

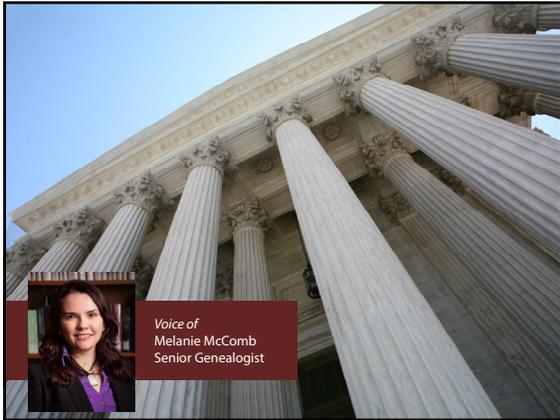
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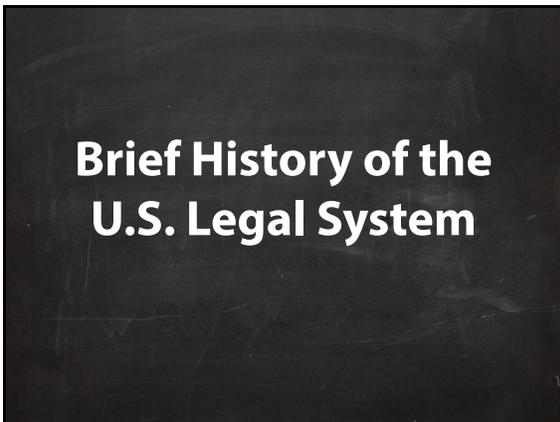


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Why use court records?

- Establishes your ancestor at a certain place and a certain time
- Provides information about family connections and relations not found in other records (ex. may explain paternity or even disappearance of ancestor)
- Overlooked source in early published genealogies
- Adds to the life story of your ancestor

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English Common Law

- Based on case law and precedent instead of a codified set of laws
 - English cases were cited until mid-nineteenth century
- Each state in the United States uses common law, except for Louisiana.
- Primogeniture – eldest son inherits the real estate of his father

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Three Main Colonial Systems

- Virginia
- New England
- Maryland



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Virginia

- 1609 – New charter issued, which allowed the Virginia Company to issue their own laws.
- Full authority was given to the colony's governor

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"Lawes Divine, Morall, and Martiall"

- Passed 1610-1611
- English common law was not recognized
- No jury trials
- Everyone required to attend church twice every Sunday
- Colony ruled with an "iron fist"

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General Assembly

- Established 30 July 1619 by Governor George Yeardley at Jamestown
 - Two burgesses per settlement
 - Established procedures based on parliamentary law
 - Named Church of England as established church
 - Issued regulations and laws on land, tobacco, trade with indigenous populations, settled disputes
- Met at Jamestown until 1700 when meetings moved to Williamsburg
- 1643 – split by Gov Berkeley into a House of Burgesses (elected) and Governor's Council (appointed)

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Colonial Virginia Government

- General Assembly (1619) split in 1634
 - House of Burgesses (elected)
 - Governor's Council (appointed)
- Shires → Counties (1634)
 - County courts
 - Kept land, tax, and probate records
- Anglican parishes
 - Responsible for registering births, marriage and deaths
 - Levied taxes
 - Responsible for poor, roads and other civil functions

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New England

- 1620 – Mayflower Compact – signed by male colonists that arrived on the *Mayflower*
- 1641 – The General Court wrote the Body of Liberties, first legal code in New England
 - Precursor to the Bill of Rights

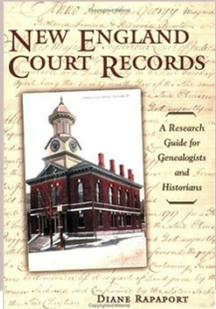
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Overview of Colonial Government

- Colony – Records of General Court, laws, appeals, border disputes, diplomacy, war
- County or Jurisdictional Courts – Criminal and Civil actions
- Towns – Selectmen, elected officers (Town Clerk), vital records, town grants of land

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Published Resource



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Maryland

- Settled in 1634
- Adopted English law
- Provincial Court based in St. Mary's City
- Act for the Liberties of the People (1638)
- An Act Concerning Religion (aka the Maryland Toleration Act of 1649)
 - Blasphemy was declared a crime

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Judiciary Act of 1789

- Established federal court system that was separate from state courts
- Supreme Court would handle appeals from federal circuit courts and certain appeals from state courts

