

## *An Untapped Treasure: Research Opportunities in Pennsylvania's Federal District Court Records*

HOW MANY bodies of unpublished records contain the bankruptcy file of the financier of the American Revolution, a landmark case in the development of motion pictures, and the prosecution of Pennsylvania's brewers in the 1920s? These are but a sample of the rich treasures available in a relatively untouched body of historic United States government records—namely, the records of the federal courts for Pennsylvania. Those records document a broad range of the activities of Pennsylvanians from 1789 to the present. It is little wonder that those materials have not been used, however, since until quite recently they were in poor order and lacked adequate finding aids. Also the complex jargon that enshrouds legal records can be intimidating to those without formal legal training. Assuming those problems were overcome, the question remains, how can court records be used by historians?<sup>1</sup>

The Commonwealth's first district court was established in Philadelphia in 1789. In 1801 Pennsylvania received a second federal court in Pittsburgh, when outgoing President John Adams enlarged the

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<sup>1</sup> The following materials were useful in preparing this paper: Raymond Solomon, "Legal History and the Role of Court Records," paper presented to NASARA meeting, Milwaukee, July 1978; Robert W. Gordon, "Recent Trends in Legal Historiography," *Law Library Journal* 64(1976) 462-68; R. Michael McReynolds, "The National Archives: A Seemingly Infinite Store of Legal Records," paper presented at National Archives Conference, Law and American Society, Washington, D.C., September 1978. While this article focuses upon the research potential of federal district court records, many of the problems and possibilities discussed herein apply to state, county, and city court records as well.

judiciary to entrench his party in at least one branch of the national government. Although the Jeffersonians promptly abolished the court the next year, the need for a federal court to serve western Pennsylvania compelled Congress to revive the Western District Court in 1818. In 1900 the Eastern and Western District Courts were subdivided to create the Middle District of Pennsylvania, headquartered in Scranton.\* As of 1979, for the first time the records of all three districts from 1789 to 1952 have been arranged and finding aids have been prepared by the National Archives. Also, many of the pre-1840 Philadelphia records are available on microfilm.<sup>2</sup>

Now that the records have been inventoried, scholars should no longer allow the form of court records to deter them from sampling their rich resources. The records are arranged by court, thereunder by the type of case, such as criminal, bankruptcy, admiralty, or equity, and finally by the record series. The most essential series of court records are the dockets, order books, and minutes. The dockets serve as a crucial finding aid in quickly locating the desired cases and in providing a thumbnail sketch of legal actions. The case file constitutes the heart of any body of court records. It contains the unique, unpublished records of the case, including the complaint, petitions, motions, affidavits, depositions, decrees, orders, verdicts, sentences, and a variety of other documents. Incidentally, the Latin-encrusted "legalese" one encounters in those documents can be dissolved by steady applications of *Black's Law Dictionary* and a little practice.<sup>3</sup>

With the inventory of the records in one hand and *Black's Law Dictionary* in the other, one needs only to understand the kinds of cases the federal courts handled before taking the plunge. Prior to the twentieth century Congress carefully circumscribed the jurisdiction of

\* See maps in the appendix.

<sup>2</sup> Erwin C. Surrency, *Federal District Court Judges and the History of Their Courts* (St. Paul: West Publishing Co., 1966); Marion Johnson, Mary Jo Grotenroth, and Henry Ulasek, as revised by Robert J. Plowman and David R. Kepley, "Preliminary Inventory of the Records of the United States District Courts for Pennsylvania" (Washington, D.C.: National Archives and Records Service, 1978); J. Willard Hurst, *The Growth of American Law: The Law Makers* (Boston: Little, Brown and Co., 1950), chap. 2; U.S., GSA, National Archives, National Archives Microfilm Publication numbers M-932, 966, 969, 985, 986, 987, 988, 992, 993, 1057.

