

# “Agreeable to Equity & Good Judgment”: The Vermont Chancery Courts

Susan Swasta, Archivist II



*Society of American Archivists  
Conference 2014*



# CAT OWNER TRIGGER WARNING



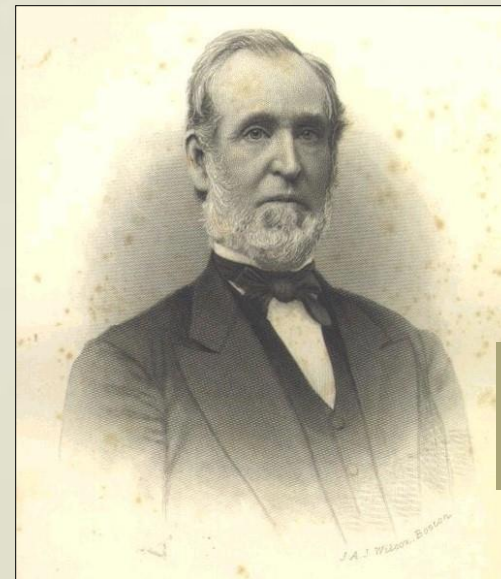
# Foster v. Baxter ... a dog has his day (in court)

William S. Foster } Olean County Court of  
v. } Chancy. July term 1878.  
J. H. Baxter

This case was heard on  
Bill, answer, depositions, and testimony.  
The Court Order and decree that  
the defendant be properly enjoined, and  
compelled, to obtain from Molting  
Wounding, or killing, the Order's dog, and  
- enter, in the Order's bill of complaint  
unless the said dog shall be found, in  
the act of committing mischief for which,  
by the provisions of the Statutes of this  
State he might, lawfully be killed. And  
that the Order receive his cost

Brooklyn, March 31<sup>st</sup> 1878  
Timothy S. Redfield, Chancellor

The defendant has been trapped to the  
Supreme Court  
T. S. Redfield Ch.



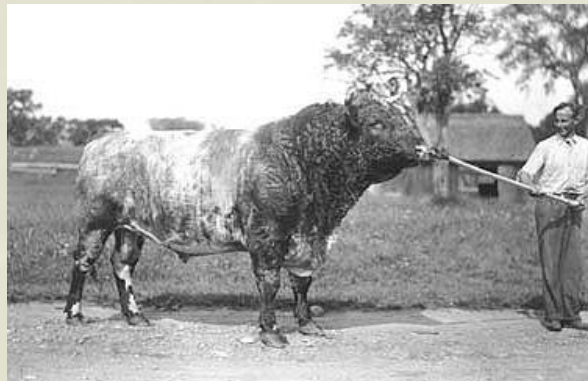
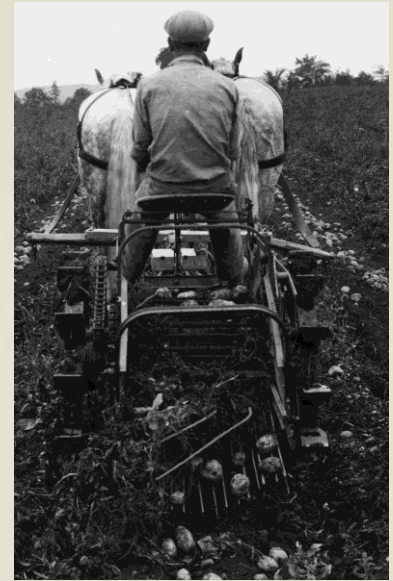
Timothy  
Redfield

# Vermont Chancery Court

- Vermont followed the English tradition of separating equity law and common law from the very beginning.
- Chancery courts are provided for in the 1786 state constitution.
- The supreme court handled chancery cases during county sessions until 1840, when a separate chancery court was created.
- Vermont ended chancery courts in 1969.



Chancery records document the lives of a broad cross-section of Vermonters.



