

The Newsletter of Virginia's Circuit Court Records Preservation Program ■ No. 6 ■ Summer 2019

CCRP NEWS



LIBRARY OF VIRGINIA

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This newsletter is published twice a year to keep circuit court clerks informed about the court records preservation program for the Commonwealth of Virginia. Reader participation is invited.

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Field Notes: Archivists, Preservation History, and Black Sheep

It can be challenging for college history majors to find careers that make use of their degrees. If they are lucky, they can teach or find some other history-related employment, such as in museums as curators, at historic sites as interpreters or guides, or in the fields of archeology, anthropology, or historic preservation. Those with history degrees can also find careers in libraries and archives.

For any archivist who loves history, nothing could be more fulfilling than working for an institution with its own long history of preserving historic records. That is the case for those of us fortunate enough to be archivists with the Circuit Court Records Preservation Program at the Library of Virginia. The Library's archives can trace its preservation efforts to the Civil War era and possibly earlier, with records documenting its collaboration with the circuit court clerks going back as far as the 1870s. The first State Archivist was appointed in 1918, and for the next 50 years, the Library worked with clerks across the commonwealth to preserve and conserve court records. In the early 1970s, the Library (then the Virginia State Library and Archives) created the Local Records Services Department, and in the early 1990s, the Circuit Court Records Preservation Program was established.

One of the more famous collaborative efforts between the Library and the circuit court clerks occurred after the flood at the Buchanan County Courthouse in 1977. The innovative emergency response by the State Archivist and the staff is noteworthy, especially considering the scale of the disaster. Recently, former Local Records archivist Breck Daughtrey donated a number of photographs from the flood, which are featured in this issue with an article about the event and recovery efforts. Of course, not all conservation attempts turn out as well as the Buchanan County Courthouse response, and today CCRP archivists spend a lot of time attempting to undo some of the older, misguided preservation efforts of the past. That is the case if your courthouse is unfortunate enough to have books that were "conserved" using the now-discredited tape-stripping method. Records that are "stripped with tape" have an easy (though expensive) fix, and should not be ignored.

Seasoned researchers in courthouse records rooms are familiar with standard resources, such as deed and will books, and each issue of the *CCRP News* attempts to dig a little deeper into other local records with which researchers might not be as familiar. This issue explores Commonwealth Causes, or criminal causes. Delving into these fascinating records could add an interesting twist for those doing social, historical, or genealogical research. As with all local records, it is helpful if researchers have a way to access these records in order to tease out their "black sheep" ancestors. Basic processing offers a simple and easy way to both preserve the records and make them accessible to researchers. With courthouse staff already stretched to the limits, however, it is difficult for clerks to find the resources and the time to provide the basic processing needed to make records safer and more accessible. A solution might be found at your local or regional college or university. Internships for college students interested in careers in archives offer courthouses an opportunity to process and make accessible the loose records, while at the same time providing students with marketable, hands-on experience.

CCRP CASE STUDY RETROSPECTIVE:

The Buchanan County Courthouse Flood of 1977

The Library of Virginia can trace its preservation efforts back to the Civil War, and possibly earlier (depending on how one defines preservation). We attempt to document some of these efforts in each issue of the *CCRP News*. One of the most significant conservation collaborations between the Library of Virginia and a Virginia clerk's office occurred in Buchanan County in 1977.

In 1971, Connis Brown, the archivist who would become the first head of the Local Records program, traveled across the state interviewing the circuit court clerks and surveying the collections and the conditions at each courthouse. Brown's surveys provide a no-holds-barred assessment of the courthouse, clerk's office, condition of the records, environmental condition in the records rooms and other storage areas, and sometimes even the clerks themselves.

In his 1971 examination of the Buchanan County Courthouse in Grundy, Brown noted that the bulk of the court records were lost in an 1885 fire. His survey also indicates that, in addition to the first floor clerk's office, a portion of the records were stored in the basement with court exhibits. During his visit, he noted that the courthouse's masonry construction appeared to be fireproof. Grundy is located at the confluence of the Levisa Fork River and Slate Creek. When heavy rains fell in 1977, the town experienced the worst flooding in its history and the fireproof masonry construction could not stop the rising floodwaters that rushed into the first floor records room and the overflow storage area in the basement.