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Louisiana

- Uses the civil law system from France (Napoleonic Code)
- Judges interpret the law that is on the books, removing legal precedent.
- Forced heirship – leaving a certain portion of estate to children, regardless of age
- The law was changed in the 1990's, forced heirship only if child is under 24 years old or who has a disability that makes them unable to live independently

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Early Property Laws

- 1771 (New York) – Act to Confirm Certain Conveyances and Directing the Manner of Proving Deeds to be Recorded
 - Required a wife's signature on a deed to property before it was sold or transferred.
 - Required a judge to meet privately with the wife to confirm her approval of the transaction.
- 1787 (Massachusetts) - Allowed married women to act as femme sole traders to conduct business when husband was out to sea or away for home for an extended period.

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Early Property Laws Cont'd

- 1809 (Connecticut) - Married women could execute a will
- 1839 (Mississippi) - Women have the right to hold property in their own name, with their husbands' permission
- 1848 (New York) - Married Women's Property Act
 - Conduct business independently
 - Sole ownership of gifts
 - File lawsuits
- 1860 (New York) - Act Concerning the Rights and Liabilities of Husband and Wife – mothers were acknowledged as joint guardians of their children

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Slavery

- 1662 – Virginia colony passes a law that ruled that the children of enslaved mothers would be born into slavery, regardless of their father's race or freedom status
- 1664 – Maryland declares that any English woman who married an enslaved person was required to live as an enslaved person of her husband's master

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Women's Suffrage

- 1869 – first women's suffrage law is passed in Wyoming
- 1890 – Wyoming grants women the right to vote in all elections
- 1920 – Nineteenth Amendment to the U.S. Constitution is ratified, granting women the right to vote across the United States.

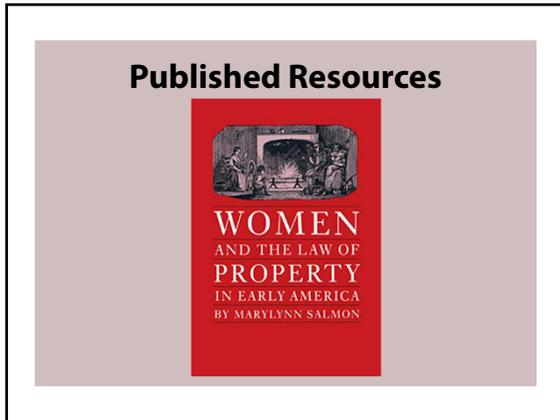
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Jury Duty

- 1701 – In Albany, New York women serve with men on a jury
- 1870 – The first sexually integrated grand jury hears cases in Cheyenne, Wyoming



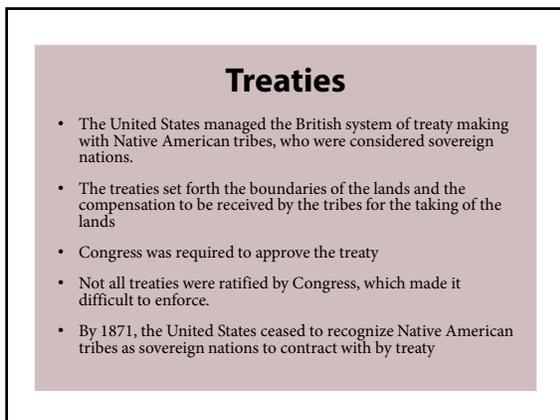
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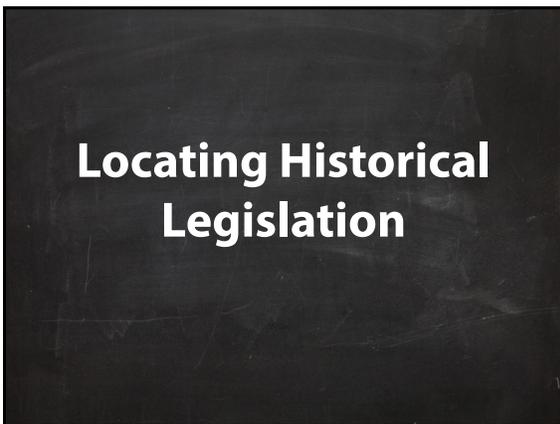
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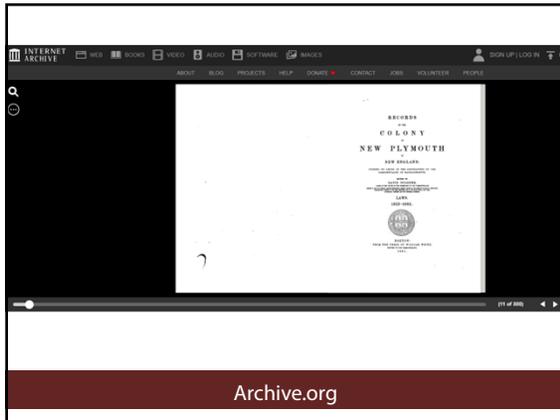


