was acquitted), all were found guilty of the charges. Of the convicted parties, all but John Rodgers appealed. Rodgers should have joined the appeal because they got a new trial. In his charge to the jury, the judge stated "that if a person hears a criminal charge against himself, and made in his presence, and says nothing, it is an admission on his part" of his guilt which isn't exactly the law. After all, the Constitution does contain the Fifth Amendment. While this case doesn't contain much genealogical information, it's nice to know that even back then the courts gave more concern to the rights of the accused than popular mythology assumes. Notice that only the first of four defendants is named in the title of the case and it is the only one found in the Table of Cases which is the same thing as a table of contents.

Black v. White 13 SC 37 November Term 1879

In June 1879, Laura C. Black and Ophelia Briggs, distributees of the Estate of Susan White (who died intestate in Dec. 1875) challenged W. H. White and J. H. McMillan, administrators of the estate, over their handling of the estate. The verdict was appealed from the Spartanburg County Court of Common Pleas. As the case unfolded, it became clear that not only did they object to the handling of some notes owed this estate but also had some questions about how the estate of Henry White had been handled. What do you want to bet that Henry was Susan's husband and Laura and Ophelia's father?

Graham v. Moore 13 SC 115 November Term 1879

Action for recover of property in Abbeville County. This lawsuit involves land inherited by the heirs of James Graham, the elder, who died in Jan. 1816. Information on deeds to the property dating from 1844 are presented. (All Abbeville deeds prior to 1872 have been destroyed in a fire.) The actual case file in the Supreme Court papers may have copies of these deeds. If so, they will provide unique information not only on the Graham family but also adjoining land owners.

Abrams v. Moseley 7 SC 150 November Term 1875

William Anderson, a resident of Cross County, Arkansas, died in 1864 leaving a valid will in which he devised 1,340 acres "in said County and State" to Lovinska Anderson (his brother), Sarah Ann Moseley (his sister), Catherine B. Landrum (his mother-in-law!), and Martha P. Norfleet (his sister-in-law) in equal shares. We can assume by the way this will reads that his wife predeceased him leaving no living children. Afterwards, Lovinska Anderson died leaving his share in the estate to the minor children of his sister, Sarah Moseley. Sarah and her husband, James P. Moseley, conveyed her share in the estate property in Arkansas to Mr. B. Ioor. In return, they received a tract in Greenville County, SC. At the time the action began, April 1875, Sarah is dead. Her children want the land in Greenville sold and the proceeds divided. James P. Moseley objected arguing that William Anderson's estate and property were in Arkansas alone and that the Greenville property was his. He also said that since William Anderson's estate wasn't probated in South Carolina that this state's courts had no jurisdiction in the matter. The children won the appeal.

The following cases fall under the category of some people will do anything to get out of trouble or dodge responsibility.

State v. Vaughn 1 Harp. 313 March Term 1824; heard in Columbia

Anderson Vaughn was arrested for hog stealing two years after the fact. He contended that due to the lapse of time, prosecution on the charge should not occur--the statute of limitations had expired. If that wasn't reason enough, the original warrant failed to have a legal seal attached to it. Therefore, if the courts were just, he would go free. The courts, at least in his opinion, were not just.

State v. Harden 1 Brev. 47 November 1800; case heard in Columbia

Mr. Harden was arrested and convicted of horse stealing in Pendleton District. He appealed because the indictment stated that the crime was committed in "Pendleton County". Since, at that time, South Carolina only had districts not counties, he strongly felt that the charges should be dropped and that he should be set at liberty. The court didn't see it that way. It ruled that the mistake was a scrivners error and the conviction stood.

State v. Goudalock 1 Brev. 47 April 1801; case heard in Columbia

An indictment for assault and battery was found against one Mr. Goudalock. (Earlier printed reports often only include the surnames of the parties involved. The actual case papers probably give their full names, but, I am uncertain on that point.) In the interim, this district was divided into Spartanburg and Union for judicial purposes. The Judicial Act of 1798 required that the case be transferred from the extinct Pinckney District to the district where the offense occurred. By clerical error, the case was sent to Union District rather than Spartanburg (where the assault actually happened). The trial was held and he was convicted. The conviction was overturned and he was granted a new trial which was to be held in Spartanburg District.

These case abstracts are just a tip of the iceberg as to what can be found in law books. Now, it's up to you to find them. One final word of caution--cases may take literally years to make it through the court system. I saw one extreme example of this recently. A man made his will in 1864. He died in 1866 leaving his property to his grandchildren in trust. Their father was trustee. When he died in 1910, it was learned that he had many years earlier exhausted the funds. Not wanting to upset their mother, several of the heirs waited until she died in 1916. The appeal of the case was finally heard and the matter settled in 1924.