# Foreclosures

- Creditor filed a petition of foreclosure.
- Court assessed amount due on mortgage.
- Debtor usually did not contest foreclosure.
- Depositions might be used by creditor or debtor to adjust foreclosure date.
- Court issued decree of foreclosure, setting date by which mortgage must be paid to redeem property.

# Maynard v. Delevan et al.

I should say this farm is in a pretty good state of cultivation, I should think it was a pretty good farm. I should say the house was worth more now than five years ago. I have been by the farm a good deal and on & over it a few times. It has not depreciated as much as farms lying back, but this lying on a good road I consider it worth more.

H. S. Maynard

State of Vermont,  
FRANKLIN COUNTY, ss.

IN CHANCERY.

James Maynard

vs.

Walter L. Delevan  
et al.

TERM, A. D. 18

I have heard it called a good farm. I myself call it a fair farm. A part of it is good & a part good for nothing. There is some good meadow land on the farm. There is plenty of hard wood timber for the farm.

Reuben C. Witt

# National Life Insurance Co. v. O'Hear

National Life Insurance Co } In Chancery  
vs } Franklin County,  
Thomas O'Hear } Sept. Term 1878

Now Comes the said National Life Insurance Company by its Solicitors Davis & Stevens and moves said Court to shorten the time of the Equity of Redemption of Defendant in the said premises for the reason that the same are inadequate security for your Petitioner's claim thereon as said Petitioner will establish to the satisfaction of the Court.

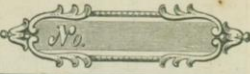
National Life Insurance Company  
By Davis & Stevens Solicitors

The farm will not keep over ten cows and a team in good shape in its present condition - I do not consider that the farm, as it is now, would sell for over two thousand (\$2000<sup>00</sup>) dollars.

O'Hear cut a large lot of timber off the farm last year and started to this winter

E. S. Tarble

34



**PETITION FOR FORECLOSURE.**

National Life Insurance Co.

vs.

Thomas O'Hear

**IN CHANCERY.**  
Franklin County,  
September Term, 1878.  
Davis & Stevens Solicitors



# “Eldercare Foreclosures”

- Parent assigned property title to child.
- Mortgage specified terms of care.
- Disagreements might lead to foreclosure proceedings.
- Court decided whether mortgage terms had been met. Court either foreclosed or dismissed the case.

# Ball v. Ball

Decretal Order

Heard on bill, answers, replications, cross-bill, & master's report.

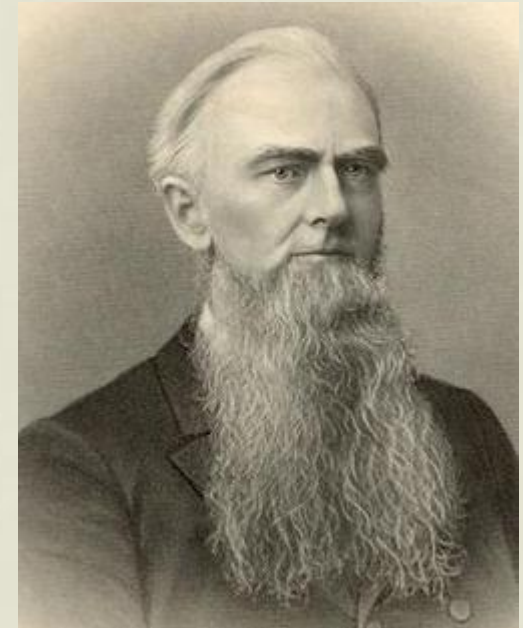
It is thereupon ordered and decreed: that the defendants, beginning Novr. 1st. 1884, pay to the oratrix, semi-annually April 1st and Novr. 1st. of each year--the sum of \$62.50---sixty-two dollars and fifty cents--during the life of oratrix: should oratrix die before any installment is due, then defendants are to pay a proportionate part of such semi-annual installments as would be due at end of term: that debts. pay funeral expense of oratrix & cost of marble headstone as named in deed from Danl. J. Ball to Eleazer Ball; that the first installment due April 1st. 1885- be paid with the costs of this suit within 60 days from June 20th. 1885

*at death of oratrix.*

*and upon failure to make such payment, they be foreclosed of all equity in the premises.*

*Jonathan Ross*

Chancellor.



