North Carolina Court History of Interest

In 1664, William Drummond was appointed Governor of Albemarle County and government began. In 1680 the Governor established a General (or Supreme) Court for the colony. This was the beginning of the judicial system. Change and adjustment to the system occurred as the Legislative Assembly disputed with the Governor over many concerns, including the means for selection of judges and the lengths of their terms.

It was not until 1710 that the colony was divided into North and South Carolina, and not until 1712 that North Carolina had its own governor. In 1729, the Lords Proprietors sold their interest in North Carolina to the Crown and North Carolina became a Royal Colony. From that point, until 1775, all governmental and political functions of the colony were subject to the Crown.

In 1767, a more elaborate system was set forth by the Legislature and was intended to last five years. Due partly to the continuing disagreement between local and royal partisans, however, it was not renewed at the end of the five year period. Thus, there were no higher courts in North Carolina from the expiration of the courts created in 1767 until after the Revolution. Lower county court officials, such as justices of the peace, were appointed by the Royal Governor, and continued to exist throughout this period of time.

When North Carolina became a state, in 1776, the court system of Colonial America was, for the most part, retained. Justices of the Peace continued presiding over local county courts, Courts of Pleas and Quarter Sessions, as they had since approximately 1670. The major difference was that the justices were now appointed by the governor of the state, on the recommendation of the General Assembly. The salaries of the justices of the peace were paid out of the fees collected from the parties to lawsuits. The lowest level of court - the magistrate courts - were conducted by justices of the peace when the county courts were not in session.

The new state's constitution of 1776 authorized the appointment of judges to a Supreme Court of Law and Equity. The appointed judges were to hold office during good behavior, but other than that their term was not limited. In 1777, six judicial districts were created, each with a designated "court town", a location where court was to be held twice a year. Three Superior Court Judges were appointed. Unlike the present day, where the difference between the Superior Court and the Supreme Court are distinct, in the period just after the Revolution the terms Superior and Supreme were used interchangeably. In 1782 and 1787, two additional circuits (districts) were added.

North Carolina was the twelfth of the original thirteen colonies to ratify the United States Constitution and join the federal union. In fact, North Carolina rejected the Constitution in 1788, because it was felt that there were not enough guarantees of individual liberties (which were present in the state's constitution). It was not until the Bill of Rights (the first ten amendments to the Constitution) was proposed and was in the process of being adopted by all the states that North Carolina ratified the United States Constitution (in November, 1789). The Bill of Rights was ratified by North Carolina soon after, in December, 1789.

The court system that existed after the Revolution was a weak one and was plagued by many, continuing complaints. Court sessions were infrequent (usually just twice a year), with judges travelling great distances. Legal opinions varied among judges and courts and there was no means for appeal during this time. Perhaps the most serious weakness of the courts at this time was the lack of a "real" Supreme Court - one which could exercise control and guidance over the judicial system.

The forerunner of the modern North Carolina Supreme Court was created in 1779, when the Legislature required the Superior Court judges to meet in Raleigh and resolve cases on which the

various districts disagreed. This court was authorized for three years in 1801 and in 1804 the Court of Conference was made permanent with the justices required to issue legal opinions (rulings) in writing. The name of the court was changed to the Supreme Court in 1805. In 1810, the Court was authorized to hear appeals.

Problems continued to exist, even within the very nature and structure of the new Supreme Court, as the judges (justices) sitting on it were now required to hear and pass judgment on appeals of their own decisions. It continued to be a hardship for the judges to travel to Raleigh, and their absence from the trial courts caused congestion and delays in those lower courts.

In 1818, the Legislature authorized the Supreme Court to take the form it now has. Three Supreme Court justices were elected by the legislature to hold court twice a year with the sessions continuing until all cases were decided. The justices, sitting as a panel, heard appeals only after the Superior Court had rendered a decision and had the power to review the entire case, not just specific questions of law. The Supreme Court had original jurisdiction only for cases "in equity." John Lewis Taylor was the first Chief Justice and served with Associate Justices John Hall and Leonard Henderson. On the lower court level, in 1806, the state was redivided into six circuits, with judges rotating and required to hold court in each county (rather than in each district or circuit) twice a year.