<sup>3</sup> Henry Campbell Black, *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence, Ancient and Modern*, 4th rev. ed. (St. Paul: West Publishing Co., 1968).

the federal district courts to the following areas: bankruptcy; naturalization; admiralty, which included crimes and property damage that occurred on the high seas and, especially after 1851, the navigable waterways of the United States; criminal, which initially included just treason, counterfeiting, mail fraud, and the destruction of federal property; common law, relating most frequently to forfeitures of property for nonpayment of taxes or evasion of customs duties; and equity, including infringements on copyrights and patents, issuing injunctions, and suits between citizens of different states and between United States citizens and aliens. With the advent of the twentieth century, the federal courts played an increasingly larger role, reflecting the greater impact that the federal government had begun to make on American society. Their new responsibilities included regulating some aspects of the economy, enforcing draft laws and prohibition, handling civil rights litigation, and refereeing labor-management negotiations. Many of the basic elements of law, however, such as torts, contracts, property, probate, divorce, and incorporation, have always been the domain of the local courts.<sup>4</sup>

The research potential of the records of the lower federal courts has been undeveloped by both legal and nonlegal historians. It is distressing to note that nonlegal historians have not used federal court records, even when their research points them in that direction. An example appeared in an article in a recent issue of *Prologue* concerning Andrew Johnson and some Florida unionists after the Civil War. Its author mentioned that some former confederates, who had lost property at the hands of the U. S. Tax Commission, appealed to the U. S. District Court. The case file, however, was not examined. An article concerning Don Joseph Cabrera, published two years ago in the *Pennsylvania Magazine of History and Biography*, illustrates the same point. In the late 1790s Cabrera was tried in the U. S. Circuit Court for the Eastern District of Pennsylvania, but the author gave no evidence that he consulted Cabrera's criminal case file. Had he done so, he would have discovered a subpoena, a letter from Cabrera written during his incarceration to the judge, a letter from the keeper of the debtor's prison to Chief Justice John Marshall, and a letter from the governor of Pennsylvania to the high sheriff of Philadelphia. This writer does not know if those

<sup>4</sup> Hurst, *The Growth of American Law*, 115-17.

documents would have changed either authors' interpretation, but the point is that a potential source of information was ignored.<sup>5</sup>

Legal historians have also overlooked federal court records. The history of Pennsylvania's federal courts, as well as those of most states remains to be written. Mary Tachau's fine study of Kentucky's courts from 1789 to 1816 provides a good example of what can be done. By relating the court's role as one of the few elements of federal authority in an area geographically remote from the seat of federal power to local politics and even international intrigue (the Spanish separatist plots), Tachau has proven that administrative history does not have to be pedestrian. The whole question of the extent to which the lower courts influenced the development of legal doctrine has also received scant attention from legal scholars whose focus to date has been the Supreme Court. Especially aggravating are those studies by legal historians dealing with the lower federal courts that have not utilized the original records. For instance, in a recent biography of Learned Hand, a district court judge in New York for fifteen years, the author traced Hand's legal thinking and philosophy without ever having examined the case files that Hand generated.<sup>6</sup>

A number of scholars, however, have benefited from an imaginative use of court records on a selected basis. For instance, studies in Kansas court records have illuminated aspects of "Wild Bill" Hickock's life, while some California scholars have found information on the Chinese in habeus corpus case files. Another researcher in New York culled court records to reveal material on a Nazi-oriented camp, while an individual interested in labor unrest in the 1930s studied New Jersey equity cases for violations of the Wagner Act. Pennsylvania historians have also used court records to enrich their studies of the Fries and Whiskey Rebellions of the 1790s, the Fugitive Slave Act of the 1850s, espionage during World War I, and subversive activities during the McCarthy years. The point is that historians need to remember that federal court records may contain valuable information for them, regardless of their

<sup>5</sup> Jerrel H. Shofner, "Andrew Johnson and the Fernandina Unionists," *Prologue* 10 (Winter 1978): 211-23, especially see 217; G. S. Rowe, "Prologue to Impeachment: The Case of Don Joseph Cabrera," *The Pennsylvania Magazine of History and Biography* 102 (April 1978), 224-42.

