

Finding Ancestors Through Their Lawsuits in English Chancery Court

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Chancery, in English law, is the court of the Lord Chancellor of England. It was one of several courts in which 16th and 17th century English litigants could plead their grievances. The court consisted of two tribunals: one a court of Common Law, the other a court of Equity. The jurisdiction of the court of Chancery was founded on the presumed superiority of conscience and equity over the strict law. King James I said: “Where the rigour of the law in many cases will undo a subject, then the Chancery tempers the law with equity, and so mixes mercy with justice as it preserves a man from destruction.” Chancery had exclusive jurisdiction when a plaintiff could not obtain relief with the common law. Examples are trusts and the rights of married women and infants. Chancery also had concurrent jurisdiction when the common law did not give adequate relief. Examples are cases of fraud, accident, mistake, and non-performance of contracts. The various legal documents that arise in a given chancery case often contain important and precisely defined genealogical information. We will introduce the array of documents the researcher might encounter in a chancery proceeding, the classes of chancery proceedings held by The National Archives (Kew, Surrey), and discuss efficient and economic search strategies.

The first and most important document is the **Bill of Complaint** wherein the plaintiff publishes his grievance. A bill is usually prefaced by the name, address, and occupation of the plaintiff; it contains details of the grievance; and it ends by asking that a subpoena be issued directing the defendant, by name, to answer the accusation. Generally, the next document to appear is the defendant’s **Answer**. The defendant’s answer might result in further statements by the plaintiff in a **Replication**, and in further statements by the defendant in a **Rejoinder**. If the dispute cannot be resolved, each party would draw up **Interrogatories**, a list of questions to be asked of witnesses. In the case of a country suit, these interrogatories would be sent to local commissioners who would ask witnesses for their answers or **Depositions**, under oath. Depositions set out the deponent’s name, address, age, and his answers. In addition to these so-called **Country Depositions**, **Town Depositions** were taken from witnesses in London. These depositions would eventually find their way into court and, finally, the matter would be considered. While the documents listed above are the most important to the genealogist, the progress of a particular case can be followed in the Entry Books of **Chancery Decrees and Orders**.

COURT OF CHANCERY

Several courts were available to the litigant before the English Civil War (1642); however, from the sixteenth to the late nineteenth century, the Court of Chancery was the most important. The problem: Up to 1875 there are more than 1.2 million suits, and the calendars and indexes vary considerably in content and style. In addition, the Bill, Answer, Replication, and Rejoinder for a particular suit may be filed in different chancery classes. Here, we will show how one can use the calendars and indexes available at the Family History Library (FHL) in Salt Lake City to pursue the various classes of chancery. We also list those Chancery Classes for which calendars are presently available online at The National Archives in Kew, Surrey, and those Chancery Classes for which images of chancery documents are available online.

The earliest chancery proceedings are identified as Class C1. Calendars (chronological registers) have been issued by the Public Record Office as *Lists and Indexes*; the FHL call number is Q942 B4pre:

- C1 Early Chancery Proceedings (1185–1558, Rich II to Phillip & Mary)
Q942 B4pre: Numbers 12, 16, 20, 29, 38, 48, 50, 51, 54, 55
The principal plaintiffs and defendants are named, the nature of the dispute is described, and the county is listed. Except for bundles 3–69 in Vols. 12 and 16, the suits are arranged alphabetically by first plaintiff. Volumes underlined are indexed in the Sherwood Slip Index. The first four volumes are indexed in the Bernau Surname Index. These indexes are on microfilm at the Family History Library. Class C1 is completely indexed in The Catalogue [now called **DISCOVERY**] at < www.nationalarchives.gov.uk >. Images of the C1 pleadings are now available online at < <http://aalt.law.uh.edu/> >.

Beginning with the reign of Elizabeth (1558), chancery proceedings are divided into two series. The Regnal Series (Series I, Class C2) are catalogued with the name of the monarch: C2/Eliz, C2/James, and C2/Chas. Very different calendars exist for these three classes. C2/Eliz is fully calendared and indexed. C2/James is calendared but not indexed. The calendar for C2/Chas contains only the surnames of the first plaintiff and the first defendant; given names, dates, and places are not listed. The FHL microfilm numbers are listed below in parentheses. Calendars for Class C2 are presently not available in **DISCOVERY**; however, at the time of this writing, a start has been made.

