

February 1935

Monongalia County Court Records

L. D. Arnett

James P. Weaver

Follow this and additional works at: <https://researchrepository.wvu.edu/wvlr>



Part of the [Courts Commons](#), and the [Litigation Commons](#)

Recommended Citation

L. D. Arnett & James P. Weaver, *Monongalia County Court Records*, 41 W. Va. L. Rev. (1935).

Available at: <https://researchrepository.wvu.edu/wvlr/vol41/iss2/16>

This Bench and Bar is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact ian.harmon@mail.wvu.edu.

BENCH AND BAR

MONONGALIA COUNTY COURT RECORDS

The purpose of this paper is to invite the attention of the bar of this state to an undertaking which is expected to prove interesting and valuable to that group. A thorough examination and classification of the court records of Monongalia County, West Virginia, is being conducted under the direction of West Virginia University and the Committee on Legal History of the State Bar Association. The object is to render the material contained in the records available for historical and legal research.

The work was begun in January, 1935, as a Federal Educational Relief Administration project. Later it was transferred to the Civil Works Administration and after that agency was discontinued, was renewed after a brief suspension, under the Federal Emergency Relief Administration. The staff of four workers, three men and a typist, was, in time, reduced to three. The qualification for the work was a college education or teaching experience. Since the project was largely without precedent considerable direction had to be given the workers at the outset. During this training period the work proceeded slowly. Accuracy and thoroughness, not speed, have been the keynote throughout in order that the original papers may completely supplement the usual records. It is to be noted that all active records of the courts, the sheriff and assessor, such as Cases (Dockets), Executions, Deeds, Wills, Deaths, Births, and Marriages, are transcribed into record books and indexed. The original papers, now under investigation, when classified will make all the material pertaining to the courts, available in indexed form.

The work has been carried out in four steps. The first was a complete inventory of all records concerning the county, the sheriff, the clerk of the county court, and the clerk of the circuit court, beginning in 1796 and continuing until the present time.

While a few records exist for the years 1771 to 1796, most of the papers and books prior to that period were destroyed by fire. This is most regrettable because the early records would have been of great interest. Much of our information relative to the early courts and such matters as the identity of the first sheriff and clerk lacks authenticity. Such data as we have indicates that Captain John Dent was the first sheriff and that Colonel John Evans was the first clerk. Monongalia County was at that time

(1771) a large and important region. It was described as embracing the entire watershed of the Monongahela River. From it was carved Harrison County in 1784, Preston County in 1818, and Marion County in 1842. As early as 1794, Morgantown, the county seat, was an important town. It was one of the gateways to the west of that time and had a post road, a post office and some river traffic by flat boat, on the Monongahela River. In 1782 the seat of the county court, which was located on the plantation of Theophilis Phillips, was found to be within the limits of Pennsylvania. The next year it was moved to the house of Zackquill Morgan, the founder of Morgantown. In 1784 a frame court house was built. Colonel John Evans, the clerk, however, kept the court records in a separate building on a farm two miles from Morgantown. Both this building and the court house were burned in 1796 and the records were destroyed. Dr. James Morton Callahan states that a new court house was built in 1802. Thus, with the exception of a few straggling cases the records of Monongalia County begin in 1796.

A general inventory of the records was made similar to the inventories which have been made of Illinois, Pennsylvania, California and Massachusetts records. This was primarily a stock taking of the county archives and active records following a prepared outline.

Following the inventory, classification and indexing work on the original papers were begun by making a rough classification of all papers and dates. While Monongalia County records are perhaps in much better than the average condition, and while most of the bundles of original papers were in filing cabinet boxes, they had nevertheless to be carefully checked for dates and courts and many of the bundles were found to be in poor state of preservation. Most of the papers were very dirty and musty from the years they had been stored, some were rat or mouse eaten, some badly rotted and some moulded. It is to be noted that in addition to classifying the papers, which will be described later, they are being so cared for as to preserve those which have been rescued, and that is a vast majority of them. The bundles of court papers are small. Usually the larger papers are folded six ways and the smaller papers for each case included with them. Each of these bundles was opened and the dates and courts determined by examining a few cases in each bundle. This inspection revealed numerous old inaccuracies in marking bundles, which delayed the work. It proved, however, to have been worth the effort.