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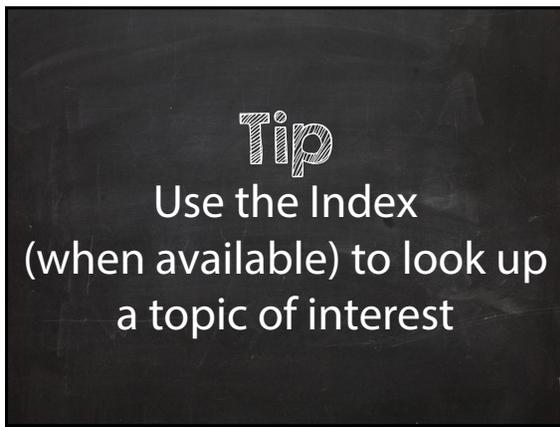
Where to Find Historical Laws?

- State Archives website
- State Library website
- Colonial Laws – Bowling State Green University Research Guide
- HathiTrust – Records of the American Colonies
- The Avalon Project (Yale Law School)
- Library of Congress
- Law libraries

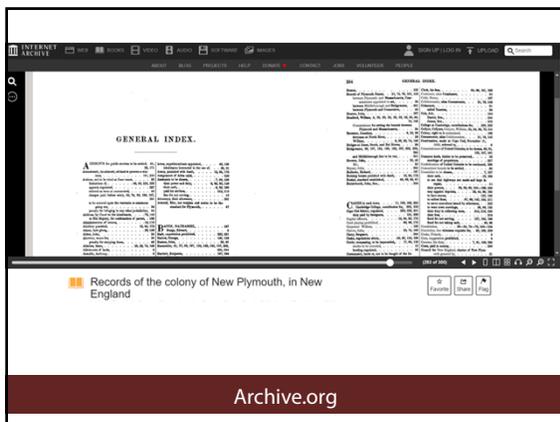
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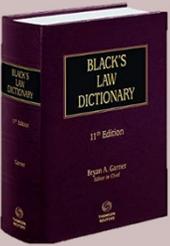
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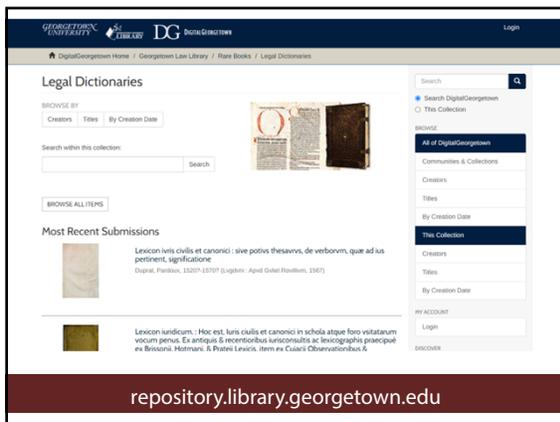
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Legal Terminology

- Black's Law Dictionary is considered the "gold standard" of legal language
- 7th and 10th Editions available at American Ancestors Research Center
- Can be found in many public libraries in the Reference section



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repository.library.georgetown.edu

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**Witchcraft in
Massachusetts Bay Colony**

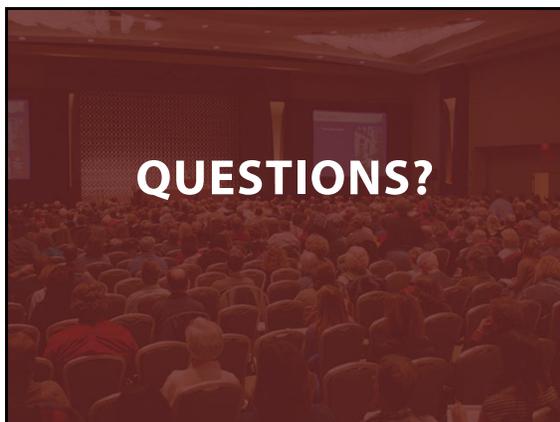
- 1641 – Witchcraft was included as a capital offense in the Body of Liberties.
- Proof was needed to convict. This included confession or testimony of two trustworthy people.
- England had revoked the colony’s old charter and replaced with a new one in October of 1691. This transition time allowed the colonial governors to exercise new rights in the colony.

