

Researching Court Records in New Hampshire

By Sherry L. Gould

Court records can offer an abundance of information to assist the family historian. The type of court records you may expect to find are civil, criminal, or probate. Ancestors may appear in these records as defendants, plaintiffs, jurors, or witnesses. They may have been appointed by the court to take an inventory of an estate, or they may have had their own estate inventoried. They may have been involved in cases concerning divorce, adoption, guardianship, and deed disputes, or have been appointed to public office. These records fill in details of an ancestor's life that may not be available through any other source. They can identify the location of an individual or their occupation and sometimes help determine relationships. The absence of court records tells a story about an ancestor as well. Of course it takes a search to determine whether court records exist for an individual or not. How to go about that search is the purpose of this article. As with other genealogical pursuits, a brief history of New Hampshire courts will be helpful in knowing where to look for your ancestral stories.

From early times each community had appointed one or more justice of the peace. They had authority over minor civil and legal matters in the community, and often kept records of the matters that came before them. Some of these record books have survived and are kept in libraries, historical societies, and private collections.

The story of courts in New Hampshire begins with the relationship that early residents had with the crown. The four original towns were Dover, Exeter, Hampton, and Portsmouth, all easily accessible by water. Permanent settlement of Europeans (men who were primarily either members of the Anglican Church or non-religious) began in 1623, eleven years prior to the Charter given the Massachusetts Puritans. The settlers were fishermen, trappers, and lumbermen. Each town developed independent forms of government, and thus courts, before the incursions of the Puritans desiring to rule New England. Mr. John M. Shirley, an eminent New Hampshire lawyer in 1883, observed that, "in the just sense of the term, the genuine township system originated and was developed in New Hampshire." [1] Each town chose a judge and associates to serve their community by preserving justice. An examination of cases heard and judgments rendered has caused learned men to conclude that these courts worked remarkably well, given that they were the first and last resort for their citizens. [2] This system was able to sustain much political upheaval through 1769, the details of which go beyond the scope of this article and can be found in numerous places.

The provincial secretary kept court records during the provincial period through 1772. In 1776 these records were maintained with Rockingham County records and were removed from Portsmouth to Exeter due to the risk of attack on Portsmouth during the Revolutionary War. [3] In 1891 they were transferred to the Secretary of State in Concord. [4] Today they are housed at the [New Hampshire State Archives](#) (located on 71 South Fruit Street in Concord, NH 03301, hereinafter "archives").

It is essential to determine the county affiliation of an individual's residence to locate most New Hampshire court records after 1772. Town names have changed in many instances and some towns have had multiple county affiliations through the years. See my previous articles, "New Hampshire Town and County Development" [part 1](#) and [part 2](#) to determine which county held the records for a given town at a given time. Towns are listed by their current name under their current county affiliation with previous names and county affiliations also listed. At the county level, the Inferior Court of Common Pleas adjudicated probate and civil cases, and the Court of General Quarter Sessions of the Peace heard criminal cases. The Superior Court of Judicature met twice a year in each country to consider appeals for all types of cases. [5] The General Court and the Governor and Executive Council had constituted the final courts of appeal prior to 1776. The Supreme Court was established to replace the General Superior Court of Judicature in 1876 by an act of the legislature. In 1901 this court was split into two courts with the addition of the Superior Court. Here is a link to a [website](#) that has a good explanation of New Hampshire courts today in layman terms.

The following outline is from the LDS Family History Library [online research guide](#) under "Court Records":

- 1769–1824: **Courts of general quarter sessions** handled civil and criminal matters (1769–1794 and 1820–1824).
- 1769–1859: **Justices of the courts of common pleas** had jurisdiction over civil matters (1769–1820 and 1824–

1859).

- 1769–present: **Superior Courts** are countywide courts with jurisdiction over divorce and alimony, marriages, equity matters, and some appeals (1769–1813, 1816–1855, and 1901–present).
- 1874–1876: **Circuit Courts** held appellate jurisdiction during this period.
- 1813–present: The **Supreme Court** is the statewide appellate court (1813–1816, 1855–1874, 1876–present).

The New Hampshire State Government website has a page dedicated to the [judicial branch](#), which gives an abundance of contemporary court information, including the location of the different courts in the state. The current location of original and filmed county court records is given below.