<sup>6</sup> Mary K. Bonsteel Tachau, *Federal Courts in Early Republic: Kentucky, 1789-1816* (Princeton: Princeton University Press, 1978); Kathryn Griffin, *Judge Learned Hand and the Role of the Federal Judiciary* (Norman: University of Oklahoma Press, 1973).

topic.<sup>7</sup>

Federal court records can bear the burden of extensive research projects as well. Legal historians under the influence of J. Williard Hurst, such men as Morton Horwitz, Lawrence Friedman, Douglas Greenberg, and William Nelson, point the way. Hurst altered the focus of many legal historians from studying legal doctrine, per se, to examining how changes in the law were a reflection of deeper changes in society. Hence, Morton Horwitz has argued that between 1780 and 1860 certain groups of capitalists consciously fashioned those laws relating to economic growth, such as property, contract, and incorporation law, into a tool for their own advancement. Such an approach provides a different perspective of "the man on the make" in the age of Jefferson and Jackson.<sup>8</sup>

There are a number of areas in Pennsylvania's federal court records that could be effectively exploited by legal historians working in the Hurst tradition. Prime examples include copyright, patent, and bankruptcy law, over which the federal government has held exclusive jurisdiction since 1789. To what extent have changes over time in the rules governing those categories of law been reflective of socio-economic changes within American society? In bankruptcy law, for instance, the first statute in 1800 applied only to merchants and it could be invoked only by the creditors, not the bankrupt himself. Later bankruptcy acts, however, were more lenient, such that under the act of 1898, either the debtor or the creditor could initiate proceedings, and involuntary bankruptcy could be adjudged against anyone except wage earners, farmers, and certain corporations owing at least \$1,000. A study of those changes in the law, taken in the context of the times, might reveal a lot about the attitudes of Americans toward indebtedness.<sup>9</sup>

<sup>7</sup> Monthly narrative reports from regional archives branch chiefs to Regional Archives coordinator, 1978-79, Records of the Regional Archives Coordinator, National Archives and Records Service, Washington, D.C.

<sup>8</sup> Morton Horwitz, *The Transformation of American Law, 1780-1860* (Cambridge: Harvard University Press, 1977); Lawrence Friedman, *A History of American Law* (New York: Simon and Schuster, 1973); Douglas Greenberg, *Crime and Law Enforcement in the Colony of New York, 1691-1776* (Ithaca: Cornell University Press, 1974); William Nelson, *Change on Massachusetts Society, 1760-1830* (Cambridge: Harvard University Press, 1975).

<sup>9</sup> For a review of bankruptcy laws, see Friedman, *A History of American Law*, 238-39, 356, 480-82; for an extended treatment, see Charles Warren, *Bankruptcy in United States History* (Cambridge: Harvard University Press, 1935).

For those scholars interested in social, economic, and cultural history, the records of the lower federal courts contain a wealth of unexploited material. While legal historians will want to analyze why the rules governing bankruptcy have changed, economic historians will be delighted to peruse the vast amounts of raw data available in bankruptcy case files. Many local governments have had insolvency laws to handle the problem of business collapse. Following four major panics of the nineteenth century, the federal government passed general bankruptcy laws to relieve the plight of debtors (1800-1803, 1841-43, 1867-78, and 1898 to present).<sup>10</sup>

Bankruptcy case files typically include a listing of the assets and debts of the bankrupt, the claims of his creditors, records of creditors' meetings, and the final division of the bankrupt's assets. Such detailed information should prove useful to economic historians attempting to dissect the anatomy of a depression in a given locale. The records could indicate, for instance, which groups went under first, who held their credits, and if their creditors in turn fell prey to the depression. Historic preservationists should be especially interested in the precise data on personal and household property contained in the listing of assets. The case file of Robert Morris of Philadelphia, for example, not only offers a glimpse of how a wealthy eighteenth-century man invested his money, but also provides an exact inventory of his belongings.<sup>11</sup>

Historians interested in technological change and its impact on society could benefit from an examination of patent case files. A number of famous inventors, such as Thomas A. Edison, spent years in litigation trying to protect their patent rights. A more typical case is that of *L. A. Thompson Scenic Railway Company v. the Chestnut Hill Casino Company, Ltd. and James Griffith*, 1899. The Thompson Company, a New Jersey firm, claimed to have been the "first inventor of a certain useful improvement in Elevated Gravity and Cable Railways." The Chestnut Hill Company disagreed, citing other companies that had predated Thompson's use of cable railway techniques. The court found in favor of the Chestnut Hill Company.<sup>12</sup>

<sup>10</sup> *Ibid.*

<sup>11</sup> Robert Morris, bankruptcy, Act of 1800, Case #42, Records of the U.S. District Court for the Eastern District of Pennsylvania, RG 21, Federal Archives and Records Center, Philadelphia, Pa.

