

Eighteenth-Century Exchequer Records as a Genealogical Source

by Tony Trowles*

Exchequer records are a little-used source containing important and substantial information on a wide variety of subjects as revealed here by the author who has participated in an accessibility study.

The principal function of the medieval Exchequer was to be the place where royal revenues were recorded and collected, and where the Crown's debtors were brought to account. Its role as a court of law was a later and much less well known development, and the existence of its equity jurisdiction in particular has gone largely unnoticed. Yet Exchequer Court records survive in vast quantities at the Public Record Office**, and the material they contain constitutes a source of immense value to scholars in a wide range of historical disciplines. These records contain a wealth of information on commerce and finance, on colonial and inland trade, on property and land ownership, shipping, architecture, publishing and social customs. Much of the data is unique, either because routine documents have not survived (as with many business records, for example) or because the context of a legal dispute required the placing on record of matters which would not have been documented in the ordinary course of events.

The reasons for the neglect of this material are twofold. First, there has been a lack of awareness about the nature and usefulness of these records. It has been assumed by many that they are concerned with financial disputes in the narrowest sense, so that the sheer diversity of the issues with which cases in the Exchequer were concerned is, when discovered, a cause of considerable surprise. Secondly, those wishing to make use of Exchequer records will find that, in common with many other classes of legal documents, there are problems in systematically identifying cases relevant to the subject of inquiry. The finding aids for Exchequer equity records are frequently inadequate, and the archive is likely to remain under-exploited until means of access has been systematically improved.

Towards the end of 1991, staff at the Centre for Metropolitan History (part of the Institute of Historical Research at London University) began to consider the feasibility of establishing a project to make eighteenth-century Exchequer cases for London and Middlesex more accessible to researchers. Grants from the Pilgrim Trust and Gray's Inn allowed a preliminary investigation of the material, and with the full support of the Public Record Office a number of applications were made to funding bodies. Sadly, none of these was successful and there seems little likelihood of a large-scale and systematic undertaking of this sort being initiated in the near future. This paper draws on work undertaken as part of that investigatory project, and is intended to provide an introduction to the contents of Exchequer records and to the ways in which they can most effectively be exploited given the limitations of the finding aids. Most of the cases referred to are from the eighteenth century for this was the period on which it had been intended to concentrate. Most of what follows about Exchequer procedure and the arrangement of documents, however, holds true for the whole of the Exchequer Court's history.

Equity proceedings

The records discussed here are of equity proceedings, a term which deserves a brief explanation. A decision 'in equity' was one in accordance with natural justice in a case where the law - and particularly the Common Law - did not provide an adequate remedy, or in which its application would have been unfair. The exact origins of the equitable jurisdiction of the Exchequer are a matter for speculation, and anyone interested in knowing more about the court's historical development should read W.H. Bryson's study of the subject.¹ What is certain is that no records survive before the reign of Elizabeth I. From relatively small beginnings with only about 100 suits being filed each year, the Exchequer grew into a major court. By the reign of William and Mary over 800 cases were begun each year, and although the annual rate slowed thereafter, the number of cases remained high throughout the eighteenth century. In the 60 years of George III's reign, for example, over 25,000 suits were begun.

Cases were filed by county, and this makes it easy to establish basic patterns of litigation across the country. Not surprisingly London and Middlesex dominated the court's business. In the reign of George II, for example, nearly 4,000 Middlesex suits were filed - over a quarter of business for that period. No other county produced anywhere near the same number of cases, though there are substantial files for Surrey and Kent, reflecting those counties' proximity to the capital. Smaller and more rural counties, on the other hand, would often file only one or two suits a year.

The initial division of Exchequer suits into county sequences can be a great advantage in using these records, as is also the fact that all the most important types of document from the Court are written in English rather than Latin. Two cautionary points should, however, also be made. First, it should be noted that not all cases proceeded to a decision; indeed, probably fewer than a quarter of all suits ever went as far as a court hearing. It may therefore be impossible to follow a case beyond the initial stages. Then, as now, there were often advantages to be had from an early settlement. Secondly, it is important to remember that these records do not necessarily record true facts. Many of them are by their very nature documents of allegation and accusation. There is a constant need for careful judgment in assessing the truth of what is recorded. Fortunately, it is often the incidental details (about which there is less reason why anyone should have lied) rather than the main facts of the case which are of most interest to the researcher.

This paper cannot hope to cover all aspects of the Exchequer Court's procedure and records. It will concentrate on the main classes of documents and their indexes. Those who wish to look at Exchequer records should certainly consult the Public Record Office *Guide*, and the PRO's own information sheet on the Exchequer which provides an excellent introduction to the subject.

