

Maine Superior Court Records

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Most genealogists are aware of the absolute goldmine of information found in the estate dockets of probate court. Wills often contain the names of children and spouses, and occasionally include names of distant relatives, nephews, nieces, and grandchildren as well. In those other instances in which the person died intestate, we rely on petitions for administration, bond, appointment of guardian, or other documents frequently found in the docket. These may also reveal names and relationships of heirs.

On the other hand, Superior Court records usually contain little of the detailed information found in probate court records (with some exceptions as noted later). Instead, they reveal real life events that took place, which in turn can uncover insights about our ancestors. These records can give clues as to their personality, beliefs, and their economic stature in their community, as well as the daily events they were confronted with.

Two centuries ago, our ancestors had no access to what we know today as Small Claims Court. It was then called Superior Court, or Common Pleas Court. As is the case in today's society, Superior Court allowed citizens the right to take their grievances into court without the expense of an attorney. Our ancestors would often first make attempts to settle their differences without going to court, but when that failed, a grievance was filed in the court against a person or business that they felt had wronged them. Common complaints filed with the courts in the 1800s included failure to make payments as scheduled by promissory note, wrongful seizure of property, land disputes, trespassing, and negligence. If, after filing the grievance, the two parties were still unable to settle their differences, the plaintiff would proceed to sue the other party. After hearing the complaint, the clerk would summarize it in a brief and then issue a writ to the county sheriff or deputy. This served to activate the legal process on behalf of the plaintiff, enabling the sheriff to serve the complaint on the defendant. At the same time, the sheriff was instructed to "attach" a piece of property belonging to the defendant that had equal value to the amount of money the plaintiff was seeking in his suit. If the sheriff could not find any items of equal value, he would attach anything he knew to be the property of the defendant, which served as proof of delivery of the summons. In his return of the writ to the clerk, the sheriff noted thereon any "attachments" he made as well as deliverance of the summons for the defendant to appear in court.

Some of these attachments had an air of humor. For instance, it was not uncommon for the sheriff to attach a hat that belonged to the defendant, which may have been found sitting on a porch or out in a field. Perhaps this was the sheriff's way of letting the plaintiff know that he did not think much of the entire event. He may have also had difficulty finding property that he knew to be owned by the defendant, yet he was committed to enforce the law. It was more common for a sheriff to place his attachment on real (or moving) estate that he knew belonged to the defendant, such as a house or barn, livestock, or other property of importance to the defendant.

Here are some typical cases in the Common Pleas Courts of Kennebec County:

- On 30 May 1804, Oliver Whipple of Hallowell, Esq., and Abigail his wife, plaintiffs, vs. Phillip Norcross of Chesterville, yeoman, defendant. In a plea of ejectment, Oliver and Abigail sought the seizure and possession of an undivided fifth part of land consisting of 25 acres in Hallowell. The plaintiff alleged that at a time of peace within "fifty years last past," one Sylvester Gardiner, father of Abigail Whipple, was owner of the tract and took possession to the value of \$5. The Whipples also asked for damages from Norcross in the amount of one thousand dollars. Norcross, defended by his attorney, pled not guilty. The plaintiff's attorney claimed the defendant's plea was "bad and insufficient," but the court ruled in favor of the defendant and awarded him judgement, which permitted him to recover costs. One deposition in the docket file mentions Abigail and names her siblings: Hannah Hallowell, wife of Robert Hallowell; Rebecca Dumarsque, [sic] wife of Phillip Dumaresque; Ann Brown, widow of John Gardiner; and William Gardiner, their only child. A separate deposition in the file shows that Dr. Sylvester Gardiner left six children and also names the daughters' spouses: William, John, Ann (who married Col A Brown), Hannah (Robert Hallowell), Rebecca (Phillip Dumaresque), and Abigail (O. Whipple). The same document goes on to show that William Gardiner died in 1786, unmarried and without issue. The depositions in this docket file also uncover some inconsistencies that require resolution from other sources. The jury ruled for the defendant, but the ruling was overturned on appeal. ¹