<sup>12</sup> For an Edison case, see *T.A. Edison v. T.A. Edison, Jr. Chemical Co.*, Equity #235,

Patent exhibits are often a menagerie of delights for the researcher. Included in the case file above are depositions from expert engineers, photographs of both the Chestnut Hill and Thompson operations, blueprints, and a variety of other technical data. Other case files contain such oddities as railroad maps of Erie, perfume bottles, pictures, and photographs.<sup>13</sup>

An important case to the early history of film-making illustrates the richness of some copyright cases. In 1903 the American Mutoscope and Biograph Company of New York sued Philadelphia entrepreneur Sigmund Lubin for selling pirated copies of their motion picture entitled "Shut Up" for 25 percent below the company's price. The company wanted the court to order Lubin to yield up all profits he had accrued from the sale of the film, turn over all remaining copies, and be enjoined from either copying or selling the film in the future.<sup>14</sup>

Incidentally, the plot of the film provides an intriguing glimpse into sex roles and family life at the turn of the century. The film opens with a woman asleep in a bed that folds into the wall. Her husband stumbles into the room in a drunken stupor, awakening her. She immediately begins to scold him, precipitating a heated argument. Just as it appears that things might get violent, however, the man suddenly slams the bed into the wall with his wife in it, ending the argument and the film.<sup>15</sup>

The ensuing court battle became a fascinating debate on how a new technology had altered the rules on copyrights. To prove the originality of its work, the American Mutoscope and Biography Company filed a detailed explanation of how it achieved such special effects as stopping the film at its climax to substitute a dummy for the actress. Lubin argued to the contrary that the film "does not disclose any subject matter that is capable of copyright protection, . . . and that the same does not

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1903, Records of the U.S. Circuit Court for the District of Delaware, RG 21, Federal Archives and Records Center, Philadelphia, Pa., *L. A. Thompson Scenic Railway Company v. The Chestnut Hill Company, Ltd. and James Griffith*, Equity #30, April 1899, Records of the U.S. Circuit Court for the Eastern District of Pennsylvania, RG 21, Federal Archives and Records Center, Philadelphia, Pa.

<sup>13</sup> *Ibid.*, *Erie and Cleveland Railroad v. City of Erie*, Equity #2, May 1854, Records of the U.S. Circuit Court for the Western District of Pennsylvania, RG 21, Federal Archives and Records Center, Philadelphia, Pa., *Francoise J.D.S. Coty v. Coty Stores of America*, Equity #75, 1922, Records of the U.S. District Court for the District of Delaware, RG 21.

<sup>14</sup> *American Mutoscope and Biography Company v. Lubin*, Equity #26 and #27, April 1903, Records of U.S. Circuit Court for the Eastern District of Pennsylvania, RG 21

<sup>15</sup> *Ibid.*

disclose any original intellectual conception, and that the same is the result of [the] mere function of a machine or machines, and that any copyright upon the same is therefore void and invalid." The court dismissed the case, giving Lubin a victory.<sup>16</sup>

Scholars of America's ethnic heritage have not fully exploited the rich mine of information in naturalization records either. Since naturalization could be accomplished at any court, county and state naturalization records would also have to be consulted to obtain a complete picture of the immigrant population of any given area. After 1906, the naturalization form used elicited such valuable data from prospective citizens as their town and country of birth, occupation, family names, date and city of debarkation, and date and city of embarkation. Such information when used in conjunction, for instance, with census data, local tax rolls, or voting records, could provide an interesting social portrait of immigrants.<sup>17</sup>

