



New York State Archives

**New York State Supreme Court of Judicature (Geneva)
Declarations J0017**

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Overview of the Records

Repository:	New York State Archives
Summary:	This series contains plaintiff's declarations, which were the initial pleadings in common law actions. The declaration was made out by the plaintiff's attorney after the defendant had been arrested by a writ of <i>capias ad respondendum</i> . The declaration contains the following parts: caption; venue; commencement; statement of cause of action; and conclusion.
Creator:	New York (State). Supreme Court of Judicature (Geneva)
Title:	Supreme Court of Judicature (Geneva) declarations
Quantity:	43 cubic feet
Quantity:	99 boxes
Inclusive Date:	1829-1847
Series:	J0017

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Arrangement

Chronological by filing date.

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Scope and Content Note

Records documenting pleadings of plaintiffs and defendants in common law actions include declarations of plaintiffs, defendants' pleas, replications, rejoinders, surrejoinders, *cognovits*, demurrers, reports of referees, reports of damages awarded, and writs of inquiry.

This series contains plaintiff's declarations, which were the initial pleadings in common law actions. (The abbreviated term for the declaration is "narr.," from the Latin "narratio.") The declaration was made out by the plaintiff's attorney after the defendant had been arrested by a writ of *capias ad respondendum*. (After 1829 the writ of *capias* was optional in most actions,

and proceedings could commence with service of the declaration. See Revised Statutes of 1829, Part III, Chap.6, Title 1, Section 1.)

The declaration contains the following parts: caption (name of the court and the term in which the writ of *capias* was to be returned); venue (county from which the jury is to come if the cause proceed to trial); commencement (names of the plaintiffs and defendants and of the plaintiff's attorney, manner of defendant's appearance, and a brief statement of the cause of action); statement of cause of action; and conclusion (demand for payment of debt or damages). The statement of cause of action relates the grounds for the claim by the plaintiff. It states exactly when, where, and how the plaintiff incurred the credit or sustained the damages alleged. It might be followed by several "counts," each stating the plaintiff's title to the thing demanded, whether it be performance of a contract, recovery of real or personal property, or compensation for injury to himself or his property. (Technically, the counts could each be the ground for a separate action, but they were grouped together for convenience.) Printed forms were often used for common types of actions (e.g. trespass on the case and *assumpsit*). Following the declaration may be found the *oyer*, which is a copy of the promissory note or other written obligation sued upon. The notice of rule to plead usually appears on the dorso of the declaration. It informs the defendant that a rule has been entered in the common rule book kept by the clerk of the Supreme Court, ordering him to plead within

twenty days of service of the declaration. The sheriff's affidavit of service or non-service of the declaration and notice is appended or attached to the declaration. Filed with the declarations are other documents relating to subsequent pleadings by defendant and plaintiff and to determination of the amount of damages to be awarded. When a defendant pleaded the general issue, his written plea denied the injury and put in the proper plea (for example, "not guilty," in actions of trespass, case, and trover; "non *assumpsit*," in actions of *assumpsit*; "nil debet," in actions of debt). Subsequent pleadings are called the replication (plaintiff's reply to defendant's initial plea), rejoinder (defendant's reply to replication), and surrejoinder (plaintiff's reply to rejoinder). The defendant's plea sometimes contains more details about a dispute than does the declaration. The purpose of pleading was to reach a point where an issue was joined, that is, defined precisely enough so that a jury could determine the facts. The parties then "put themselves on the country," and a copy of all the pleadings was compiled to be sent to a Circuit Judge for trial. This document was called the "Nisi Prius Record" or "Circuit Roll". The present series also contains many *cognovits* and demurrers. The *cognovit* is the defendant's confession to the facts alleged in the plaintiff's declaration. The demurrer is the defendant's formal exception to the

facts alleged in the plaintiff's declaration. The demurrer is the defendant's formal exception to the sufficiency in law of the declaration. It did not dispute the facts of the case, and if the plaintiff did not move successfully to quash the demurrer, the presiding justice ruled on a point of law. Other documents commonly found with the declarations are court clerks' reports of damages awarded after a defendant failed to plead and judgment was awarded to the plaintiff on a non-suit; reports of referees appointed to determine the exact amount of damages due in complicated cases of money accounts; and writs of inquiry directing a sheriff to empanel a jury to assess damages due to a plaintiff after being awarded interlocutory judgment upon the defendant's default, demurrer, or confession. (The return attached to the writ of inquiry is called the *inquisition*.) (For fuller descriptions of some of these documents see series J0004, *Cognovits* (Geneva); series J0027, *Writs of Inquiry and Inquisitions* (Geneva); and

series J0006, Reports of Referees (Geneva).) Prior to 1830 the form of the declaration was determined by the common law. The Revised Statutes of 1829 specified the methods for commencing an action in the Supreme Court of Judicature and the form of the declaration.

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Related Information

Related Material

J0027Series J0027, New York State Supreme Court of Judicature (Albany, Utica, and Geneva) Writs of Inquiry and Inquisitions, contains additional declarations for Albany, Utica, and Geneva.

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Other Finding Aids

Available at Repository

Container list is available at the repository.

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Use of Records

Access Restrictions

There are no restrictions regarding access to or use of this material.

Administrative Information

Custodial History

The Court of Appeals placed these records on deposit at the Historic Documents Collection, Queens College, from 1973-1982.

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Access Terms

- Adjudicating
- Pleading
- Debtor and creditor
- Courts
- Judicial records
- Judgments
- New York (State)
- New York (State). Court of Appeals
- New York (State). Supreme Court of Judicature