Jonathan Ross

# Young v. Young

A. to Beekman  
Clerk

Or Sir

In the case of Prueha Young vs.  
Orin Young et al. (No. 4) heard at  
the last term of Supr Court - you  
will please enter decree of Court  
of Cherry reversed and same  
reversed with mandate that  
the bill be dismissed with costs

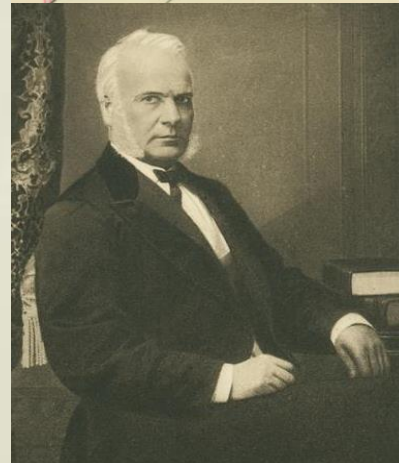
Very yours -  
Homer & Royce  
for Court



Homer  
Royce

In relation to the expense of supporting the  
Orator, if she is to be supported away from  
his home and family by said Orin H. and all  
care and attention to be kind and paid for. I do  
not think that \$250. is any too much,  
But I think that the said Orin H. could  
support her in his family and in connection  
therewith, when much of the necessary care &  
attention could be furnished by his family, much  
easier than he could pay \$250. a year,  
I think the annual payment of \$200. a  
year by Orin, would be quite as heavy a burden  
as the support of his mother in his own  
family -

Luke P. Poland Master



Luke  
Poland

## Other common types of chancery cases:

- Appeals from probate court on estates.
- Complex business disputes, often requiring appointment of a receiver.
- Dissolution of corporations.

# St. Albans v. Sheldon Poor House Asso.

From the evidence, I find several, if not most, of those supported or aided in the City, brought pressure upon the poor master to be aided in the City that they might have opportunity to continue to indulge evil habits and relations which had led them, and very probably may lead their descendants, to pauperism, if not to crime; that some well intentioned, generous citizens have unwisely aided them in bringing this pressure to bear upon the poor master.



And now upon due consideration:

IT IS ORDERED, ADJUDGED AND DECREED that the report of the Special Master be accepted and the facts therein found be confirmed and that the bill be dismissed with costs to the defendant.

Henry R. Stout, Chancellor.

(This wrapper *must not* be removed from the Clerk's files.)

Docket No. 30

City of St Albans  
Sheldon Poor House  
Association

Franklin County Court.

Ended at March Term, 1904

This wrapper should contain the following papers:

- (1.) Original writ, appeal copies, etc.
- (2.)

# The two most common injunctions:

- to prevent damage to foreclosed property
- to prevent sale of property in divorce dispute

## Whiting v. Carpenter

The petitioner therefore prays this Hon Court to grant an injunction against the said Carpenter restraining him & his Agents & servants from cutting or removing any more timber from said farms & from ploughing & cropping any more things than he shall in a husbandlike manner properly manage & care for & from removing any of the forage that shall be grown upon said farms the coming season & from injuring the buildings & fences more than is necessary in careful use