Students of the government's role in regulating the economy could also benefit from a perusal of federal court records. Companies dissatisfied with rulings made by the Interstate Commerce Commission, for instance, could appeal those decisions in federal courts. The 1922 case of *The Manufacturers Association of York v. the Pennsylvania Railroad, et al.*, is illustrative. The ICC had ruled that certain Pennsylvania railroads were guilty of practices "prejudicial to York" by maintaining one rate schedule for shippers in York and another for those in outlying areas. Although the district court reversed the ICC, the Supreme Court of the United States sustained the commission's initial ruling. In the course of litigation a number of affidavits, maps of York, and the opinions of the judges and the ICC were filed. Those documents illustrate the workings of the transportation system in York and its impact on local merchants. Case files, such as that one, supplemented by other research, should reveal the relative roles that the railroads, the ICC, the manufacturers' association, and the courts played in the economy of the area.<sup>18</sup>

<sup>16</sup> *Ibid.*

<sup>17</sup> For examples, see any of the naturalization petitions, post 1906, Records of the U.S. District Court for any U.S. District Court in the United States, RG 21.

<sup>18</sup> *The Pennsylvania Railroad, et al. v. United States, Equity #340*, 1922, Records of the U.S. District Court for the Middle District of Pennsylvania, Record Group 21, Federal Archives and Records Center, Philadelphia, Pa; see also Douglas Shaw, "The Struggle to Preserve a Local Economy: The Erie Railroad Riots of 1853-56," paper presented at the



In addition to the possibilities inherent in certain categories of the law, such as bankruptcy, patent, copyright, naturalization, and equity, this author would like to propose two specific topics for investigation. Both are relatively unexplored and should appeal to the current historiographical urge to study society "from the bottom up." The whole question of prohibition, for instance, has been examined on the national level in a number of fine studies, but the impact that the law had on local areas remains unexplored. Since prosecution of the anti-liquor laws fell under federal jurisdiction, an unprecedented volume of criminal violations choked the federal dockets of the 1920s. The United States government also sued a number of brewers and distillers in equity courts for "operating a public nuisance," while U.S. commissioners issued scores of search warrants to federal marshals in pursuit of demon rum.<sup>19</sup>

About 5:45 a.m. on September 22, 1924, to cite one case, officers William Jones and A. J. Bunisk of the Pennsylvania State Police took up, as they put it, "a position in a yard within a short distance of the gate leading to the premises of the Ortlieb Brewing Company" in East Mauch Chunk, Pennsylvania. Officer Jones, while peering through "hole in a fence, . . . observed the truck being loaded with half barrels at the brewery." After the truck left, the two officers promptly pulled it over and performed an alcometer test on the contents of the barrels. They discovered that the cargo was well in excess of the one-half of one percent alcoholic content legally permitted in what was then called "near beer." Since the court found Ortlieb's guilty of operating a "public nuisance," it enjoined the company from producing any alcoholic beverage, required its East Mauch Chunk building to be closed for one year, and instructed that any "intoxicating liquor on the premises be destroyed." (Regrettably, no samples are included among the records.) Later that year Ortlieb's was also convicted for selling beer and fined \$2,000.<sup>20</sup>

Mid-Continental Regional Science Association, Cleveland, May 1978.

<sup>19</sup> James H. Timberlake, *Prohibition and the Progressive Movement, 1900-1920* (New York: Atheneum, 1970); Norman Clark, *Deliver Us from Evil: An Interpretation of American Prohibition* (New York: W. W. Norton, 1976); Norman Clark, *The Dry Years: Prohibition and Social Change in Washington* (Seattle: University of Washington Press, 1965).

<sup>20</sup> U.S. v. Ortlieb Brewing Company, Equity #456, 1924, and U.S. v. Ortlieb Brewing Company, Criminal #3724, 1924, Records of the U.S. District Court for the Middle District of Pennsylvania, RG 21.

