

BANKRUPTCY TO EQUITY: USING FEDERAL COURT RECORDS IN GENEALOGY

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INTRODUCTION

The records of the Federal Courts are among the National Archives' largest holdings-and yet some of the least used records sources by genealogists today. The National Archives is the major source repository for these sets of records.

TYPES OF FEDERAL COURTS:

The Federal Court System of the United States was established under the Judiciary Act of 1789 (1 Stat. 76) on September 24, 1789

DISTRICT COURTS:

Trial Courts of the United States. Their jurisdiction included Admiralty, Equity, Bankruptcy, and Naturalization. Began at different dates dependent on the geographic area.

CIRCUIT COURTS:

Originally established in 1789-as (3) courts-expanded to (9) by 1866. (Covered Larger Areas). Has jurisdiction over all matters (especially Criminal) covered by Federal Law. Abolished in 1911-taken over by District Court.

CIRCUIT COURTS OF APPEALS:

Established under the Federal Court System by an Act of Congress on March 3, 1891 (26 Stat. 826), by Acquiring the Appellate jurisdiction of the U.S. Circuit Courts and later the U.S. District Courts.

SUPREME COURT OF UNITED STATES:

The Federal Court System of the United States was established under the Judiciary Act of 1789 (1 Stat. 76) on September 24, 1789

TYPES OF RECORDS:

Dockets: Sometime called court calendars, these are lists of cases heard by the court

Minutes: Brief daily accounts kept by the clerk of all actions taken by the court

Orders: The specific judgments or orders of the court
-Example: Order granting citizenship

Briefs: Legal document arguing why one Party should prevail on a case.

Mandates: Frequently seen in Criminal Court. Where Defendant obligates themselves to engage in activities in exchange for suspension of sentence

Case Files: Consists of a packet or bundle of all the loose documents relating to the case

GEOGRAPHIC JURISDICTIONS:

When doing genealogical research into Federal Court records it is necessary to know and have an full understanding of the geographical jurisdictions of how the records are first organized and then where exactly the records are located for a specific regions of the United States of interest. Utilizing the centers of the National Archives and Regional Branches.

RECORD GROUPS-NATIONAL ARCHIVES:

Records of the U.S. District Court-**RG21**

Records of the U.S. Court of Claims-**RG 123**.

Records of the Supreme Court of the U.S.-**RG 267**

Records of the U.S. Court of Appeals-**RG276**

VARIETIES OF CASES:

ADMIRALTY CASES:

In *Rem* (against a thing), usually against a ship, in which case the relief sought is confined to the thing, although the suit may have arisen out of transactions between persons; **OR** In *Personam* (against an individual) in which case relief is sought against a particular person. Cases argued in front of a Judge.

EQUITY CASES:

Common equity cases are patent disputes, probate divisions, dissolution of partnerships, and cases involving property rights, and copyright infringements. These records document the actions in the District and Circuit courts.

CRIMINAL CASES:

Crimes in the Federal Courts are numerous in scope and range. These include: Treason, Mutiny, Assault and Battery on the high seas, and conspiracy to overthrow the government; piracy and attacking a vessel with intent to plunder; smuggling; forgery; counterfeiting; carrying on business without a license or without paying a tax; desertion or enticing to desert from the armed forces; voting in the name of another person; and larceny among many others.

NATURALIZATION CASES:

The first naturalization act was passed March 26, 1790. The basic structure has remained unchanged. The alien filed, before any United States Court his

Declaration of Intention to become a citizen. After a certain length of time, usually a minimum number of years, he went again to court and filed a Petition for Naturalization. There were exceptions to this rule.

This procedure was modified in 1906 by centralizing control of immigration and naturalization under the Bureau of Immigration and Naturalization in the Department of Commerce and Labor.

BANKRUPTCY CASES:

Under the constitutional provision that Congress shall have the power to establish "uniform laws on the subject of Bankruptcies throughout the United States, (Article I, Section 8). Bankruptcy Acts were passed by Congress usually after business disturbances or financial recessions.