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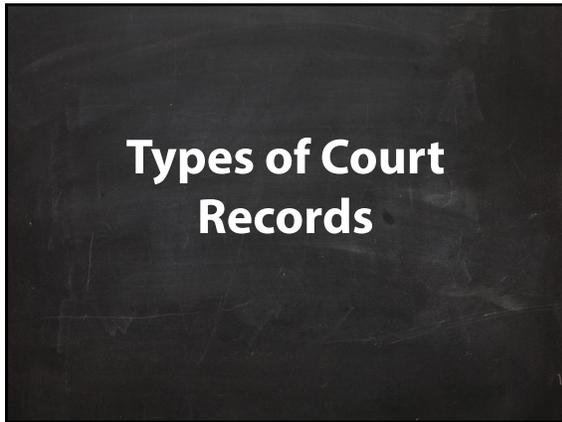
The Court of Oyer and Terminer

- May 27, 1692 - Gov. Phipps established the Court of Oyer and Terminer to decide the cases
 - Defendants were presumed guilty and had to prove otherwise
- Court started accepting spectral evidence; based on the opinion of Matthew Hale, who admitted spectral evidence in a witchcraft trial in England
- Court of Oyer and Terminer dissolved in late 1692
- January 1693, Superior Court of Judicature heard the remaining witch trials; Spectral evidence was no longer allowed, and many cases resulted in acquittals

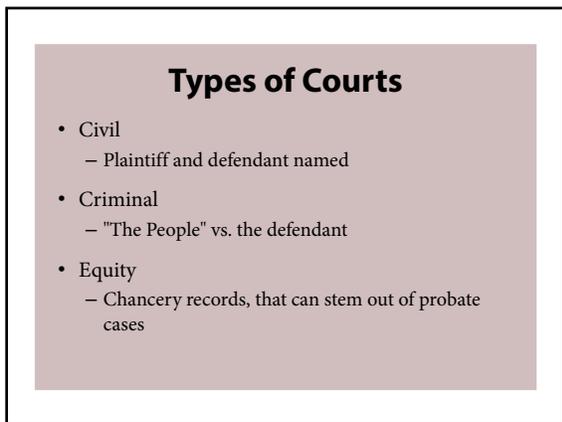
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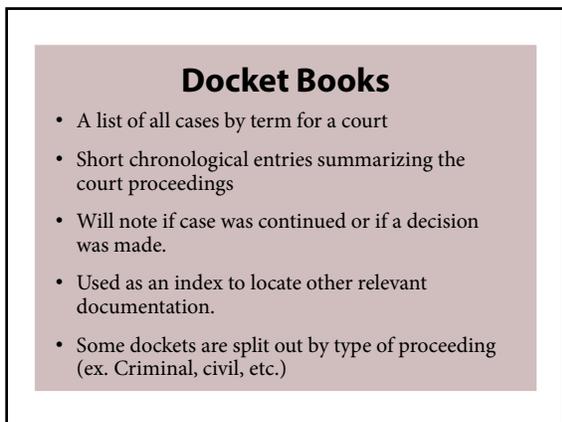
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Types of Dockets

- There are several different types of dockets including appearance, continuation, appeals, etc.
- Appearance docket – list of people involved in a court case and a summary of court proceedings. Includes each appearance in court. Will note if there is a continuance or judgment.
- Execution docket – records the final judgment of the court

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Types of Dockets Cont'd

- Preferred docket – prioritizes cases for trial
- There may be separate docket books for cases that are continued (continuation docket) or being appealed (appeals docket)

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Appearance Docket, Fall Term 1862.		
11	Mill & Jonathan	Continuance
12	Daniel and Gabriel of the	Judgment
13	Isaac Evans	Judgment
14	H. W. Parker Thomas & Wm. A. J. Protheroe	Judgment
15	J. F. Dural	Judgment