Bills of complaint

The first stage in bringing a case in Exchequer was to file a bill of complaint stating the details of the grievance and the redress being sought. These bills are among the most informative of the Exchequer records and survive as E 112.

Bills were written on large sheets of parchment and in the most complicated cases can run to several sheets. Reading them can be a laborious process, for although legibility is normally good (except where there has been fading or damage), the text runs in close lines across the entire width of the parchment. In some cases this can mean lines of text three feet wide. Much frustration and eye strain can be avoided by the use of a guiding strip of white paper of sufficient length to enable the beginning of the next line to be found with ease.

The legal phraseology of the bills will seem less daunting if the structure of the document is understood. Like most other legal papers, bills have a common framework into which the details of the specific case were inserted and one soon learns to jump ahead to the relevant passages. Every bill opens with a formal address to the Chancellor of the Exchequer who was technically

the senior Exchequer judge right up to the court's abolition in 1841. Then comes the first portion of useful information, the details of the complainant or 'orator' (that is, the plaintiff). This can include some or all of the following information: an indication of status (such as widow, esquire, executor), the place of residence and, if appropriate, occupation. Place of residence is usually identified by parish, but in the case of a city or large town a street name is sometimes given. Next comes the statement, almost always fictitious by the eighteenth century, that the complainant is a debtor of the Crown.

The word 'Whereas' (often helpfully written in large bold letters) introduces the history of the grievance. This can be quite lengthy and provides much useful background information. In testamentary disputes several generations of family history are often recited, making it a particularly valuable source for the genealogist. When the words 'But now so may it please your Lordship...' (also usually in larger script) are reached the charging part of the bill begins. This describes the precise point at dispute, and lists the various things which the defendant is alleged to have done or neglected to do. There is also often a charge of confederacy - a claim that the defendant has acted with others - and a request that the orator be allowed to include the names of the confederates in the charge if it becomes possible to identify them. The bill ends with a request for the issue of a writ of *sub poena* requiring the defendants to appear in court to answer the charges. Bills were occasionally filed by the Attorney General on behalf of the Crown, in which case they are known as Informations, but the content does not differ in any significant way from ordinary bills of complaint and the case proceeded through the court in exactly the same way. Bills often have schedules attached to them supporting the claims made. They can take the form of letters, accounts or inventories, and are of obvious interest to the researcher.

Answers

Defendants most commonly replied to a bill by filing an Answer in which they stated their version of the case and responded to the specific claims of the complainant. Answers could be sworn before one of the Exchequer judges (known as Barons) at Westminster or, if the defendant lived further than fifteen miles from the capital, could be taken by commissioners at a convenient place. Both types of answer follow the same form. If more than one defendant is named in the bill of complaint there can be a joint answer (by a husband and wife, for example), a number of individual answers, or a combination of the two. The answer contains specific responses to the points made in the charging part of the bill.

Bills and answers (known as pleadings) are tied together as a single collection of documents. Occasionally there are also one or more revised bills, indicating that some addition or correction has been made to the original charge. In some cases a bill or answer will have survived on its own without any other documents. This may be because the other pleadings have been lost, but in the case of an isolated bill is perhaps more likely to mean that the case proceeded no further.

There are a number of other documents which the researcher may encounter from time to time in the pleadings. Demurrers, pleas, disclaimers, exceptions, and replications were all devices for claiming either that the defendant had no case to answer or that the complainant's case was inadequate in some way. These documents do not usually contain much additional information about the subject matter of the case.

Bill Books

Access to bills of complaint is obtained by referring to contemporary indexes known as Bill Books (IND-1 16837-16847 cover the reigns of Queen Anne and the first three Georges). The bill books were calendars into which the details of each new bill were entered and are divided into county sections. There are normally two volumes or 'parts' for each reign, each part covering half the country (for the reign of George III there are three parts). Within each county section suits were numbered consecutively, and when a new reign began new bill books were started, the

numbering of suits beginning again from number one in each county. Thus, the final suit number in each county section represents the total number of bills filed for that county in each reign.

The bill books give the names of the parties, the date (legal term and regnal year) and the suit number, which had also been written on the bill. Very occasionally a brief note of the subject matter will be included, but this was by no means routine. Entries were made as the bills were filed, and the bill books are therefore in approximate rather than exact chronological order. Thus, to be sure of checking all bills for a specific year it is necessary to search quite a large number of entries, for a bill could sometimes wait many months before being entered, and by this time a large number of more recent suits would already have been listed.