Almon Whiting

## Cobleigh v. Cobleigh

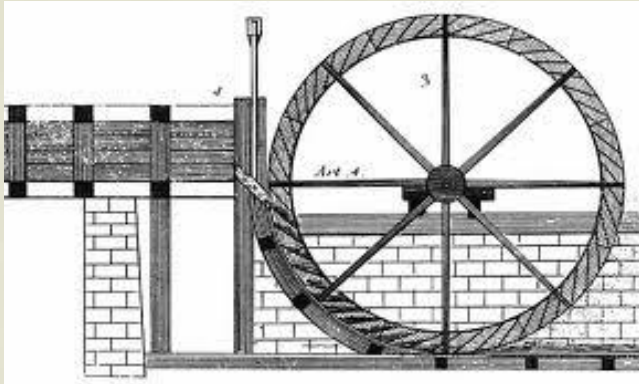
Mohitable Cobleigh  
V  
R B Cobleigh  
Cal. Court of Chancery  
June Term 1869  
Pierce & Stoddard  
Atty

The saidatrix having verified the aforesaid facts by her oath, I do hereby in the name and by the authority of the State of Vermont strictly injure and command you the said R B Cobleigh by yourself

# Chancery Court and Water Rights

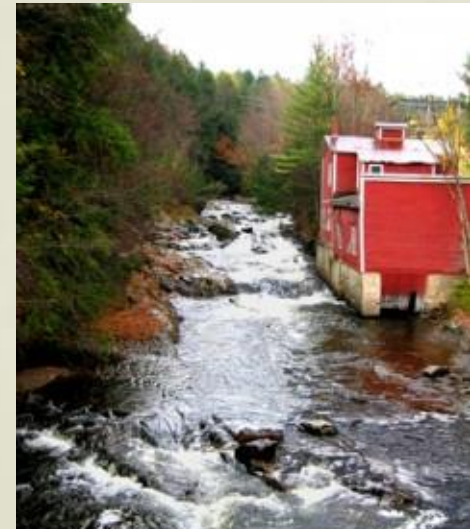
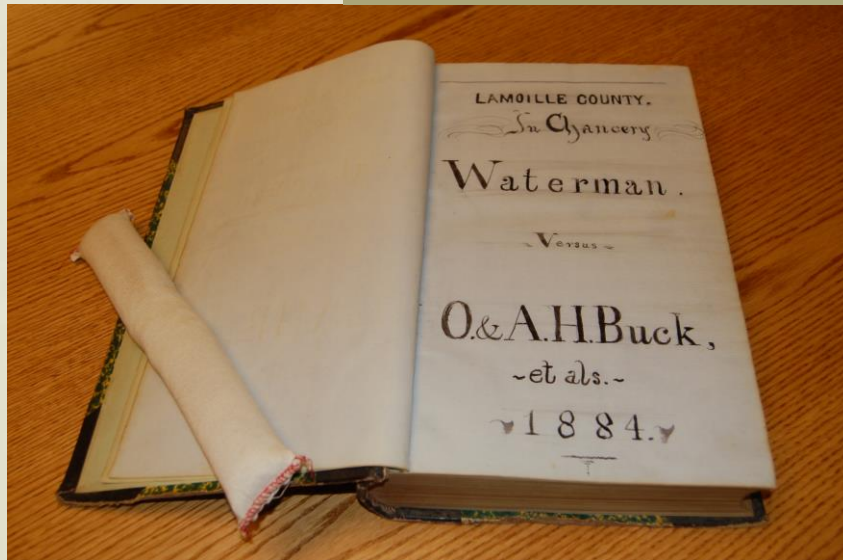
- Water rights were key industrial assets.
- Specific rights passed from owner to owner with deeds.
- Legal disputes over flowage allotments.
- Legal disputes over damages to property lying along streams.

# Hooker v. Judkins



the court decreed that the grantee is entitled to a decree establishing his first right to sufficient of the water of said stream, <sup>with power</sup> at all times, when required therefor, to ~~use~~ <sup>propel</sup> two runs of stones as defined in the deed Bailey to Lewis, mentioned in the Martine Report, and that defendant is entitled to use the surplus of water which is not required for said two runs of stone;

# Waterman v. Buck



Gihon River Mill





Vermont  
history lives  
in court  
records.