- C2 Chancery Proceedings C2/Eliz (Series I, 1558–1603, Eliz I to James I)
Q942 P2cp: Vols. 1, 2, and 3 (FHL films 874,093–94), also (FHL films 1,501,916–18)
Bundles omitted from the printed calendars, fully indexed, letters A–D (FHL film 1,501,919, #2)
Vols. 1–3 are available online. Put “proceedings in chancery in the reign of queen elizabeth” in GOOGLE.
- C2 Chancery Proceedings C2/James (Series I, 1603–1625, James I to Chas I)
Q942 B4pre: Vol. 47, letters A–K only, alphabetically by first plaintiff (FHL film 924,081, #2)
Vol. 47 is available online at: <http://archive.org/stream/cu31924084263031#page/n113/mode/2up>
Original MS calendar: letters L–T (FHL film 916,576), letters T–Z (FHL film 916,577)
New filming: letters L–R (FHL film 1,501,921), letters S–Z (FHL film 1,501,923)
- C2 Chancery Proceedings C2/Chas (Series I, 1625–1649, Chas I)
942 B4b: calendar, British Record Society *Index Library*, Vols. 2, 5, 6, and 14
Defendant surnames are indexed in the Sherwood Slip Index.

Chancery proceedings in the second series (Series II, Class C3) overlap the dates in the Regnal Series:

- C3 Chancery Proceedings (Series II, 1558–1660, Eliz I to Commonwealth)
Q942 B4pre: Vols. 7, 24, and 30, not on microfilm
Principal plaintiffs and defendants are named, the nature of the dispute is described, and the county is listed. Indexed in both the Bernau Surname Index and Sherwood Slip Index. Class C3 is completely indexed in **DISCOVERY**.

In the seventeenth century, the Six Clerks began to file cases in their respective divisions. Chancery classes in the Six Clerks Division (1613–1714, James I – Anne) are classes C5 – C10. Printed calendars for Bridges Division (C5) are available in *Lists and Indexes*. Manuscript calendars for C6, 7, 8, and 10 are available at the FHL on microfilm. Class C9, published by the British Record Society, contains only the surnames of the first plaintiff and first defendant; dates and places are not listed. Note that the dates in Classes C5 – C10 overlap the dates in Classes C2 and C3. As a result, one often finds the Bill of Complaint in one class, and the Answer in another class.

- C5 Bridges Division, published calendar (1613–1714)
Q942 B4pre: Vols. 39, 42, 44, and 45 of *Lists and Indexes*, not on microfilm
Indexed in both Bernau Surname Index and Sherwood Slip Index.
- C6 Collins Division, manuscript calendar (1625–1714)
FHL films 824,637–824,641 and a new filming 1,501,925–1,501,927

- C7 Hamilton Division, manuscript calendar (1620–1714)
FHL films 824,644–842,650 and a new filming 1,501,928–1,501,931
- C8 Mitford Division, manuscript calendar (1570–1714)
FHL films 824,651–824,655 and a new filming 1,501,932–1,501,934
- C9 Reynardson Division, published calendar (1649–1714)
942 B4b: Vol. 29, letters A–K; Vol. 32, letters L–Z
- C10 Whittington Division, manuscript calendar (1640–1714)
FHL films 824,657–824,661 and a new filming 1,501,935–1,501,937

Class C6 is fully indexed in DISCOVERY. Full indexes for Classes C5 and C10 are in progress. Classes C7 and C8 are not indexed in DISCOVERY. Classes C9 is indexed only by surname in DISCOVERY.

Chancery proceedings after 1714 continue to be filed in the various divisions of the Six Clerks and are calendared for 1714–1758 (Class C11); 1758–1800 (Class C12), etc. Unfortunately, the MS calendars are not very useful as they contain only the surnames of the plaintiff and defendant. However, for the period 1714–1758 (Class C11), a total of 108,368 suits in 2,793 bundles have been indexed and abstracted by Charles A. Bernau. His notebooks, numbered 1–426, contain full names of plaintiffs, defendants, and short abstracts for each suit. The bundle/suit numbers recorded in these notebooks can be found in FHL films 385,284–385,319. His Surname Index to many classes of court proceedings is contained in 442 rolls of film, 436,747–437,188. The film number for a particular surname may be found in the FHL Catalog under Genealogical extracts from Chancery proceedings 1714-1758, by Charles A. Bernau. Simply locate a bundle/suit number for a particular surname with Class C11 in the Surname Index, and then locate the abstract in the notebooks contained in films 385,284–385,319. At the time of this writing, Class C11 is partially indexed in DISCOVERY. Indexing should be completed late in 2013.¹

CHANCERY DEPOSITIONS

Chancery depositions are grouped into four classes, C21 – C24. Unfortunately, the calendars consist of only plaintiff and defendant surnames; however, if one has discovered a chancery bill for a particular surname, it is relatively easy to locate the related depositions. Class C23 contains depositions that were not required because the cases never reached trial. Class C24, Town Depositions, 1534–1800, are said to be indexed in the Bernau Surname Index; they are not available in DISCOVERY.