Appearance Docket, Fall Term 1862, Columbus County, North Carolina, FamilySearch

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Order Books

- Detailed records of the court proceedings
- Includes the specific judgements of the court
- May contain notations in the margins
- More likely to be indexed than minute books
- Often used as an alternative record when the record books (ex. Will books, deed books are missing or destroyed by fire, etc.)
- Also known as journals

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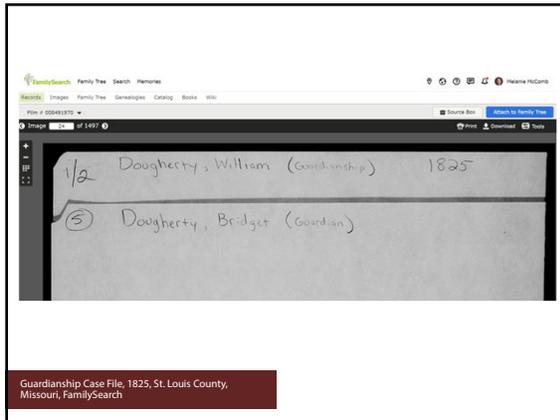
Order Book, 1800, Monongalia County, Virginia, FamilySearch

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Case Files

- Contains all the documents related to a court case
- Ex. A probate packet is a form of a case file.