# VSARA Court Records Project



Caledonia County



NATIONAL  
ARCHIVES

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& RECORDS COMMISSION



Orleans County

Lamoille  
County



Franklin  
County





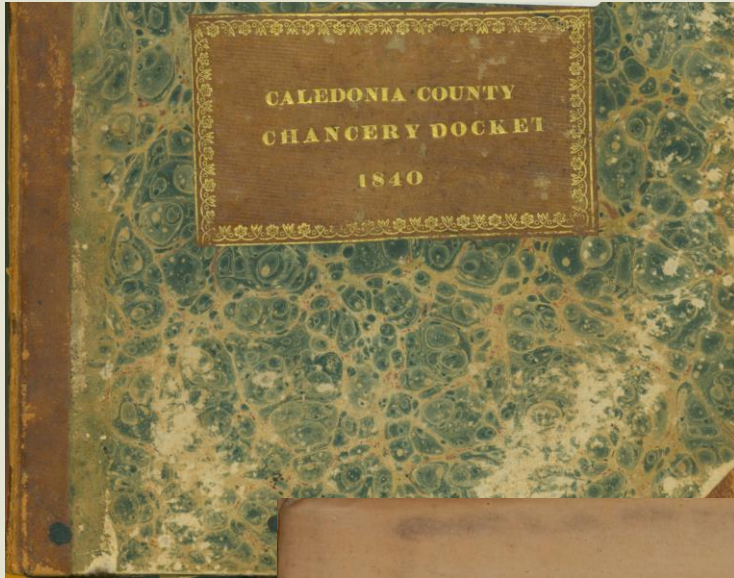
## County Court

## Supreme Court



## Court of Chancery

# Docket Books



Supreme Court Docket  
Orleans County  
January term 1821

132  
1843 June T. New Entries

Hubbard <sup>6</sup> Seth Burroughs  
Willard Reed & others

Confessed & Referred  
Decree according to Report

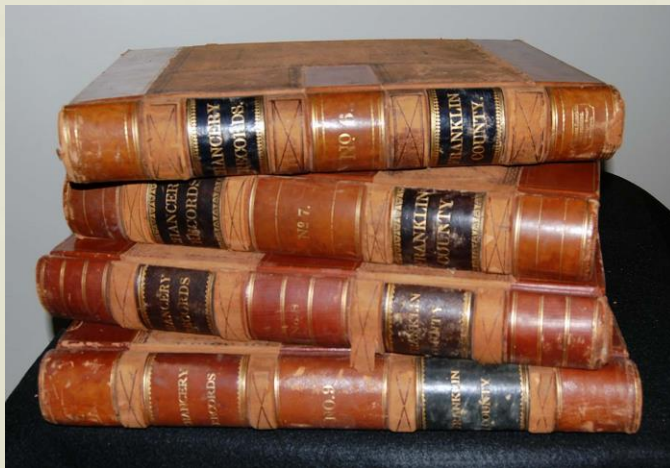
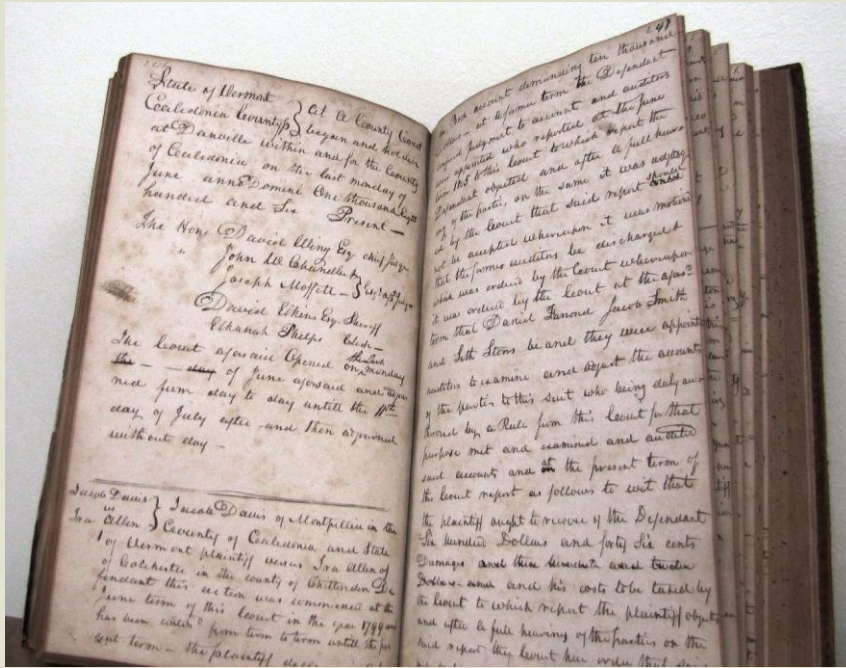
1 <sup>st</sup>	Sums due & to be become due	\$ 656.00
	Certs	55.93
		691.