As a result, Buchanan County's court records were under nearly three feet of water for two days and subject to dampness for nearly a week before State Library staff members were able to make their way into the disaster area. During their time underwater, the 300 volumes worked like sponges, absorbing so much moisture that they had to be pried from the roller-shelving units. By the time the water receded, the records in the basement were a total loss and those on the first floor were thoroughly saturated. After assessing the situation, State Archivist Louis Manarin determined that freeze-drying was the only acceptable solution. The records were then transported to Richmond, where they were stored at Richmond Cold Storage at below-zero temperature for nearly a month.

In the meantime, Manarin negotiated the use of the space simulation (or decompression) chambers at the General Electric Space Center in Valley Forge, Pennsylvania. The books were then transported in a refrigerated truck to Pennsylvania, and once there, they were placed on rolling racks and pushed into

the chamber. The pressure in the chamber was then lowered, causing the rapid evaporation of water. The “GE experts also used small auxiliary heaters originally designed to be used on water beds” to speed up the process, according to the report. At the end of the freeze-drying process, approximately one gallon of water was extracted from each of the 300 volumes. After they were removed from the chamber, the books were sterilized and treated to help reduce the growth of mold and mildew. The volumes were then returned to the county courthouse.

Today, a large number of these records are stored at the Library of Virginia, where one can still find remnants of “flood mud” on the volumes. The Buchanan County Courthouse was renovated and expanded in 1982 and the clerk’s office was moved to the second floor of the building (just in case).

Records salvage operations followed flooding in Buchanan County in 1977. These images come from a collection of photographs, “Records Salvage Operations Buchanan County Flood (1977) and Green County Fire (1979),” donated by Breck Daughtrey, who worked at the Library from 1975 to 1981. He left to take a post in the Norfolk city clerk’s office in 1981, where he served as clerk of the council from 1988 to 2018.

The Problems with Tape Stripping

Many of the conservation problems encountered in courthouse records rooms across the commonwealth of Virginia are a result of ill-fated conservation and preservation practices of the past. Unfortunately, almost every locality has at least some examples of these now-discredited conservation methods. Much of the CCRP's efforts are devoted to undoing these treatments.

One of the more prevalent conservation issues that we find was instigated by “conservators” who worked out of the trunks of their cars. Today we call it tape stripping—or volumes “stripped with tape.” Sometimes referred to as sheet extenders (or extensions) or “loose leaf conversions,” it converted a bound volume to single sheets for a post binder. It is easily noticeable, because each page in the converted record book has a piece of pressure-sensitive (or Scotch) tape running along the length of the page near the gutter.

The tape-stripping process called for unbinding the pages by cutting them from the spine. Each page was then taped to a linen record paper meeting guard, about $\frac{3}{4}$ of an inch wide and the length of the newly unbound page. Each of these makeshift guards was fitted for a post binder. This practice is thought to have become popular in the 1960s and 1970s with the rise in prevalence of photocopiers in courthouses, because it allowed for easy removal of pages for photocopying. A more cynical view is that this was the easiest solution

for itinerant bookbinders not skilled enough to perform a conservator's handcrafted work. Either way, the guard that was taped to the edge of the document extended the page a little bit farther than the original.

The issue with this technique was not that the binding was cut off, changing the intrinsic character of the book forever, but that the new meeting guards were taped onto the original record page. Unfortunately, the clear tape frequently covers up the text. Sometimes the tape was added to one side of the page and guard, but often it was added to both sides. Eventually, the adhesive on the tape that holds the guard to the paper will begin to leech out from the side of the tape, causing the pages to become tacky and stick together. Left for too long, the adhesive residue has detrimental effects on the documents, especially if the tape is covering any of the text in the document. Sometimes we see that the tape has turned yellow and has begun to deteriorate in the volumes. And, in worst-case scenarios, the tape hardens and becomes inflexible, causing the pages to tear, split, or even break off from the guard and the binding.

As a result, these are prime candidates for item conservation grants. Once at the conservation lab, the pages will have all tape and adhesives removed before they are mended, deacidified, encapsulated in archival polyester sleeves, and then bound in new post binders.

