

Chancery Court ^[1]

Chancery Court

by Louis P. Towles, 2006

Chancery Court, or the Court of Equity and Conscience, was the highest of several courts-Admiralty, Chancery, Claims, Palatine, and General Court-that originated in the Grand Council of [early North Carolina](#) ^[2] as part of a general grant of juridical powers made by the English Crown to the [Lords Proprietors](#) ^[3] in the [Carolina charters of 1663 and 1665](#) ^[4]. The court was composed of the [governor](#) ^[5], at least five deputies (including a chancery clerk, originally the provincial clerk of court), and sheriffs of the adjacent counties, who were responsible for enforcing all decrees.

The Chancery Court, which did not possess an independent identity prior to the 1690s, held final jurisdiction over lands, wills, administrations, guardianships, and misconduct in high office. These matters were handled on a day-to-day basis by the clerks and justices of the county courts, but-especially in the case of suspected fraud, a complicated trust, or an accidental death-a caveat, or legal protest, might be issued by one party, and for the sum of 40 shillings and assorted fees the case could be appealed to the Chancery Court.

The Chancery Court functioned alongside [superior](#) ^[6] and [inferior](#) ^[7] courts until the onset of the [American Revolution](#) ^[8], when the departure of the [royal governor](#) ^[9] and most of his deputies made the court inoperable. An attempt was made in 1778 to revive chancery, but it failed. Four years later superior courts were clearly empowered to "be and act as a Court of Equity for the same district . . . that the court of chancery" had been. In 1806 the [Supreme Court of North Carolina](#) ^[10] was created to deal with equity as part of its duties.

Reference:

William S. Price Jr., ed., *North Carolina Higher-Court Records, 1702-1708* (1974).

Additional Resources:

Minutes of the North Carolina Court of Chancery, North Carolina. Court of Chancery, March 31, 1729, Volume 03, Pages 13-15, DocSouth, UNC: <https://docsouth.unc.edu/csr/index.html/document/csr03-0010> ^[11]

Minutes of the General Court of North Carolina, including Chancery Court minutes, North Carolina. General Court, September 24, 1694 - September 29, 1694, Volume 01, Pages 405-423, DocSouth, UNC: <https://docsouth.unc.edu/csr/index.html/document/csr01-0205> ^[12]

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From:

[Encyclopedia of North Carolina, University of North Carolina Press.](#) ^[16]

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