Redemption expired Dec<sup>r</sup> 1. 1843

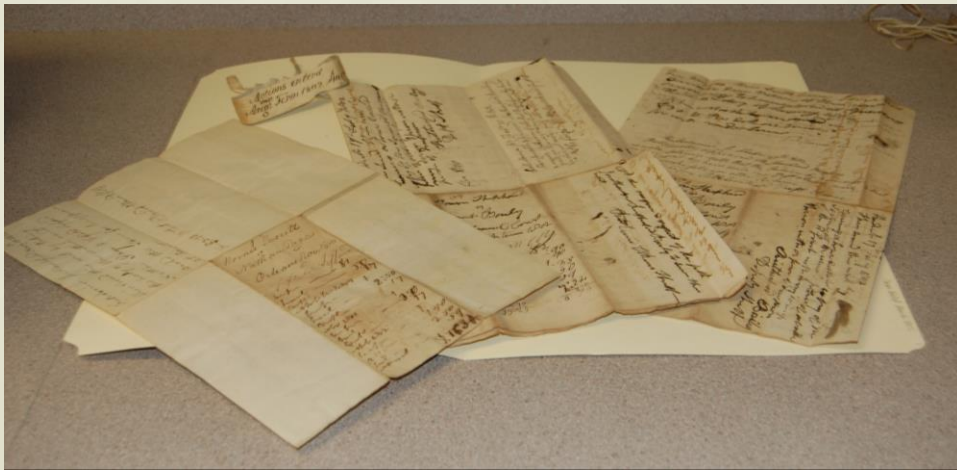
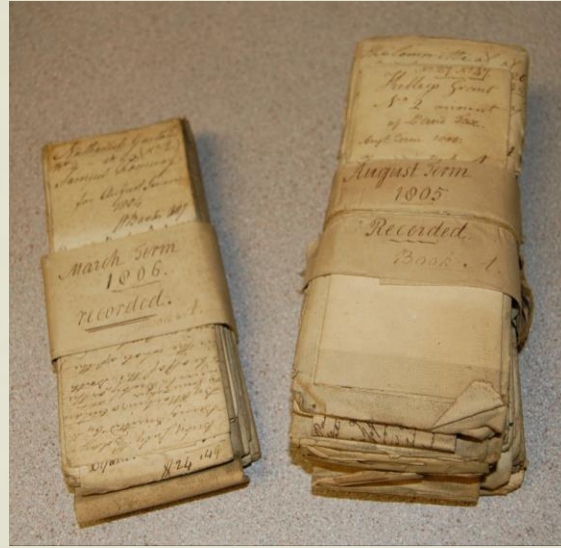
Writ of possession issued  
Feb'y 28. 1844