Volumes that have pages stripped with tape can be found in courthouses across the state. A courthouse typically has either many record books with this problem or a few or none. This can probably be attributed to the mobile nature of the traveling bookbinders, as well as the susceptibility of the clerk, the funding available for applying the process, and the overall salesmanship of the bookbinder.

Books in the Basement

Of Burglary and Buggery: Early Virginia Criminal Records

Early Virginia courts were (and still are) divided into two sides: law and chancery (or common law and equity). The law side of the courts involves the administration of a set of rules that governs the activities and behavior of a community. These rules or laws are regulated by the local governing authority and enforced by the courts. With this set of rules, laws are intended to be applied and enforced in a consistent and uniform fashion; if a defendant is convicted of A, B, or C offence, then he or she will receive X, Y, or Z as the standard punishment.

The law side of the courts is divided into civil and criminal law, with cases of both types decided by a jury. Civil cases usually involve a debt, and their verdicts, sometimes referred to as judgments, frequently result in monetary awards. Judgments can also result in an action, such as the return of property by the defendant, if justified by the nature of the suit. If there is a disagreement about the application of the law or if the situation warrants it, a debt case (or any other civil law case, for that matter) can be moved to the chancery law side. Criminal law court cases, sometimes referred to as Commonwealth Causes because they are brought by the Commonwealth of Virginia, are crimes against persons or property. In earlier times, these could range from misdemeanors such as church violations and petty offenses against the peace or sexual morals of the day to larcenies, wounding, and even murder. Ultimately, the distinctions between some of the lesser offenses were at the clerk's discretion; a clerk might put more of an emphasis on drinking, fighting, and swearing than on fornicating or not attending church.

Minor offenses or misdemeanors (sometimes referred to as victimless crimes) such as violations of sexual, church, or licensing laws were usually resolved quickly. More serious crimes, such as property crimes or crimes against life and limb, were referred to a higher court. Frequently, however, justices might reduce the status of the crime so that they could hear the cases themselves and dole out the corporal punishment and/or monetary fine immediately. As a result, especially in the early years of Virginia, the majority of criminal cases and defendants remained in the locality. This would change over time as the court system evolved. Enslaved persons accused of serious crimes, such as murder or treason, were bound over to a court of oyer and terminer (a partial translation of the Anglo-French *oyer et terminer*, which means to hear and determine) within the locality. Whatever the offense and whoever was involved, the administration of justice was a public event, at least at this local level.

These records are fertile fields for research in local history and, most especially, for social history research. In the early history of Virginia, before boards of supervisors were established, the justices administered the affairs of the locality. All forms of legal documents were generated in the courthouse, including vital statistics such as birth and death records, bonds and licenses, property tax records, and law and chancery

case files. If a person was born, lived in, married, worked, had children, owned property, or died in a locality, his or her name is likely to appear in the circuit court clerk's records (if the records survived). This is also true for any litigation in which a person may have been involved. If they left no diaries or correspondences, court records (or local records) are the only way to know that many people existed. To paraphrase a colonial legal historian: Life in a locality intruded into its courts. Because of the sometimes-salacious nature of criminal causes, these records can offer interesting twists to genealogical research.

As with all local records, access is the main hindrance to the use of Commonwealth Causes. The case files themselves are loose records, originally stored in tri-folded bundles, and usually found in Woodruff drawers in courthouse records rooms. If a researcher is lucky, the clerk's office has a full run of court order books, which will contain the names of those brought to trial. The order books may or may not be indexed, and depending on the idiosyncrasies, preferences, or customs of the clerk and the courthouse, there might be separate criminal causes or Commonwealth Causes order books.