- **Belknap County** probate records are kept at the county seat in Laconia. Inferior and superior court records from 1840 through 1899 are at the archives. The remaining records are located at the office of the county clerk of court.
- **Carroll County** probate records are kept at the county seat in Ossipee. Inferior and superior court records are located at the office of the county clerk of court.
- **Cheshire County** probate records are kept at the county seat in Keene. An index covering the years 1771 to 1899 is available at the archives. Inferior and superior court records are located at the office of the county clerk of court.
- **Coos County** probate records are kept at the county seat in Lancaster. Inferior and superior court records are located at the office of the county clerk of court.
- **Grafton County** probate records housed at the archives consist of individual files covering the years 1775 through 1899. Other years are kept at the county seat in North Haverhill. Court records from 1773 to 1899, are at the archives, and are partially indexed. Other inferior and superior court records are located at the office of the county clerk of court.
- **Hillsborough County** probate records are housed at the county seat in Nashua. Inferior and superior court records from 1772 through the first decade of the 1900s, depending on the series, are located at the archives. The remaining records are located at the office of the county clerk of court.
- **Merrimack County** probate records are kept at the county seat in Concord. The archives have an index that spans the years 1827 through 1984. Individual files are alphabetical on microfiche. Inferior and superior court records from its inception in 1823 through 1900 are located at the archives as well. The remaining records are located at the office of the county clerk of court.
- **Rockingham County** probate records from 1772 through 1918 are available at the archives. Inferior and superior court records from 1772 through 1920 are also at the archives. The remaining records are located at the office of the county clerk of court.
- **Strafford County** probate records are housed at the county seat in Dover. Inferior and superior court records from 1780 through 1899, which are not yet processed, are at the archives. Searching unprocessed records is time consuming and a call ahead to the archives would be prudent. The remaining records are located at the office of the county clerk of court.
- **Sullivan County** probate records are kept at the county seat in Newport. Inferior and superior court records from incorporation in 1827 through 1919 are at the archives. The remaining records are located at the office of the county clerk of court.

Transcriptions and extracts of the records are also available. Some of these resources are given below, though the purpose is not to give an exhaustive listing of all possible sources.

Volumes 31 to 40 of the New Hampshire State Papers series have extracts of probate records covering 1623 to 1771. (See [Edward Holden's article](#) covering this series elsewhere on this website.) Ancestry.com is in the process of loading these records into a [searchable database](#). To date the following volumes have been made available:

- Batchellor, Albert Stillman, edit. *Probate Records of the Province of New Hampshire 1635-1740*. Volume 1. State Papers Series, Volume 31. Concord, NH: Rumford Printing Co., 1907.
- Metcalf, Henry Harrison, edit. *Probate Records of the Province of New Hampshire 1718-1740*. Volume 2. State Papers Series, Volume 32. Bristol, NH: R. W. Musgrove, Printer, 1914.

- Metcalf, Henry Harrison, edit. *Probate Records of the Province of New Hampshire 1741-1749*. Volume 3. State Papers Series, Volume 33. Concord, NH: The Rumford Press, 1915.
- Hammond, Otis G., edit. *Probate Records of the Province of New Hampshire 1750-1753*. Volume 4. State Papers Series, Volume 34. New Hampshire: The State of New Hampshire, 1933.

Pauline J. Oesterlin completed a painstaking task of unfolding and filing Hillsborough County court records from 1772 to 1799, which were unprocessed records housed at the archives. She published an abstract of these records, *Hillsborough County, New Hampshire Court Records 1772 – 1799* (Bowie MD: Heritage Books, 1996). The abstract includes surnames, residence when given, occupation when given, date, nature of the case, and file number.

The New Hampshire court record sources shown below are taken from the LDS Family History Library online guide:

- *Colonial Court Records, 1638–1772 Approx.* Salt Lake City: Genealogical Society of Utah, 1975. (On 207 FHL films beginning with 1001334; computer number 81582.) These include civil court cases and miscellaneous material in over 30,000 files and indexes found at the Division of Records and Management Archives in Concord, New Hampshire. There is a surname index, and the court records are filed by file number.
- *New Hampshire Provincial and State Papers*, 40 vols. Concord, N.H.: State Printer, 1867–1943. (FHL book 974.2 N2nhp; On 21 films beginning with 1033734; some volumes on fiche 6046775 and 6046728; computer number 94111.)
The volumes that deal with court records are volumes 1–7, films 1033734–37; volume 10, film 1033737, item 2; volume 19, film 1033738; and volumes 20–22, films 1033739–40. Each volume is indexed. For more information on the *New Hampshire Provincial and State Papers*, see:
 - Wallace, R. Stout. “The State Papers, A Descriptive Guide,” *Historical New Hampshire* 31 (Fall 1976): 119–28. (FHL book 974.2 H25h; computer number 144548.)
 - Towle, Laird C. *New Hampshire Genealogical Research Guide*. Bowie, Md.: Heritage Books, 1983. (FHL book 974.2 D27t; computer number 187892.) This has a detailed list of the contents of each volume of the state papers.

See the “Court Records” section of the LDS United States Research Outline (30972) for more detailed information on court records. Refer to the “Probate Records” and “Naturalization and Citizenship” sections of this outline for information about those specific court records.

[1] Frank B. Sanborn, *New Hampshire, An Epitome of Popular Government*, The American Commonwealth Series, (Boston: Houghton, Mifflin & Company, 1904), 117.

[2] *Ibid.*

[3] Pauline J. Oesterlin, *Hillsborough County, New Hampshire Court Records, 1772–1799*, (Bowie, MD: Heritage Books, 1996), vii; see the book's introduction by Frank C. Mevers, New Hampshire State Archivist for much more on this topic.

[4] Otis G. Hammond, ed. *Probate Records of the Province of New Hampshire* vol. 39, State Paper Series (State of New Hampshire: 1941), v.

[5] Karen Bowden with Quentin Blaine and Stephen Marini, *New Hampshire: The State That Made Us A Nation* APPENDIX C A Guide to Research in the History of New Hampshire Towns, 1780-1800 online at www.state.nh.us/nhinfo/guide.html