The work was begun at the Monongalia County Court House in one of the basement vaults. Later, an act having been passed by the Legislature authorizing the various courts to turn over to the Division of Documents, West Virginia University, with the consent of the court, official books, records, documents, original papers, and the like, which were not in use, the Monongalia County Court turned the original papers over to the University. Included with the original papers were a number of record books and some printed matter. Upon receipt of the material by the University Library the original papers were transferred to temporary filing boxes, each of which was labeled to indicate its contents. The Record Books were thoroughly examined and where necessary labeled on the back and placed on shelves especially provided for the purpose.

The third and most important phase of the work consists of opening and classifying the cases. This is being done by periods. The first period selected was from 1796 to 1799 inclusive. It is noted here again that a few scattered cases for the years 1771 to 1796 were found, they having in some manner escaped the fires of 1796, and are included in this period. Each individual case was opened and examined and a record summary or brief made, from which index cards were prepared. When the case was opened, the papers were unfolded and read as thoroughly as required to determine the following information: — The court in which the action was brought; the county in which it originated; the year in which the case was completed; the names of all plaintiffs and defendants in the case; the nature of the case, whether criminal or civil, and, if civil, whether at law or in chancery; the styling of the case, as for example, whether an action in debt, trover or trespass. In addition, enough information was sought to make a clear statement of all special interests involved by determining the nature of each paper in the case and making a record of same; and transcribing, where possible, the disposition of the case, as recorded by the clerk on the narrative or declaration, together with such other notations as would be of historical or legal interest.

The examination may be illustrated by example, as follows: Charles Donaldson was charged with the murder of William Donaldson, his son, in the year 1796. After the inquest, Donaldson confessed. He was indicted by the Grand Jury and committed to jail. Then he was examined by a called court of Justices of the Peace and held for trial before the District Court for Monongalia

County, at Morgantown. During his incarceration a guard of fifty men was necessary.

The description of the case is as follows:

“District Court. Monongalia County. May Term 1796
Commonwealth
vs.
Charles Donaldson
Felony—Murder”

(Papers) “Indictment for murder of his son William,
Inquest, Depositions, Confession to murder, Proceedings
of Justice of the Peace (Called) Court, Grand Jury,
Commitment to Jail, Guard of fifty men.

Verdict — (No record found).”

In this manner every paper was examined, if necessary read, and every original document classified. This includes, in addition to case papers, estate settlements, deeds, wills and accounts of all kinds, — in fact, every original paper. Sometimes two records or briefs were made for the same case. Thus, in the ejectment suit of Miller against Royce and Martin, one paper in the case was an original land grant to John Daugherty signed by Benjamin Harrison. This paper appears to be of unusual interest so two descriptive notations were made as follows:

“Superior Court of Law, Monongalia County. May Term 1818
John Miller
vs. Ejectment
Moses Royce and Philip Martin

(Papers) Narrative (lat. Narratio) 8 Summons, Notice of Survey by S. Hanway, 2 Reports of Survey and Plats, Affidavit, Plat by Dudley Evans, Deposition (Copy), Copy of Courses, Original Land Grant to John Daugherty signed by Gov. Benj. Harrison.

Verdict and Judgment for the plaintiff.”

The second card emphasized the land grant and Harrison’s signature:—

“Superior Court of Law. Monongalia County. May Term 1818

Re: Benjamin Harrison

John Daugherty

Land Grant to John Daugherty with Harrison's signature, filed with Miller vs. Royce and Martin."

After these descriptive cards are prepared, the papers are unfolded and laid flat and the cards clipped to them.

