

COMMENTARY

Creating a court system

■ 1778 S.C. constitution provided for division of state into judicial districts.

Anticipating victory in the Revolutionary War, South Carolina drew up a constitution in 1778 that, among other things, divided the state into districts.

Formerly, all court cases were tried in Charleston. Now, each district was to have a court. The General Assembly was given the power to choose various officials, including the districts' ordinary (probate judge) and Register of Mesne Conveyance (clerk of court).

At that time, present-day York, Chester and Lancaster counties were a part of Camden District. The upper 11 miles of York County and what is now Cherokee County were in an area of Camden District known as the "New Acquisition," a reference to the settlement of the N.C.-S.C. boundary in 1772.

The remainder of present-day York County and all of Chester County were in an area labeled "Between Broad and Catawba."

Present-day Lancaster County was in an area designated by the General Assembly as "Eastward of the Wateree, Waxaw (Waxhaws).



Nearby
history

LOUISE
PETTUS

Jury lists were drawn from the various divisions, but all of the court cases were heard in Camden.

In 1785 the judicial district of Camden was divided into 7 counties. Chester, Lancaster and York were three of the counties. The term New Acquisition was dropped in favor of York County.

Boundary lines were vague. Chester County's boundaries with York and Fairfield were not even drawn until 1796, 11 years after the county was formed.

Lancaster County included the area up to Twelve Mile Creek but did not include the Catawba Indian Land (which was added to the county in 1813). The people who lived in the Catawba Indian Land

of all three counties were leaseholders and could not register their land, nor could a resident of the Indian Land be elected to office before 1810.

However, the counties were not prevented from allowing the leaseholders to serve on juries and to vote.

Land ownership controversies were frequent. Practically every land deed had to be "proven," as did many of the wills. This was in open court with various citizens having full freedom to contest the documents. Another time-consuming activity was dealing with the roads and organizing labor teams to maintain them. There was no state highway department.

In 1791, because population was so sparse and judges so few, various counties were grouped together to make up district courts. York, Chester, Spartanburg and Union counties were in a court called Pinckney, which was on the west side of the Broad River.

Lancaster was a part of Kershaw District, along with Kershaw, Fair-

field, Richland and Claremont (no longer exists) counties.

In 1799, the General Assembly abolished all of the county courts, saying they were inefficient. The General Assembly was correct, mainly because they allowed the county courts to be staffed by magistrates who had no training in the law.

So in 1800, circuit courts with judges trained in the law replaced the county courts. For the first time, civil and criminal courts were separated. But appeal courts were not established until 1808 and were not really effective before 1824. Getting an efficient court system was a very slow process.

From 1800 to 1868, at which time South Carolina was required by Federal occupation rules to draw up a new constitution, it was York District, Chester District and Lancaster District.

□□□

Louise Pettus is a retired history professor from Winthrop University. Her column appears Saturdays.