



New York State Archives

New York State Supreme Court of Judicature (Utica) Writs of Error J0031

New York State Archives
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Overview of the Records

Repository:	New York State Archives
Summary:	Files in this series usually include the writ of error ordering the lower court to return records of the case to the Supreme Court; the lower court's return or answer; and the defendant's bill of exceptions stating the objections to the lower court proceedings. Defendants obtained writs of error to have a cause, previously judged in an inferior court, removed to the Supreme Court for review.
Creator:	New York (State). Supreme Court of Judicature (Utica)
Title:	Writs of error
Quantity:	10.8 cubic feet
Quantity:	25 boxes
Inclusive Date:	1807-1847
Series:	J0031

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Arrangement

Chronological by year.

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Scope and Content Note

Defendants obtained writs of error to have a cause judged in an inferior court removed to the Supreme Court for review. Files in this series usually include the writ of error ordering the lower court to return records of the case to the Supreme Court; the lower court's return or answer; and the defendant's bill of exceptions stating the objections to the lower court proceedings.

A writ of error was obtained by a defendant to remove a cause, after judgment but before execution, from an inferior court of record to the Supreme Court of Judicature for review when the proceedings showed "manifest error" in law. Almost all the cases reviewed on writ of error came up from the Court of Common Pleas, which was the lowest court of record hearing civil

cases. (Some cases which originated before a justice of the peace were reviewed in the Court of Common Pleas on a writ of certiorari, and later taken up to the Supreme Court of Judicature on writ of error.) A few criminal cases were removed on writ of error from the Court of General Sessions of the Peace and the Court of Oyer and Terminer and General Gaol Delivery. The Supreme Court also reviewed cases on error brought up from the Mayor's Court and the Court of Common Pleas in New York City, the Superior Courts in New York City and Buffalo, and the Mayor's or Recorder's Courts of upstate cities. Errors of fact on the record of a judgment in the Supreme Court itself were reviewed in the Circuit Courts.

A typical file in this series always includes the writ of error and the return or answer of the lower court, and often includes the defendant's bill of exceptions. The writ of error was a scaled order of the Supreme Court (before 1815 of the Court of Chancery) commanding a lower court to return the record of pleadings, proceedings, and judgment in a case in which the defendant alleges error. (In rare cases the original plaintiff might seek a writ of error, if he thought the award of judgment was too small.) The writ states the names of the parties, the type of civil action or criminal charge, and the time and place for return of the writ. On the dorso are the names of the parties and of the defendant's attorney, the filing date, and the signature of the justice or other officer who allowed the writ to be issued. Occasionally there is a certificate of the clerk of the lower court stating that the record of the original proceedings is attached.

In civil cases the certified record, or answer to the writ, contains a copy of the judgment record, and occasionally a summary of testimony, and rulings thereon if the error alleged did not appear on the formal record but in other proceedings not found on the record. In criminal cases the record includes copies of the bill of indictment and the minutes of the trial and verdict, and sometimes a summary of the testimony and other proceedings. The bill of exceptions is a statement by the original defendant (or rarely the plaintiff) setting forth his objections to the proceedings of a lower court. It often summarizes the proceedings not part of the record which are the grounds for his exceptions. The bill of exceptions is the original document filed by the defendant's attorney and signed by the judges of the lower court. It was returned as part of the record of the case, and bears two filing dates, one for the local court, the other for the Supreme Court. A bill of exceptions is included in many but not all of the files.

Two other documents are found occasionally. One is the bond of the plaintiff in error and two sureties for payment of damages and costs if the case go against him on review. The bond had the effect of staying execution of judgment in the lower court and permitted removal of the case to the higher court. The other is the certificate of a Supreme Court counsellor stating that he has examined the record of proceedings and finds substantial error, whether of law or of fact (but not both). No writ of error could be returned into the Supreme Court unless these two documents had been filed with the clerk of the court.

A few files also contain the reply of the defendant in error (i.e. the original plaintiff). In rare cases, when the record of a case returned on a writ of error was deficient in any respect, the plaintiff in error might allege a diminution in the record and move the court to issue a writ of certiorari. The return to that writ may give additional information about the case. The series contains a few records remitted, or sent back from the Court of Errors.

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Related Information

Related Material

J0128Series J0128, New York State Supreme Court of Judicature (Utica) General Term Minute Books

J0129Series J0129, New York State Supreme Court of Judicature (Geneva) Special Term Minute Books and

J0130Series J0130, New York State Supreme Court of Judicature (Albany) General and Special Term Minute Books, contain entries of affirmances or reversals of cases.

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Other Finding Aids

Available at Repository

Minute Books (J0128, J0129, J0130) and Calendars (J0241, J1241, J2241) can help locate particular cases.

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 Historical Documents Collection, Queens College, from 1973-1982.

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Access Terms

- Adjudicating
- Courts
- Writs
- Judicial records
- New York (State)
- Justices of the peace
- Writ of error
- Certiorari
- Crime
- Trials
- Criminals
- New York (State). Court of Oyer and Terminer
- New York (State). Supreme Court of Judicature
- New York (State). Superior Court (New York)
- New York (State). Court of Common Pleas
- New York (State). Court of Appeals
- New York (State). Circuit Court
- New York (State). Court of Errors