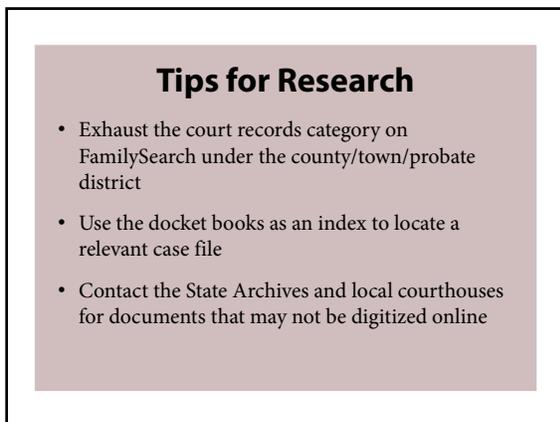
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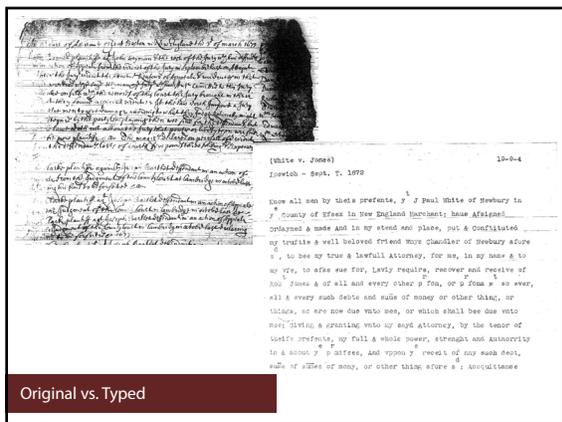
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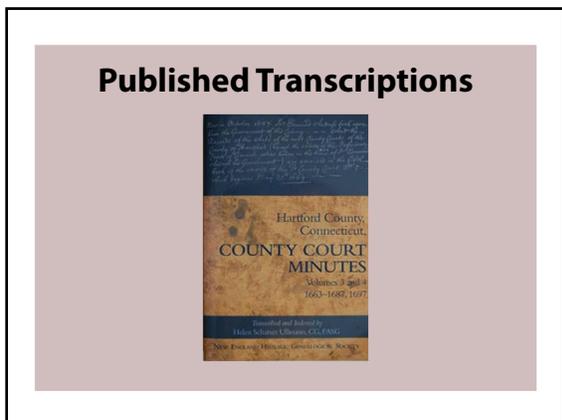
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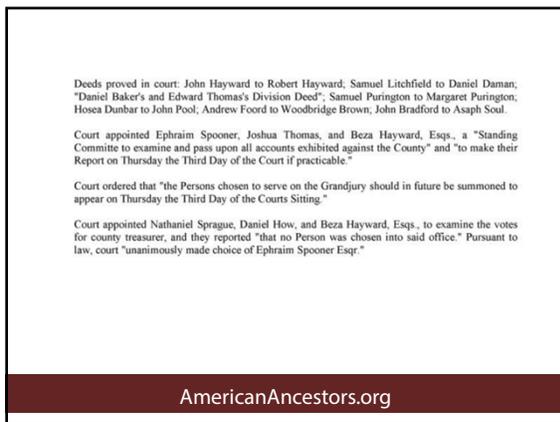
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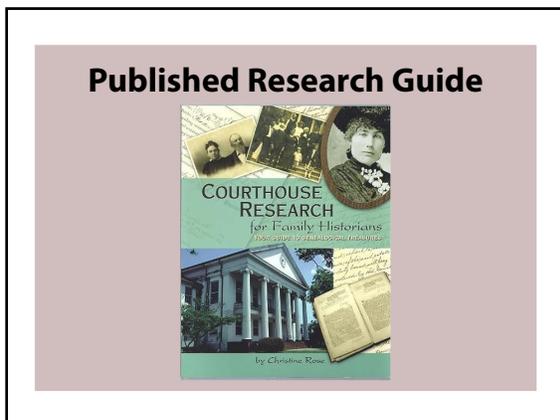
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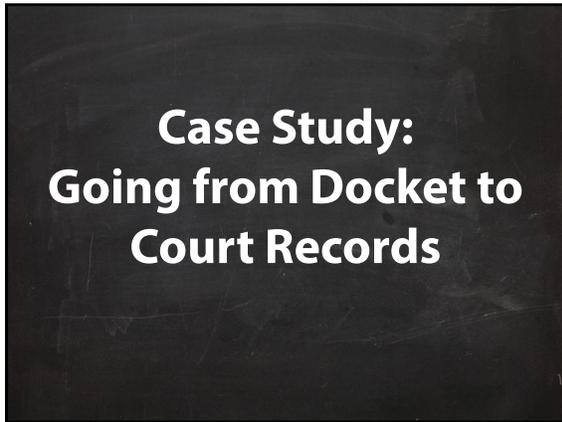
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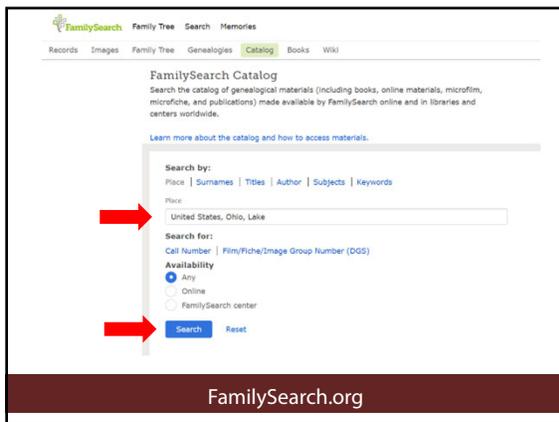
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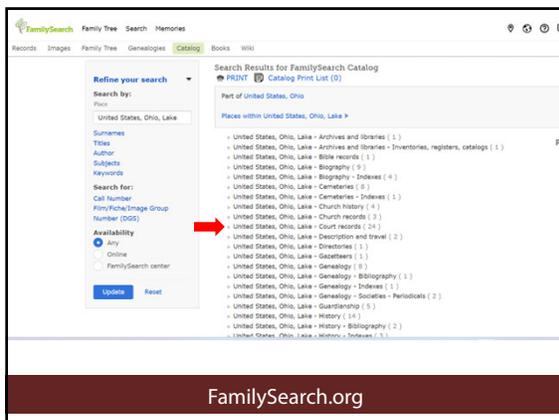
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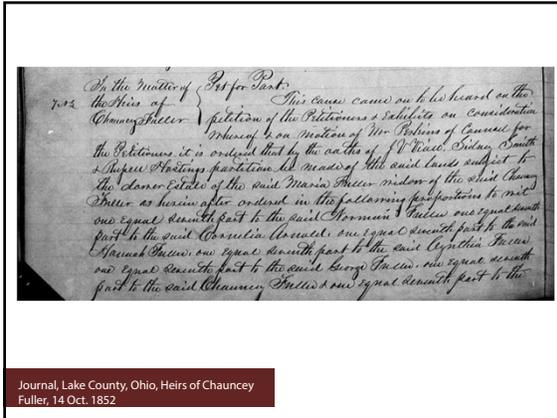
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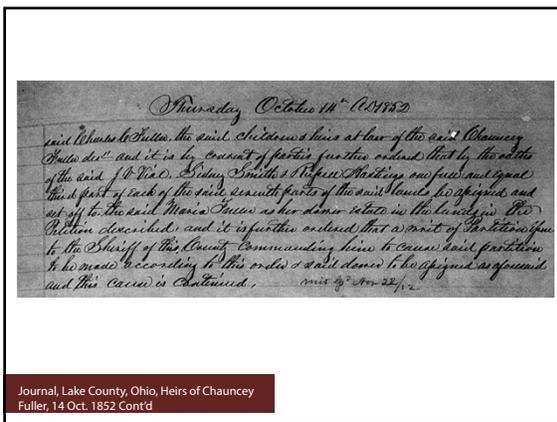
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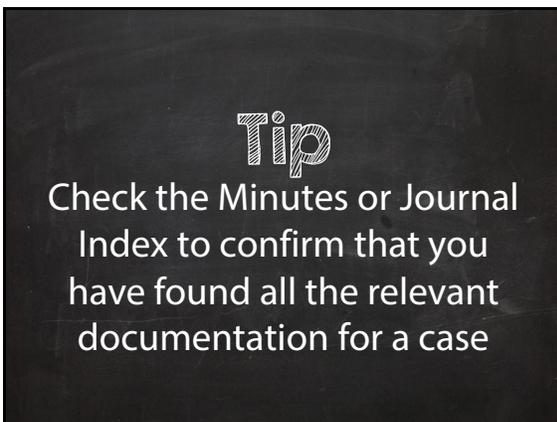
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Film/Digital Notes

