

Chancery Cases

In *Bleak House*, Charles Dickens vividly describes an interminable chancery case:

“Jarndyce vs. Jarndyce drones on. This scarecrow of a suit has, in the course of time, become so complicated, that no man alive knows what it means. The parties to it understand it least; but it has been observed that no two Chancery lawyers can talk about it for five minutes, without coming to a total disagreement as to all the premises. Innumerable children have been born into the cause; innumerable young people have married into it; innumerable old people have died out of it. Scores of persons have deliriously found themselves made parties in Jarndyce and Jarndyce, without knowing how or why; whole families have inherited legendary hatreds with the suit. The little plaintiff or defendant, who was promised a new rocking-horse when Jarndyce and Jarndyce should be settled, has grown up, possessed himself of a real horse, and trotted away into the other world. Fair wards of court have faded into mothers and grandmothers; a long procession of Chancellors has come in and gone out; the legion of bills in the suit have been transformed into mere bills of mortality; there are not three Jarndyces left upon the earth perhaps, since old Tom Jarndyce in despair blew his brains out at a coffee house in Chancery Lane, but Jarndyce vs. Jarndyce still drags its dreary length before the Court, perennially hopeless.”

Definition

Dickens’s rather formidable depiction of a chancery case requires an explanation of this legal term. According to *Black’s Law Dictionary*, a chancery case is a cause of equity where “justice is administered according to fairness as contrasted with strictly formulated rules of common law.” A judge, not a jury, decided such cases. In layman’s terms, a chancery case was one that could not be readily decided by existing written laws. These cases may contain useful information for biographical, genealogical, and historical research. Chancery cases often address the division of estates, the dissolution of business partnerships, the resolution of land disputes, and divorce.

The chancery case began with the *bill of complaint*, explaining the background of the action, followed by an *answer* from the parties being sued. Court appointed commissioners decided a fair and equitable settlement of the case based on the evidence presented and reported their findings to the court. The court’s decision or *final decree* was the last step in the proceedings of a chancery case.

Cases in chancery could be heard in any court. The earliest extant Virginia court records are those of the county courts. The end of primogeniture in Virginia in 1786 and the creation of general inheritance laws caused an increase in chancery cases; as a result, additional courts were created in which cases could

be heard, including District Courts (1789–1808), Superior Courts of Chancery (1802–1831), Circuit Superior Courts of Law and Chancery (1831–1851), and Circuit Courts (1852–present). Prior to 1832, chancery cases are generally found in the county court and the Superior Court of Chancery. After its formation in 1831, the Superior Court of Law and Chancery heard the majority of the chancery cases, although some were still heard in the county court. With the creation of the Circuit Court in 1852, chancery cases were heard in that court and in the county court up to 1870. After 1870, chancery cases were heard exclusively in the circuit court. For information on surviving records and published decisions, consult Thomas J. Headlee, *The Virginia State Court System* (1969).

Access

The traditional method of finding chancery cases is through the county or city order or minute books. There is usually an index by plaintiff in the front (but sometimes in the back) of each volume. For some counties, such as Halifax, there is a cumulative index to order books. Researchers may hunt for chancery cases in order books by plaintiff (and sometimes by defendant), but not by subject matter. Using order books, the researcher follows the case until the court issued its final decree. With this ended date, the researcher may then search the loose papers about the case, if they survive, which are arranged chronologically. At a later date, particularly with chancery cases heard in the Superior Court of Law and Chancery or the Circuit Court, cases are indexed and arranged by file number.

Chancery Records Index

The Library of Virginia has a cooperative, ongoing program with localities—the Circuit Court Records Preservation Program—to arrange, microfilm, and index chancery records. The resulting chancery database is available for selected localities on the Library’s Web site. The searchable database gives the locality where the case was recorded; an index number for the case; the names of the plaintiff and defendant; the surnames of others involved in a case; and the reel number if the case has been microfilmed. Wills and plats are also noted in the index.

The chancery database allows researchers to locate cases regardless of court, and regardless of the original arrangement (chronological or numerical by file number). Researchers will find search tips and other helpful information (including a glossary of terms) on the Library’s Web site.

In order to preserve fragile manuscript material, an original chancery case will be served *only* if the case is not available on microfilm. Original materials are served in the Archives Research Room, where special rules governing use and copying apply.

Loose Papers

Chancery cases were originally found in unbound county or city loose papers (instead of bound records, such as will or deed books). More specifically, loose papers that contain chancery cases are found in the following types of records: chancery papers, causes ended, determined papers, dead papers, and judgments. If the Library of Virginia has processed any of these chancery records, they can be found in the chancery database.

Parts of a Chancery Case

The three fundamental parts of a chancery case are:

Bill, bill of complaint, or bill of injunction: This first step in instituting a chancery case outlines the complaint of the plaintiff (also referred to as the complainant or the orator/oratrix) against the defendant.

Answer: The defendant's response to the complaint in the bill.

Final decree: The judge's final decision on the case.

Other items that may be contained in chancery cases are:

Subpoena: An order for an individual to appear at a certain time and place to give testimony.

Deposition: The testimony of a subpoenaed witness given upon questioning, but not in open court.

Affidavit: A voluntary statement of facts given by a subpoenaed witness without questioning.

Commissioner's report: The findings and recommendations of the commissioners, which can be filed before or after the final decree.

Docket: Lists the plaintiff's and defendant's names (style of suit) and the dates of court actions, including the filing of the bill, answer, and final decree. The docket is often used as a wrapper for the other documents in the case. In some cases, the docket is written on the back of the bill and then that document is wrapped around the others.

Plat or survey: A map showing the locations and boundaries of individual parcels of land, usually including the subdivision recommended by the court.

Decrees other than the final decree: Decrees that direct further proceedings may be issued at various points throughout the case.

Wills, deeds, notices, receipts, exhibits, and store accounts, used as evidence, are a few of the other types of records that may be found in chancery cases.

Case Study

In 1800, Elizabeth Swann Spencer of Petersburg left a most peculiar will. Several bequests were made to relatives, provided they resided within a hundred miles of Petersburg. She left several pieces of real estate with buildings, the rent from which was to be used to educate her poorest relatives, her Swann nieces and

nephews. In violation of her will, this real estate had been sold to Hector McNeil. In 1806 the Swann family began a chancery suit against McNeil, which was finally decided in the Swanns favor in 1869. The suit contains wills, accounts, depositions, subpoenas, and newspaper notices. By this time there were two hundred eight heirs living in twelve states and the District of Columbia, with one heir's residence listed as Cuba or Mexico. While this case dragged on for more then sixty years, children had been born, young people had married, and old people had died. Perhaps Dickens was right after all.

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A variety of research notes and topical bibliographies are available on request from the Library of Virginia, 800 E. Broad Street, Richmond VA, 23219. Visit the Library's Web site for digital collections and related archival publications.

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