Predictably, localities might have their own way of citing criminal offenses. Trespassing, assault, and battery as well as "trespass, assault, and battery" (all in one!) can be found in every city or county circuit court clerk's order book. Of course, there are murders and burglaries. And we might expect that "Enticing a Slave to Runaway" would be a criminal offense. Misbehaving and swearing during divine worship could land one in the pokey, as could "Causing an Affray" or "Gaming" (gambling). Apparently, crimes related to houses were a huge problem for local Virginia law enforcement. Criminal offenses included "Keeping a Disorderly House," "Keeping a Disorderly House by Allowing Negroes to Assemble," "Keeping a Disorderly House by Permitting Drinking & Card Playing," "Keeping a Disorderly Noisy & Misbehaving House," "Keeping a Disorderly & Riotous House," "Keeping a Home for the Entertainment of Lewd & Idle & Dissolute Persons of Both Colors," "Keeping a House of Entertainment without a License," "Keeping a Bawdy House," "Keeping a House of Ill Fame," and "Lewd & Lascivious Cohabitation." Some of the more random and esoteric criminal offenses include "Acting as a Suspicious Character," "Casting a Dead Animal into the Water Course," "Defecating in a Spring Known to be Used," and "Failing to Turn Crank of Register in the Sale of Liquor." If one is involved in "Reckless Bicycle Riding," he or she should not attempt "Highway Robbery."

Local court records are the foundation for social history, as well as for local history and legal historical research. Of course, they are a staple for genealogical research, as is evident by the overwhelming number of genealogists that can be found in circuit court clerks' records rooms across the commonwealth. Researchers, especially genealogical researchers, would be wise to step out of the comfort zone of deed and will books to learn a little more about their "black sheep" ancestors.

Student Internships and Loose Court Records: The Win-Win

The major hindrance to the use of court records for scholarly and genealogical research is access. How do we get to the information in the records in the easiest, least damaging, and most efficient way possible? The difficulty is compounded by the voluminous amount of records in each circuit court clerk's office. This is especially problematic with loose records, which can take up hundreds of Woodruff drawers in a records room. A clerk's minute or order book might help. Ultimately, however, the researcher will wind up pulling the records, drawer-by-drawer and bundle-by-bundle, untying and unfolding, and then refolding and retying the records and returning them to the drawers until he or she finds the needed information. The process is tedious and inefficient for researchers and can be quite damaging to the records.

Loose records can be made more accessible through simple processing and indexing. Flattening and filing in properly labeled archival quality folders and housing in properly labeled archival quality containers makes the records more accessible. This is considered a basic preservation measure that should be employed with all loose records. Keeping tri-folded bundles flattened saves on wear and tear. Additionally, having the records in properly labeled folders and boxes means that researchers won't have to waste time going through the wrong records. Creating an index or a simple spreadsheet with the pertinent information can make this process even more effective. (Basic information like this can usually be migrated to a more complicated database in the future, if needed.)

While this type of basic processing is not difficult, it requires attention to detail. Experience has shown that those with an interest in the subject matter do the most accurate work when processing. Unfortunately, clerks seldom have the resources to fund a paid position. Volunteer options are available, however. The members of local genealogical and historical societies are often passionate about the preservation of records and the information they contain. Many clerks across the commonwealth have successfully employed these enthusiastic volunteers to process their court records.

Another option is to employ a student from a local college or university who might be interested in a career in archives, special collections, or some aspect of public history. In fact, the best option is a student from a school with a public history program, which can aim students toward careers in historic preservation, museums, and archives. A general history major could be another good option, especially if he or she is considering a career in archives or special collections. All student interns should have a professor oversee the project and not be permitted to work completely unsupervised. Someone should routinely check on the quality of the work. Ideally, the student would be fulfilling an internship under the supervision of the professor and earning credits toward his or her degree.

More often than not, the supervising professor has little or no experience with archives and archival theory and prefers to farm out

the initial instruction to a professional archivist. That is where archivists from the CCRP program at the Library of Virginia can help. Once a student is tapped for a supervised archival internship, overseen by a professor at a local college or university, the clerk should contact their CCRP program archivist about meeting with the student and professor to get them up and running. A qualified archivist should perform this instruction at the beginning of the internship, so that the student gets off on the right foot and learns the tenets of archives and archival theory. The CCRP archivist will make an initial visit (and possibly a follow-up visit later); it is up to the supervising professor to guide the student and assess the quality of the work.

If done properly, this scenario can be a win-win for everyone. The student gets hands-on experience in processing archival records and becomes the historian for that era of the collection. While they are processing the materials, student interns become familiar with the major players in the community during that time, and they immerse themselves in the social and cultural heritage of that particular era. They learn the basic rules of archival theory and the importance of attention to detail in making the court records available for researchers. If the student is interested in an advanced degree in history, he or she will have an understanding of archival processing and the importance of local records as resources for local and social history and historiography. The courthouse benefits from documents that are flat-filed and stored in easily accessible archival quality containers, providing basic and relatively affordable conservation for their sometimes-unwieldy loose records. Finally, researchers are the big winners, because they now have access to the records.