Bankruptcy Act of 1800 followed the business disturbances of 1797

Bankruptcy Act of 1841 followed the business panic of 1837

Bankruptcy Act of 1867 followed the post Civil War recession of 1866-1867

Bankruptcy Act of 1898 followed the business panic of 1893 and the depression afterwards

BANKRUPTCY ACT OF 1800:

The first national bankruptcy act, approved on April 4, 1800 (2 Stat, 19), provided for an effective period beginning June 2, 1800, and continuing for 5 years. It applied only to merchants or other related parties.

The act provided for compulsory or involuntary bankruptcy, but not for voluntary bankruptcy.

Because of its limited applicability the act was repealed on December 19, 1803, months before its expiration date.

BANKRUPTCY ACT OF 1841:

The second national bankruptcy act was passed on August 19, 1841 and was to take effect on February 1, 1842.

The law allowed voluntary bankruptcy to all debtors, but limited involuntary bankruptcy to merchants, bankers, factors (an agent or commissioned merchant), brokers, and traders.

It eliminated the requirement of the consent of the creditor for a discharge. The bankrupt filer, however, could obtain his discharge through a jury trial if the jury found that he had surrendered all his property and had fully complied with the orders of the court.

BANKRUPTCY ACT OF 1867:

On March 2, 1867, Congress approved the Nation's third bankruptcy act to assist the judges in the administration of the law, the act provided for the appointment by the court of registers in bankruptcy.

The registers were authorized to make adjudications of bankruptcy, to hold and preside at meetings of creditors, to take proofs of debts, to make computations of dividends, and otherwise to dispatch the administrative business of the court in bankruptcy matters when there was no opposing interest. In cases where opposition to an adjudication or a discharge arose, the controversy was to be submitted to the court.

BANKRUPTCY ACT OF 1898:

In 1889 The National Convention of Representatives of Commercial Bodies is formed to lobby for bankruptcy legislation. The president of the Convention, Jay L. Torrey, drafted a new Bankruptcy Bill otherwise known as the "Torrey Bill".

In 1898 Congress passes a bankruptcy bill based on the previous Torrey bill.

This Act also called the "**Nelson Act**", July 1, 1898, (Ch. 541, 30 Stat. 544) was the first United States Act of Congress involving Bankruptcy that gave companies an option of being protected from creditors. Previous attempts at bankruptcy law had lasted at most a few years. Its popular name is a homage to the role of Senator Krute Nelson of Minnesota.

- In 1933 The "1898 Bankruptcy Act" is amended to include railroad reorganization, corporate reorganization, and individual debtor arrangements.

- In 1938 The "Chandler Act" amends the earlier 1898 Bankruptcy Act, creating a menu of options for both business and non-business debtors. Named for Walter Chandler.

- In 1978 -the 1898 Bankruptcy Act is replaced by The Bankruptcy Reform Act. This Act is still used today.

Bankruptcy files are in the custody of the National Archives and now stored offsite at the branch in Kansas City, MO. Researchers should contact the Archives directly to conduct searches. Some indexes are still maintained at the regional archives.

WRITS OF HABEAS CORPUS:

Writs can be found in most case files.

Usually involves a petition, transcript, order, and the writ when ordered by the Judge. It was often used during the Civil War for soldiers under the age of 18 years and in reference to Runaway Slaves.

Habeas corpus is a court order from a judge instructing a person who is detaining another to bring the detainee before the court for a specific purpose. Contact the National Archives in RG19 for records pertaining to this set of documents and indexes.

FUGITIVE SLAVE ACT:

The Fugitive Slave Act of 1850-passed by the United States Congress on September 18, 1850, as part of the Compromise of 1850 was one of the controversial acts passed down by law. Runaway slaves could be returned with the help of the Federal Government.

Typically consist of petition, affidavits, testimony, and documentation supporting ownership. Records typically found in court of original petition and the court with jurisdiction over the area where the slave escaped.

CONFISCATION ACT:

The Confiscation Act of 1862-Passed by Act of Congress dated on July 17, 1862, entitled "*An Act to Suppress Insurrection, to Punish Treason and Rebellion, to Seize and Confiscate the Property of Rebels, and for Other Purposes*" This Act gave the power to take the land and businesses of persons who served the Confederacy. Records include case files include; petitions, orders of the court, proofs of public notice, and notices of seizure.

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NOTES:

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