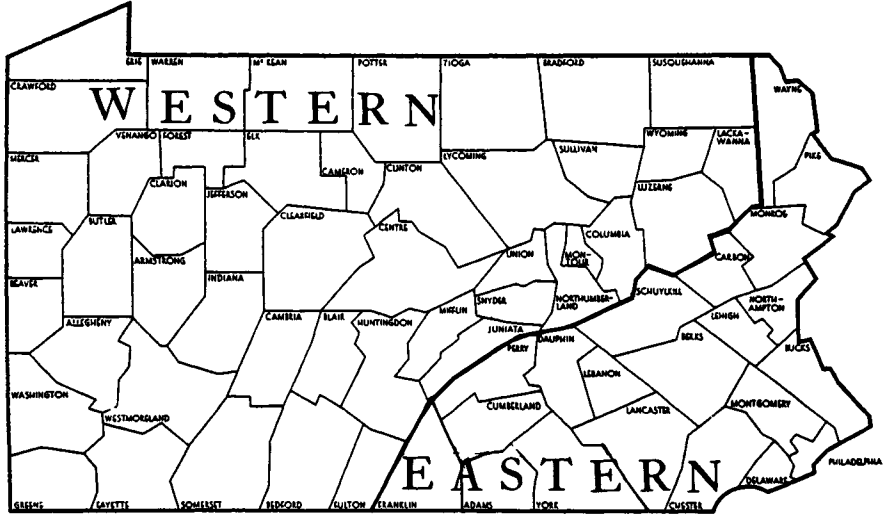
Cases such as that provoke a number of intriguing questions: Who tipped off officers Jones and Bunick and why? Which other brewers in central Pennsylvania faced prosecution and why? What was the ethnic, racial, and sexual composition of the offenders? How much liquor was involved and what type? What role, if any, did organized crime play in the situation? The federal court records are an excellent avenue to explore how the "noble experiment" affected average Pennsylvanians.

Another specific project might be a study of court actions against citizens who failed to pay their internal revenue taxes during the Civil War. In such cases the government was authorized to seize and sell items for which no tax had been paid. The case files include information on the commodity seized, the name of the owner, and the auction price of the items sold. Used in conjunction with the internal revenue tax assessment lists, which are on microfilm, a fascinating portrait of the way Pennsylvanians reacted to and were affected by the most ambitious internal tax of its day should emerge.<sup>21</sup>

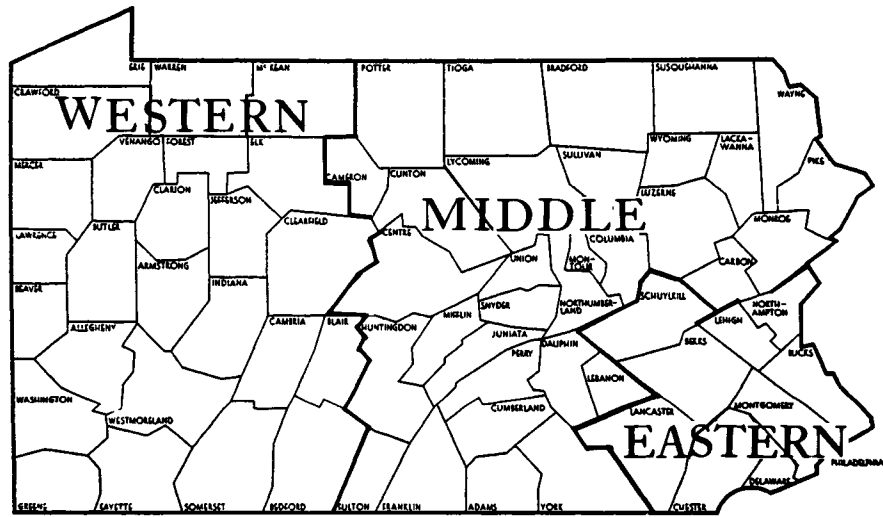
In conclusion, the records of the federal courts of Pennsylvania and most other states have remained relatively untouched by scholars. Legal historians could use them to show how legal doctrine was influenced by lower court opinions or follow Hurst's lead and demonstrate how changes in the law over time reflected deeper socioeconomic patterns in a state's history. But there is a rich variety of material that falls clearly into the bailiwick of social, economic, and intellectual history too. The language of the law is not that difficult for the diligent layman to master and the finding aids are now available. The challenge remains to be taken.

<sup>21</sup> The form of such a case in U. S. v. the commodity being seized for nonpayment of tax, such as a barrel of whiskey, Law case #\_\_\_\_\_, 1860s, Records of the U.S. District Courts for Pennsylvania, RG 21.

APPENDIX



1818: REVIVAL OF WESTERN DISTRICT COURT



1900: CREATION OF MIDDLE DISTRICT COURT