To see the pleadings of a specific case the reign, county and suit number should be noted. This information can be keyed with an index which gives the piece number to order. Do not be alarmed or surprised when the 'piece' arrives, for it will be a large portfolio containing as many as 60 bills. These ought to be arranged in the same order as the bill book entries. Those wishing to look at bills by county can by-pass the bill books and use the list to order the appropriate portfolios. For counties which only produced a handful of cases in the course of a year a systematic check through the pleadings is a feasible and straightforward proceeding.

Some examples

At this point it may be useful to give some examples of the sorts of case dealt with the Exchequer Court. The following are summaries: of a selection of bills from the 1780s:

1. A dispute over the estate of the late Edward Purcell of Southwark, which it is claimed has been wrongfully appropriated by Edward Galloway and Mary Whittingham, respectively steward and nurse at Guy's Hospital.²
2. A suit concerning a hardware partnership conducted in Croydon High Street between John Hall deceased (cutler and hardwareman) and Benjamin Molesworth (gunsmith, locksmith and bell hanger).³
3. A case with 38 plaintiffs, all described as merchants and underwriters (and coming from London, Newcastle, Bristol and Kingston upon Hull), involving the insurance the vessel *Juno* sailing from Dunkirk to Leghorn.⁴
4. A dispute between Andrew French of County Galway and Kender Mason, a City merchant, over estates on the island of Montserrat.⁵
5. A suit concerning gambling debts incurred by Joseph Ingram of Oxford University at Dr Graham's Temple of Health in Pall Mall.
6. A contested annuity of £60 which Christopher Baldwin of London claims was secured from him by Catherine Garrat, 'a woman of notorious and loose character and dissolute principles and habits'.⁷

London and Middlesex cases in particular have a bias towards commerce and trade, while suits from more rural counties are more often concerned with property, wills and, most notably, tithes. The Exchequer was recognized as the most appropriate place in which to seek redress over tithes, and such cases give immense detail about patterns of land ownership.

Witnesses' depositions

When the pleading stage of a case had been completed, arrangements were made to examine witnesses whose testimony was recorded in the form of written 'depositions'. Like answers, depositions could either be sworn before a Baron at Westminster or before commissioners elsewhere. There is no difference in the form or content of the two types of depositions, but they are arranged in two series according to the manner in which they were taken, and the findings for the two classes differ considerably in the degree of accessibility to the records which they offer.

Barons' depositions (E 133) are served by a single index of names divided into three alphabetical sequences: a list of plaintiffs; a list of defendants in cases brought by the Crown; and a list referring to miscellaneous cases, including those for which the name of the plaintiff is unknown. There are no indications of date or subject, which makes Barons' depositions difficult to use unless the names of all parties have previously been ascertained by consulting the bill of complaint.

Depositions by commission (E 134) have been indexed in more details. Those from the reigns of Elizabeth I to George II are listed in two sequences, the most important of which is a series of printed calendars published as appendices to the reports of the Deputy Keeper of the Public Records (Volumes 38 to 42). These calendars are chronological and give date, county, brief details of parties and a short summary of the subject of the dispute. The same period is also covered by an index arranged by county and then by date. For depositions between the reigns of George III and Victoria there is only a chronological listing, but this does also give a marginal note of the counties. Two further lists cover depositions by commission for the whole period of the Exchequer's jurisdiction. One is a calendar of undated and miscellaneous depositions arranged in numerical order, but with an index of persons and places; the other is an unindexed list of later additions to the class.

The relative abundance of indexes for depositions by commission means that for the researcher seeking information on a particular locality or subject class E 134 may be the best point at which to begin searching Exchequer records. Having identified the county of the suit and the names of the parties it should then be possible to track down the pleadings. For those interested in tracing specific names, searching depositions will be a lengthy process with no certainty of comprehensiveness. Those searching for an uncommon name will be at an advantage, but it needs to be remembered that suits in which there was more than one party on each side were at least as common as those in which there was a single complainant and defendant.⁸

If a relevant deposition is found it can provide much valuable information. Before a witness was examined both parties agreed to a series of specific questions, known as 'interrogatories', and it was these to which the deponent was expected to respond. Consequently, like the bills of complaint, depositions follow a common pattern and will provide the name, address, age and occupation of the deponent. The answers to the interrogatories are in strict sequence, each piece of evidence being preceded by an introductory formula: 'To the first interrogatory this deponent saith that...' and so on. In most cases the interrogatories are attached to the deposition, but the broad sweep of the questions is in any case usually deducible from the replies.