In 1868, a new state constitution was adopted and many changes were made in the judicial system in North Carolina. A primary holdover from older judicial systems including the English, the distinction between courts of law and equity, was abolished. Previously, separate courts and causes of action existed for equity (where the court would order specific acts to be done at the end of the case) and law (where money damages were awarded). Cases were formerly brought either "in chancery" for equitable relief, or "at law". For example, if two parties brought a lawsuit about a contract they had entered; in equity, the judge might order that the parties perform the acts they had agreed on in the contract, whereas in law, one or both parties would get money to compensate them for whatever they would have gotten under the contract. In equity courts, the court was not bound strictly by the "letter of the law" and was guided by what was fair, just and proper. In these new, combined courts, both legal and equitable remedies were available.

In the new constitution, a number of changes in the substantive law were made, the number of justices on the North Carolina Supreme Court was increased and the selection of judges and Supreme Court justices was changed from an appointment process to an electoral one. The terms of the justices and judges was set at eight years. The Court of Pleas and Quarter Sessions (the local county court) was eliminated, although individual justices of the peace were retained and continued to hold court (with more limited jurisdictions).

The changes in the judicial system from 1868 to the time more systematic reforms were suggested in the 1950's were done gradually and in a piecemeal manner in response to changing needs and rising demands. Amendments to the state constitution in 1876 gave the General Assembly the power to determine the jurisdiction of all courts inferior to the Supreme Court and to establish lower courts as it saw fit. The Supreme Court was reduced from five to three members, and Superior Court judges were required to rotate throughout the state. the authority to create new courts became most obvious on the local level (counties and cities), where hundreds of courts, serving a variety of functions, were created by statute.

Between 1900 and 1933, the appointment of Special Superior Court Judges was authorized by constitutional amendment. These Special Superior Court Judges were appointed by the Governor and available to preside anywhere in the state, as needed. Further changes were made between 1930 and the 1950's, also by constitutional amendments. the General Assembly was authorized to increase the size of the Supreme Court, to increase the number of Superior Court Judges, and to divide the state into judicial districts. It was not until 1965, however, that the most recent major reforms were begun.

By 1965, the North Carolina court system had four levels. The highest state court was the Supreme Court, which heard only appeals. Below the Supreme Court were the Superior Courts, which were the general trial courts; the courts of limited jurisdiction, also known as the statutory courts, were below the Superior Courts; and finally, the lowest level courts were the justice of the peace courts. The state had 30 judicial districts at the Superior Court level. The local courts were numerous. Their functions ran from recorders courts to county criminal courts to domestic relations and juvenile courts to civil courts.

In 1965, by constitutional amendment, the Court of Appeals was created, between the Supreme Court and Superior Court levels, with jurisdiction to hear appeals from the Superior Court. In November of 1962, general court reform was adopted and by the end of 1970, all courts and counties were incorporated into a new unified system, which remains to this day. The new courts were all divisions of what is now known as the General Court of Justice -- a single state-wide court with components for various levels and types of cases.

The highest court remains the Supreme Court. This court has a Chief Justice and six Associate Justices who sit as a body in Raleigh and hear arguments in cases appealed from lower courts. The Supreme Court has no jury, and it makes no determinations of fact; rather, it considers errors in legal procedures or in judicial interpretation of the law and hears arguments on the written record from the trial below.

The next court beneath the Supreme Court is the Court of Appeals, an intermediate appellate court which has jurisdiction to review on appeal decisions made by lower courts.

The Superior Court is the highest of the general trial courts and is over the District Court, which was created in the court reform acts. It has limited jurisdiction over civil and criminal cases, domestic relations and juvenile cases, as well as exercising supervision over the Magistrates Court.