

Berry, Charles ^[1]

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by William S. Price, Jr., 1979

d. 29 Dec. 1765

Charles Berry, chief justice of the [North Carolina Supreme Court](#) ^[2] by appointment of the secretary of state for the southern department on 27 Nov. 1758. A resident of London but not a barrister, Berry's nomination came to the [board of trade](#) ^[3] from [Horace Walpole](#) ^[4]. Berry did not come into the colony to assume his duties until 6 Dec. 1759. Prior to his arrival, he was asked by the board of trade to render an opinion on the validity of the [North Carolina Supreme Court Act of 1754](#) ^[5]. Berry recommended disallowance, because the bill undercut the royal prerogative by placing the appointment of associate justices in control of the General Assembly, and the board agreed with his advice in its recommendation to the Privy Council. However in May 1760, after six months in North Carolina, Berry reversed himself and supported a similar legislative measure claiming that his previous stand was based on an unfamiliarity with the operation of the provincial court system.

In September 1759, before Berry arrived in the colony, Governor [Arthur Dobbs](#) ^[6] nominated him to a seat on the royal council, even though the two men had never met. On 2 Jan. 1760, Dobbs persuaded the council to approve a temporary appointment for Berry to fill a council seat left vacant by the suspension of [Francis Corbin](#) ^[7]. However, when Dobbs received a new set of royal instructions in March 1762, Berry was not listed as a councilor. In fact, he had not attended a meeting of that body since early in 1761. Still, the governor was anxious to have Berry in the upper house, and the board of trade assured him in May 1762 that Berry would succeed to the seat vacated by the death of [John Swann](#) ^[8]. Two years later, on 19 Apr. 1764, Berry received his mandamus and was seated as a junior councilor.

During 1762, Berry became involved in a quarrel with the provincial secretary [Benjamin Heron](#) ^[9], over who should control the appointment of superior court clerks. Berry contended that the prerogative for this lucrative privilege traditionally belonged to his office, but Heron replied that his commission authorized him to appoint all court clerks. Unable to obtain satisfaction from the governor, Berry appealed to the board of trade for a ruling in the matter, but the question was not settled during his lifetime.

On 21 Dec. 1765, Berry shot himself in the head with a pistol; he died eight days later. What drove him to suicide is not known, but in his history of North Carolina, F. X. Martin relates a rumor that Berry was upset by the coldness of Governor [William Tryon](#) ^[10] after Berry released a man the governor wished to see sentenced for dueling. Whatever the cause, the coroner ruled the suicide "an act of lunacy." Berry, who had resided in [New Hanover County](#) ^[11], was survived by a wife but no children.

References:

H. B. McKoy Collection (Southern Historical Collection, University of North Carolina, Chapel Hill).

William L. Saunders, *Colonial Records of North Carolina*, vols. 5–7 (1887–90).

Additional Resources:

CSR Documents by Berry, Charles, d. 1765, Colonial and State Records, Documenting the American South, UNC Chapel Hill Libraries: <https://docsouth.unc.edu/csr/index.html/creators/csr10395> ^[12]

Henry Bacon McKoy Papers, 1691-1960 (collection no. 03803). The Southern Historical Collection. Louis Round Wilson Special Collections Library. University of North Carolina at Chapel Hill.
http://www.lib.unc.edu/mss/inv/m/McKoy,Henry_Bacon.html ^[13] (accessed April 4, 2013).

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Origin - location:

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