In this condition they are turned over to the typist who makes index cards from the notes. Five or more copies of each card is made: one for each plaintiff; one for each defendant; one is attached to the case as filed; one for the year, term and court; and one for styling the case, *e. g.*, murder. These are clipped to the papers for which they are made. When all the papers for one court during a given period are completed they are sorted by years and terms, placed flat in large numbered manila envelopes, and the number of the envelope placed on each catalogue card. One card, (a carbon copy, because it will best withstand the ravishes of time) is clipped to the case. The rest are filed in the following indices: plaintiffs, alphabetically; defendants, alphabetically; courts by terms and years (and, in part, alphabetically); and types of cases. In this last class are also indexed such records as bills of sales, wills and estate settlements and title papers. The contents of each envelope are then inventoried, a copy of the inventory (again a carbon) is placed in the envelope, and other copies are furnished the University Library, the Committee on Legal History and the court from which the papers were received. The envelopes are finally filed in labeled boxes made especially for this work.

Value of the Work

First. The records, if at all worth keeping, and it is required by law that they be preserved, should be preserved in fact. As at present stored, they are of no real value because they are tied up in bundles, inaccurately labeled and their contents are not readily available. For any record to be usable it must be accessible. As the majority of the records are stored they are deteriorating; many are already ruined and more would be with time.

Second. What the records contain is surprising. We have, in this small period, covering the years 1796 to 1810, brought to light a large number of papers of special interest and benefit in several fields.

There is a great amount of historical information available, already opened and classified, which will add to the store of knowledge of local history; some few papers are of state and national interest. At many points information relative to West Virginia is quite inadequate. This source material will tend to correct or illuminate many more or less vague references to important events and people of prominence. Every scrap of added information is potentially important to the historian.

Economists will find here a great deal of information that has a direct bearing on early conditions. One may find by study of the judicial proceedings already opened, the price of every commodity in which men traded in the last of the eighteenth and the first of the nineteenth centuries. The data contains contracts bearing directly upon early industries, labor, lands and buildings; it reveals the costs of government and county properties; plans and specifications come to light; there is valuable information on river commerce and contracts for delivery of goods by water (some in interstate commerce); and some light is thrown on early currency. The information is, to be sure, somewhat disjointed and research and study would be necessary to arrive at a coherent summary but as at present classified it is available for that purpose. If such is true of this county's records the same is more or less true of every county having records.

Closely related to this information is the light thrown on the education, morals, religious life and general living conditions of our pioneer forebears. These records thus contribute information about how people of that day lived and some insight into their thoughts. Some of the material is not new; but even in these few records of one county there are important sidelights upon our ancestors.

The genealogist will, and, in fact, already has, new information here. There is a decided increase in the local interest in this subject. The newly classified records have helped several families supplement their information relative to the activities and residence of their ancestors. This is perhaps as important a feature of the work as it has. While these original papers have been of some use in that direction they will be of much more if properly preserved.

The writers do not feel that they are qualified to give particularly intelligent opinions upon the value of the work to the criminologist. In searching the records for the material on the subject, however, as is being done at the present, the old records

BENCH AND BAR

are of little value unless classified. By the classification adopted individual criminals and types of crimes prevailing at a given time and in a given locality are indexed and made usable. Until they are opened and classified they cannot be used. Incidentally, the book records, especially those of the Justices of the Peace, have been classified as to dates and Justices and labeled accordingly, which makes them more convenient for students of crime and criminals. One such student, engaged in work for the Federal Government, found our arrangement and classification of great convenience and gave it as his opinion that all records should be so classified for the criminologist.

The chief advantage of this work, to the lawyer, is its usefulness in locating land titles. This classification will make available every unrecorded deed, land grant or patent which exists in the court papers. Many are included as evidence in the land title controversies and are now available. As in genealogy, so here, the newly classified records have been used, and material not known to exist has been found.

The old forms and procedures and the history of the courts, as supplemented by such authentic source papers will be of self evident value.

Third. The advantage of centralizing the records is self evident. The records not in active use will be very much better preserved and will be of greater use if located in one central public place. All of the records of the counties are inter-related, especially those of the District, Superior and Circuit Courts. By centralizing the papers, they become available to a much greater group of people as a whole and can be preserved at much less expense.

Fourth. The advantages to the counties consist of both the classification and the additional space left for other objects. While these records as now stored are not being used they are occupying a great deal of space in the county court house. In many court houses this space is needed and can be advantageously used for other and more important purposes.

—L. D. ARNETT* and JAMES P. WEAVER.**

* University Librarian.

** Cataloguer of the work.