Note	Location	Collection/Shelf	Film	Image Group Number (DGS)	Format
Index 1840-1877	Family History Library	United States & Canada 2nd Floor Film	877768	7712252	EB
Journal v. A-B 1840-1846	Family History Library	United States & Canada 2nd Floor Film	877769	7712253	EB
Journal v. C-D 1840-1854	Family History Library	United States & Canada 2nd Floor Film	877770	7712254	EB
Journal v. E-F 1854-1863	Family History Library	United States & Canada 2nd Floor Film	877771	7712255	EB
Journal v. G-H 1864-1875	Family History Library	United States & Canada 2nd Floor Film	877772	7712256	EB
Journal v. J 1875-1881 (This film has a number of papers pertaining to the suit concerning the ownership of the Kirkland Temple in addition to the Journal)	Family History Library	United States & Canada 2nd Floor Film	885079	7712279	EB

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Lake County Common Pleas Court

PARTIES	NAMES	Jan Term	Feb of Mgmt.	Janu.	APRIL	Final Term	to Fall
		NO. PAID	TERM	YEAR	NO. PAID	NO. PAID	NO. PAID
Walter Shawing vs. John W. ...	Persons interested	264	1873	10	10	10	10
James & George vs. ...	William Clayton, et	268	1873	10	10	10	10
John Cook vs. ...	George O. Cook	269	1873	10	10	10	10
Walter Davidson vs. ...	Joseph Cook	270	1873	10	10	10	10
Walter Davidson vs. ...	George Davidson	271	1873	10	10	10	10
Walter Davidson vs. ...	Joseph Cook	272	1873	10	10	10	10
Walter Davidson vs. ...	Henry Hill, et al.	273	1873	10	10	10	10
Walter Davidson vs. ...	Persons interested	274	1873	10	10	10	10

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Review

1. Court records are a valuable record set to fill in gaps in your ancestor's story.
2. Research the historical context that your ancestor lived by reviewing the legislation that was on the books for that location and time period.
3. Court cases are multi-layered. Try to identify all of the different documents that compose the case file, knowing they may be in different places online as well as in local courthouses and archives.

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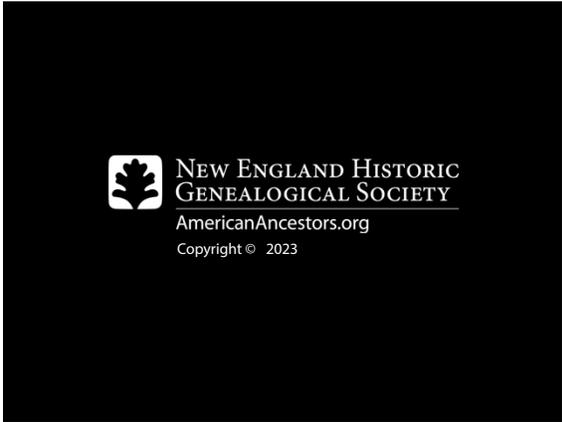
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