Student intern Georgia Horne processes Washington County loose records in the summer of 2018. At the time of her internship, Horne was a history major at the University of Virginia's College at Wise, studying under Dr. Tom Costa. She fulfilled a supervised archival internship at the Washington County circuit court clerk's office.

“We Were Residents of Loudoun County”

By Melissa Murphy, Deputy Clerk, Office of the Circuit Court Clerk, Loudoun County

A version of this article originally appeared in Volume 4, Issue 1 (January 2019) of Little Gems, the quarterly newsletter published by the Historic Records Division of the Loudoun County circuit court clerk's office. We are grateful to Gary M. Clemens, clerk of the circuit court, for permission to publish this post. Individual names of enslaved people from this indexing project have been added to the Chancery Records Index for Loudoun County.

I was recently tasked with a project to compile a list of the names and cases of slaves in Loudoun County's early chancery records. It took the whole of 2018 to complete the index composed of 3,990 lines in a spreadsheet. Those 3,990 entries represent 3,990 names of enslaved people who were included in chancery cases from the years 1757 through 1866.

Next, I reviewed 3,028 chancery cases, 550 of which involved disputes over enslaved individuals. I documented names and case details in relation to each slave. Chancery cases for this time period encompassed disputes over things such as land, crops, houses, tobacco, estates of deceased individuals, and just about anything of monetary value. It was interesting to notice trends in the cases in certain years.

From 1831 to 1835, there were 101 slave-related cases within a total of 487 cases filed. In those 101 slave-related cases, 735 enslaved people were named. These numbers led me to wonder about the economic climate for people in those times. What pushed them to fight so readily over property and estates, specifically in the year 1832? In that year alone, there were 249 chancery cases filed. I

discovered that this was a turbulent year for a couple of reasons. There was a presidential election and also a veto of the charter for the Bank of the United States. This veto destabilized the local and national banking system, creating a need for people to recall debts and dispute their share of estates.

A look at cases from 1851 to 1860, leading up to the Civil War, included a total of 535 chancery cases. The number of cases involving enslaved people was 139, which was lower than those of other time periods in this project. I was surprised to see that these 139 cases actually provided more names than I had seen in other time periods. The enslaved people during this time frame numbered 1,175.

As this project came to an end, the final file I read really stuck with me and brought the whole experience to a close. It involved a dispute over the estate of Mahlon Gilmore. In his will, Gilmore freed his slaves named Jane and Gilmore and left the whole of his estate to them. The file shows that his heirs contested the will, asking that it to be made invalid due to its contents. This case was dismissed in 1866, with no disposition noted, unfortunately.

It has been both an honor and privilege to work on this project and to help tell a small part of the story of the thousands of people who lived here. I have now started reviewing post-1865 chancery cases that list names of enslaved people. As names of former slaves appear in a number of cases up to the 20th century, I look forward to continuing my efforts to shed light on otherwise unknown names.

Archibald Mains provided stipulations in his will for his executor to help his emancipated slaves immigrate to Liberia. If they refused to go to Liberia, they were required to work for a period of a year to help offset their cost to then be settled in Pennsylvania. Loudoun County, Chancery Causes, 1866-008, *Heirs of Mahlon Baldwin vs. Ext. of Mahlon Baldwin, & etc.*, Local Government Records Collection, Library of Virginia.

CCRP & Outreach

On November 11, 2018, archivists from the Circuit Court Records Preservation Program traveled to the office of Augusta County circuit court clerk Carol M. Brydge at the county courthouse in Staunton. The clerk had asked CCRP program manager Greg Crawford to give the staff and guests an overview of the different types of historical records in their office and the importance of court records as they pertain to local history, social history, and genealogical research in general, and Augusta County history in particular.

Figure 1 : The 1901 Augusta County Courthouse in Staunton is the fifth courthouse constructed on the site since 1755. The building is listed on the National Register of Historic Places. **Figure 2** : The records room in the 1901 Augusta County Courthouse.