- C21 Country Depositions or Depositions taken by Commission (1558–1649)
These depositions are reportedly all indexed in the Bernau Surname Index, mentioned above. Original MS calendars are on film as follows: Vol. 1, letters A–J (1,501,923, #2) and Vol. 2, letters K–Z (1,501,923, #3). The surname index for Class C21 is also available in DISCOVERY.
- C22 Chancery Depositions, Six Clerks Division (before 1714). Note that the depositions filed in a particular division may apply to a suit in any of the six divisions. This surname index is available in DISCOVERY. Original MS calendars are on film as follows:

<u>Film</u>	<u>Division</u>	<u>Bundles</u>
916,577, #3	Collins	1–219
916,577	Hamilton	220–307, 308–311 on film 916578
916,578	Bridges	312–581
916,578, #2	Mitford	582–738
916,578, #3	Whittington	739–824, 824–953 on film 916579
916,579	Reynardson	954–1052

Chancery depositions for Chancery Class C11 are cataloged with the bills and answers.

¹ E-mail communication, Dr. Amanda Bevan, Principal Records Specialist, Legal Records, The National Archives.

SEARCH STRATEGIES

Economical search strategies vary by chancery class.

Classes C1, C3, and C6: These classes can be searched in DISCOVERY by given name, surname, and county. Enter C1, C3, or C6 in the “Reference box.” A search does not return variant spellings of a surname.

Class C2/Eliz (Series I): This class is fully indexed; simply search the index by name and check any entry for confirming information. The ease with which this calendar can be searched makes it a required resource for any English family history spanning the years of Elizabeth’s reign.

Class C2/James and C2/Charles: Search the calendars as listed above.

Class C4: A miscellaneous collection of bills, answers, replications, rejoinders and depositions that have become detached from their related pleadings. The entire class can be searched in DISCOVERY by given name and surname, and entering C4 in the “Reference box.”

Class C5 and C10: These classes are in DISCOVERY by surname; however the indexes are presently being improved to include full names and county. In the meantime, search the calendars.

Class C7 and C8: Manuscript calendars for these classes can be searched with the microfilms listed above. Search on the “county column,” then check the entry for names of interest.

Class C9: This class is available in DISCOVERY only by surname.

C11: An example: I was interested locating suits for Thomas Hill of Michaelstow in Cornwall. The first step was to locate the film number in the Bernau Surname Index containing references to Thomas Hill; this film, 437,019, contains Hill, S – Hilyer. This index was searched for all listings of Thomas Hill appearing in Class C11; **190** suits were found, and their dates and bundle/suit numbers were copied. The Bernau Notebooks (films 385,284–319) were then searched for these bundle/suit numbers, and the abstracts were checked for any mention of Michaelstow. Suits C11/2727/84 (1715) and C11/1394/38 (1716) were “winners.” These suits pertain to the inheritance of lands in Tregrenwell in the Duchy of Cornwall held by the Mullis family (Thomas Hill Jr. married Elizabeth Mullis, 1714). By contrast if one searches Class C11 for Thomas Hill in DISCOVERY one turns up only **92** suits. As of this writing, Class C11 has not been completely entered into The National Archives database.

OBTAINING CHANCERY DOCUMENTS

Experience has shown that transcribing or abstracting chancery documents onsite at The National Archives is difficult and time consuming. Many of these documents are large, three feet wide and perhaps two or three feet high and difficult to manage. One can purchase copies online from TNA. I prefer to hire a researcher at The National Archives to photograph these documents with a digital camera and send them to me as e-mail attachments. Six to nine photographs are often required to fully cover one document page. These can be easily read with Adobe “Photoshop Elements.” This software allows one to enhance images by varying the “shadows/highlights” and “brightness/contrast.” With “Microsoft Word” in a top window, and “Elements” in a bottom window, one can easily transcribe these documents in the comfort of your own home.

REFERENCE:

Ronald A. Hill, “English Genealogical Research: Using Chancery Court Proceedings,” *National Genealogical Society Quarterly*, vol. 91, no. 2 (June 2003), pp. 111–138.