- On 28 Nov 1808, Nathan Kinsman of Portland, gentleman, at the Court of Common Pleas held at Portland, Cumberland County, plaintiff, sued John Johnson of Hallowell, Kennebec County, "otherwise of Portland," and Daniel Johnson of Portland, bookseller, defendants. The plaintiff alleged that on or about "the twentieth day of October last," by their note, they promised the plaintiff to pay him on order \$992 in sixty days. The plaintiff alleged that demands for payment were ignored and sought \$2,000 in damages. The defendants failed to show up in court and Kinsman was awarded a default judgment for \$1,047.68, plus costs of court "taxed at \$19.14." The deputy sheriff, in his return, noted that per the writ, he attached "the books and other property, a schedule of which is [annexed]" of John and Daniel Johnson. The attachment listed 6 pages of various merchandise, consisting of "writing books, paint boxes, green pocket books, letter inkstands, snuff boxes, pounce box, tooth brushes, bunches of quills, penknives, 3 doz. playing cards, day book, copies slips, dutch memorandum books, juvenile letters, 33 warblers, 26 copies of village Harmony, 3 copies of whole duty of women, 32 copies of art of reading, 3 copies Pinkerton's Geography, etc, etc, etc".²
- On 11 Mar 1839, Samuel Longfellow of Hallowell, yeoman, brought suit against Stephen Packard of Augusta, cabinet maker, and Otis Packard of Roxbury, Norfolk County, Massachusetts, merchant. The plaintiff alleged that on 16 Jan 1836, by promissory note, the defendants promised to pay John Hubbard Jr. five hundred dollars within three years, with annual interest. Hubbard then endorsed the note to the plaintiff, who made demand on the defendants. The defendants, however, refused to pay him. The deputy sheriff, James B. Norris, stated in his return that he attached all of the defendants' real estate that he could find in the county, which included "the Brick Buildings & land now occupied by said Stephen Packard and others in the village of Augusta." The sheriff, at the time of the attachment, also served the defendant Stephen Packard with a summons to appear in court. The sheriff's costs, as noted in his return, were 4 cents for travel, 15 cents for copy request, 10 cents paid request, another travel cost of 4 cents, and fifty cents for an abstract, for a total of \$1.83. It was later revealed that "Stephen Packard has been and now is arrested by James B Norris, a Deputy Sheriff," and that an execution was issued against him for \$616.70. A writ of execution was awarded and a public auction was held, after being advertised in the newspaper. From the sale, Longfellow realized \$334.38, which he received from the deputy sheriff on 3 Dec 1839.³
- Amos Pollard of Sidney, yeoman, was summoned on 18 Apr 1806 to appear and answer to a complaint of the proprietors of the Kennebec Purchase from the late colony of New Plymouth in a plea of ejectment. The allegation was made that Pollard had illegal possession of a piece of land in Sidney that was part of lot number 11 in the fourth range of lots, according to surveyor John Jones. The plaintiffs alleged that "within thirty years last past they were seized of the demanded premises in their own right and as of fee takeing the profits thereof to the value of ten dollars by the years and being so seized thereof, the said Pollard unjustly and without judgment of law entered into the same and ejected the plaintiffs and hath ever since and still doth unjustly keep them out." In serving the summons, deputy sheriff Jason D. Cony stated, "I have summoned the within named Pollard by reading this writ loud in his hearing." When Pollard came to defend, his attorney Solomon (Jonathan?) Vose stated that Pollard was not guilty. The plaintiffs responded that the plea was "insufficient" and asked for judgment. The file does not show the outcome, but it could likely be found in land deeds.⁴

The above examples reveal only the tip of the iceberg, but they show that Superior Court records can provide genealogists with a good amount of interesting detail about our ancestors. Some documents are very difficult to read as the handwriting is not the most fluid, but with experience this obstacle can be overcome. Before attempting to research court documents, it is important to check with the county clerk's office to find out exactly what records have been preserved (dates, and/or docket numbers, indexes, etc) and where they are being held. In the state of Maine, most cases are sent to the Maine State Archives in Augusta. However this is not necessarily true in every instance. The best rule is to first start at the county level and then write to the Maine State Archives (84 State House Station, Augusta, ME, 04333-0084). The Archives' [website](#) also provides additional details about the types of court records in their holdings and the histories of the various courts in the state. A nominal fee is charged for photocopying of the documents in these case files.

Searchable name indexes of county court cases are available [online](#) for the following counties:

- York County (1686-1760)
- Kennebec County (1799-1854)
- Washington County (1839-1845)

- ¹. Kennebec County Common Pleas Court, Oct 1805, Vol 2, pg 328
- ². Kennebec County Common Pleas Court, Oct 1811, Vol D3, pg 190
- ³. Kennebec County Common Pleas Court, Oct 1839, vol 10, pg 37
- ⁴. Kennebec County Common Pleas Court, Jun 1807, vol 2, pg 529