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1: Senior archivist Tracy Harter and Local Records program manager Greg Crawford, shown in the basement of the Augusta County Courthouse, case the joint prior to the arrival of the guests.

2: Local Records program manager Greg Crawford gives an introduction to the group, including an overview of the Circuit Court Records Preservation Program.

3: Augusta County's history is unusually important, as many counties in Virginia, West Virginia, and beyond were at one time a part of Augusta County. As a result, some of the earliest court records for the region can be found in its courthouse. The building was also the home of the Superior Court of Chancery (1802-1832) for the western district of the state. Suits heard in these courts were typically cases appealed from the local courts in other western counties. In this photograph, Local Records program manager Greg Crawford talks about the importance of the Superior Court of Chancery order books stored on the roller shelving behind him. Of the three original Superior Courts of Chancery, only the records of the Staunton district have survived.

4: Local Records program manager Greg Crawford discusses the now-discredited cellulose acetate lamination document conservation process, which is so prevalent today in many of Virginia's courthouses.

5: The group surrounds the District Court loose records (1802-1832) stored in the basement of the Augusta County Courthouse.

A Greenville County Fixer Upper

By Louise Jones, Local Records Archivist

*Reprinted from the Library of Virginia's
Out of the Box blog, November 28, 2018*

The Greenville County chancery cause *Pierce R. Farley vs. Benjamin D. Tiller, etc.*, 1886–007, tells the tale of a business deal gone sour. With echoes of the comedy film *The Money Pit*, which would follow a century later, this attempt at live-in renovations goes predictably badly.

The Cato House was a hotel located in Hicksford, Virginia, on the corner of Brunswick and Halifax Streets. It was an old building, even in 1882. The hotel contained eight rooms and was in bad condition. Stables and a plot of land extending along Brunswick Street, from Halifax Street to the Petersburg Railroad line, were part of the hotel property.

Benjamin D. Tiller, president of the Upshur Guano Company of Norfolk, owned the hotel and hoped to find a renter for it. After lengthy negotiations by letter and in person, Pierce R. Farley agreed to rent the hotel after Tiller showed him plans for the enlargement of the building, which would add 24 rooms and a second story. At the contract signing in January 1882, Tiller promised that he would complete the addition by June 1, 1883. Tiller also promised that the roof would remain on the existing building until the addition was completed.

In February 1882, after Farley moved into the Cato House with his wife and six children, six carpenters began framing the addition. Three bricklayers built the brick underpinning to support the building's sills. The building was eventually framed, but without the roof rafters in place.

On June 30, 1882, Tiller hired two carpenters, S. E. Davis and L. C. Miller, to continue the construction. In August, the workmen made holes in the roof around the eaves and in the part of the old building where the Farley family lived. Not long after that, the workmen "tore down the end chimneys of the old building and left the house at that end open to the weather," according to the records.

For six weeks, the old building was flooded when it rained. The house suffered damage, as did the family's furniture. The situation also destroyed the hotel's business. The roof was restored after February

1907 Birds Eye View of Emporia, Virginia. T. M. Fowler, Morrisville, Pennsylvania. Retrieved from the Library of Congress, www.loc.gov/item/75696640.

17, 1883, when Henry Howard, a tinsmith living in Weldon, North Carolina, finished the work.

On February 3, 1886, W. E. Bailey toured the hotel to evaluate the damage in the building. He detailed his findings in a deposition given on that day. As expected, there was water damage, leaks, and missing plaster, as well as broken windowpanes, a broken hearth, and windows without frames in the unfinished attic. A room on the second floor was the only one described as being "all right."

In a letter to Howard, the tinsmith, dated the same day, Tiller implored him to come to Hicksford to finish the work, "as the carpenters, plasters [sic] & painters are there waiting for you." He added, "I am loosing [sic] heavily in my rents."

More information about Cato House and the disagreement between Farley and Tiller can be found along with other Greenville County Chancery Causes, 1782–1899, in the Chancery Records Index. The digital images of the chancery causes are freely available to users on our website. This \$39,000 project is the 70th digital chancery collection to be added to the Chancery Records Index, made possible by funding from the Circuit Court Records Preservation Program.