Information in depositions

Two London and Middlesex cases provide useful examples of the type of information which can be found in depositions. The first is a case from the late 1780s concerning the estate of one Joshua Crawford deceased, the depositions from which include three schedules.⁹ The first provides an account of all the deceased's goods and assets at the time of his death; the second is an inventory of all the goods and effects belonging to him at a property in Franklin's Row, Chelsea; and the third is an account of sums expended on his funeral, including a payment of £4.13s.2d. to the supplier of a Portland headstone. The second case, between George Griffin and William Strickland, concerns a partnership in the sugar refining and sugar baking trade. The deposition, taken in 1785, includes a set of accounts for the years 1773 to 1780 and the answers give information about the day to day conduct of the business.¹⁰

Exhibits

Another type of evidence which can provide much information is in the form of Exhibits. These are documents produced in court by one of the parties and not subsequently reclaimed. Chancery exhibits are quite well known as a valuable and extensive source, but the equivalent documents

from Exchequer cases remain unexplored, even though they probably contain material of equal importance. The main class of Exchequer exhibits is E 140, to which there is an alphabetical index by party, but no indication of the nature or date of the material. The documents may range from a single sheet to a large packet of papers. Some are also included in a class of Clerk's papers (E 129) and exhibits from cases outstanding when the Exchequer jurisdiction was abolished in 1841 are in two classes of Chancery Masters' Exhibits (C 106 and C121).

Exhibits examined at random by the author have included the following: a file of over 170 papers relating to bankruptcy proceedings in 1820 against Bartholomew Boyle Thomas of Plymouth Dock; two packets of letters dated 1781-2 between John Johnson of Islington and Messrs Groube and Roberts, merchants of Plymouth; letters from Thomas Cottle to Messrs Plummer and Barham (no address give) concerning the shipping of sugar, 1792-4; four account books of the Distressed Sailors' Institution dating from c.1834.¹¹ Although the chances of finding an exhibit relevant to the subject of research may be slight, there can be no doubt that this class contains material of considerable importance.

Documents from the final stages of a dispute contain much less information about the subject matter of the case, but having found a relevant suit most researchers will want to know the outcome. It should be noted, however, that there are no verbatim records of court proceedings.

Decrees

When all the depositions had been taken the case came before the court, clerks read out the pleadings and the evidence, and counsel for each party argued the case. The final judgment called a Decree, was recorded in several ways. First an entry was made in the Exchequer Chamber Minute Book (E 162) which provided the basis for the decree itself. This was drawn up outside the court by the favoured party's clerk, but was submitted for approval to a clerk acting for the other party. Classes of loose decrees have survived (for the eighteenth century they are class E 130), but they were also copied into the Entry Book of Decrees (E 1256) which arranged by legal term (though not chronologically within that). Decrees are a useful source because they summarise the pleadings and mention the evidence submitted in addition to giving the judge's order. This can be of considerable use if important documents from the pleading or evidence stage are missing or illegible. There are contemporary indexes to the entry books, but because there is no easy way to find out how long a case took to come to judgment a certain amount of trial and error is involved in tracking down a particular case.

Affidavits etc

There are a number of other classes of document which for the most part relate to the legal process of the case. Affidavits, Clerks' Papers, Orders and Reports do not usually contain anything of substance and are not always well indexed. They may, however, be of interest to those tracing the history of a specific case. The PRO guides provide the best introduction to the arrangement of these classes.

Exchequer records will not be high on the list of priorities of the newcomer to genealogical research. They are, however, a source containing important and substantial information on a wide variety of subjects. Those who have established basic details of dates, occupations and origins and are now asking more complex questions (Who were this man's colleagues in trade? How was that business conducted? What were this person's financial circumstances? How much property did he or she own? How and when was it acquired?) may well find some of the answers in this vast and under-exploited archive.

NOTES

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** Since this article was published, the Public Record Office has changed its name to **The National Archives** <<http://www.nationalarchives.gov.uk/>>. The Exchequer records can now be consulted at The National Archives, Ruskin Avenue, Kew, Richmond, Surrey, TW9 4DU.

¹ *The Equity Side of the Exchequer* (Cambridge, 1975)

² E 112/1994/362.

³ E 112/1994/368.

⁴ E 112/1701/3693.

⁵ E 112/1701/3698.

⁷ E 112/1701/3707.

⁸ Mention should also be made of the Bernau indexes at the Society of Genealogists which provide lists of defendants and deponents. The author has not used these in this own work on Exchequer records and cannot vouch for their accuracy or comprehensiveness.

⁹ E 134/27 Geo III/Tri/5.

¹⁰ E 134/26 Geo III/Mich/7.

¹¹ The references for these exhibits are as follows: E 140/7/1; E 140/8/6; E 140/10/4; E 140/131/3.