Time & date  
for what is  
now due  
etc

# Record Books



# Case Files



*Decree*  
*Ira H. Allen Adv*  
*vs*  
*David Felker &*  
*Amos Felker*

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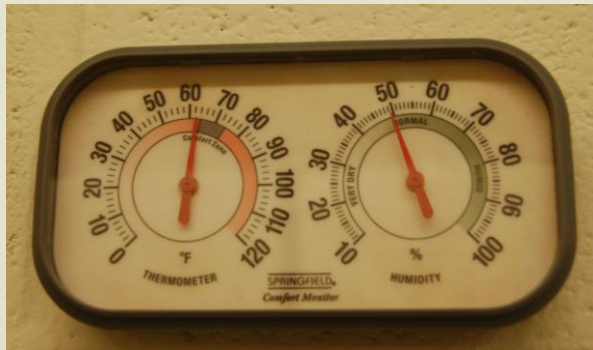
*Oct 6. m. 1844*

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*Simon P. Redfern Clerk*

*Orleans County Clerk's office*  
*May 1844 Recorded in*  
*book of Orleans Records Vol*  
*1 Page 200-201 212 213*  
*Attest J. M. Davis Clerk*

# Preservation and processing of archival court records





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**GOVERNMENT HISTORY**

**EXHIBITS**

**CONTACT INFORMATION**

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*State Archivist & Director*  
 1078 Route 2, Middlesex  
 Montpelier, Vermont 05633-7701  
 802-828-3700

## Archival Records



**Search Results:**

**Vermont. Court of Chancery (Franklin County).**  
*Case files, 1840 - 1948.*

<b>Series ID:</b> FRCH-003 (Click for <a href="#">Index</a> )	<b>Location:</b> State Archives
<b>Extent:</b> 37 cubic feet.	<b>Access:</b> Open

**Scope:** Case files include all of the documents generated during the process of a chancery court trial, and may be extensive, minimal or nonexistent for any given case. Most documents are related to real estate foreclosures, and include a bill of foreclosure, a master's report that calculates the amount owed on the mortgage, and a decree of foreclosure if the plaintiff wins the case. Supporting documents often include mortgages, deeds, promissory notes, and receipts. Subpoenas, affidavits, depositions, motions, pleas, bills of costs, and requests for extension of redemption may also be included. Chancery cases involving requests for injunctions include a bill of complaint and defendant's answer to the bill. There may also be bonds, findings of fact, master's reports, and temporary or permanent injunctions. A third category of chancery cases includes documents related to dissolving business partnerships and corporations and to placing businesses in receivership. Chancery case files are arranged alphabetically by plaintiff for each court term. Pre-1913 case files separate judgments from discontinued cases for each court term; after 1913 judgments and discontinuances are combined in one sequence of case files. Chancery court case files preceding September 1840, and some 1840-1843 cases, are included with supreme court case files (see Series SUPR-FR-003), since chancery court was held by the supreme court during that period.

**Vermont. Court of Chancery (Franklin County).**  
*Docket books.*

<b>Series ID:</b> FRCH-001 (Click for <a href="#">Index</a> )	<b>Location:</b> State Archives
<b>Extent:</b> See other series as noted.	<b>Access:</b> Open

**Scope:** Prior to September 1840, chancery court was held by the supreme court during its Franklin County sessions, so the chancery docket is included in supreme court docket books (see Series SUPR-FR-001). After September 1840, chancery court was held as part of county court sessions, and its docket was recorded in a separate section of the county court docket for each term (see Series FRCC-001). Note that even after chancery cases were transferred to county court in 1840, the supreme court continued to hear some chancery cases up to 1843.



# Providing access to court records:

- Records stored in poor conditions, with little or no access, are brought into the archives.
- Scattered sets of records are brought together. Docket order is preserved or restored.
- Database entries provide online access.
- Reference staff assists patrons in using court records for their research.
- Future planning: online name and subject indexes to improve access, facilitate digitization on demand.

# Thank You!

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802-828-3897

