New York State Archives

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

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Overview of the Records

Repository:	New York State Archives
Summary:	This series consists of minute books, which contain special rules or orders granted upon special motions, orders issued in real property proceedings, appointments of commissioners to screen candidates for attorney or counsellor in the Supreme Court, and general procedural rules.
Creator:	New York (State). Supreme Court of Judicature (Utica)
Title:	Supreme Court of Judicature (Utica) general term minute books
Quantity:	3 cubic feet
Quantity:	13 volume(s)
Inclusive Date:	1820-1846
Series:	J0128

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Arrangement

Chronological.

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Scope and Content Note

Minute books contain special rules or orders granted upon special motions, orders issued in real property proceedings, appointments of commissioners to screen candidates for attorney or counsellor in the Supreme Court, and general procedural rules.

The minutes for each court term open with a list of proclamations made. The date of each daily session and the names of the justices present are then entered. For each case the minute, or entry, states the names of the parties and the attorney moving the court for a rule, and gives a summary of the motion and the rule, if any, granted. The Utica minute books contain for each term of court lists of major decisions by the justices (particularly affirmances or reversals of

decisions of lower courts). Until 1820 the Supreme Court held its regular terms only in Albany and New York City; hence there are no minute books for Utica prior to that year.

Minute books of the Supreme Court of Judicature prior to 1830 contain mostly special rules or orders granted upon special motions made in court in general term. Starting in 1830 parties could apply for most special rules only during special terms held monthly except in January, May, and July at the Capitol in Albany. In 1841 a special term was established at Rochester to be held each October. Special motions usually had to be supported by an affidavit, which was filed with the court. (See the various series containing "motion papers.") Special motions were made for a great variety of purposes. The most frequent were motions for referral of cases involving examination of complex accounts to disinterested persons for a defendant as in the case of non-suit; to set aside a default of the defendant to plead; and for judgment on grounds that the defendant's demurrer was frivolous.

Other motions were made to reverse the judgment of a lower court, brought up on writ of error, and to order a new trial; to set off a portion of the costs to an opposing party in a cause; to amend a declaration, a judgment, or an execution; to quash a writ of certiorari or other writ; for issuance of writ of mandamus, ordering a lower court, a judicial officer, or a public or private corporation to perform an official act; for issuance of a commission to authorize persons to examine material witnesses residing far away; for issuance of a writ of capias ad satisfaciendum to arrest a defendant; for issuance of a writ of attachment against a sheriff's property for failure to return a writ (or against that of an absconding debtor); and to grant a stay of proceedings or to show cause for any reason. Most of these fall into the category of "enumerated motions" placed on the calendar.

The minute books also contain orders issued in partition cases or other real property proceedings, to appoint a guardian to represent a minor defendant; to require tenants to appear and show title; to appoint commissioners to make a partition; or, before 1829, to issue a writ of right summoning the electors (i.e. jurors) of a grand assize, which determined the title or right of a tenant to land; and to confirm and certify a partition or a confirmation of title. The court also issued special orders confirming the proceedings of commissioners appointed to assess the value of lands taken for laying out or widening streets in New York City.

The orders include copies of the commissioners' reports which contain detailed descriptions of the property taken. (These orders are found in both the Albany and Utica minute books.) The minutes include orders appointing commissioners to examine the qualifications of persons applying for admission as attorneys or counsellors in the Supreme Court; lists of applicants; orders admitting attorneys and counsellors to practice; lists of persons admitted; orders to newly admitted counsellors and attorneys to take and subscribe their oath; orders striking from the roll names of attorneys and counsellors who had been convicted of crimes or who had committed other irregularities; and orders appointing commissioners to take affidavits to be read in Supreme Court.

General rules of procedure adopted by the Supreme Court of Judicature are also entered in the minute books. (They are available in published form.) The minutes also contain a few orders for proof of the wills of testators who left no heirs resident in New York State, and for recording of the will by the clerk of a local court of record. These orders sometimes include the text of the will proved and copies of affidavits of witnesses as to their own signatures and

the competency of the testator. The minute books prior to 1830 also include minutes of the engrossment of final concords or "fines" (conveyances of real property executed and delivered in court), of the proclamation of the fine in court, and of the delivery of the upper part of the fine to the demandant and the foot of the fine to the clerk for filing.

Most of the motions for special rules were "non-enumerated;" that is, they did not appear on the court calendar of causes to be heard. The "enumerated" motions which did appear on the calendar were made for arrest or stay of judgment because of a defect in the record; for setting aside a verdict, a non-suit, an inquisition, or a report (except for irregularity); and for matters involving a special verdict (in which a jury found the facts but left it to the court to determine the law) or bill of exceptions (taken by a plaintiff in a lower court), or a writ of error or writ of mandamus, or a "case" agreed to by the parties, or demurrer to evidence or pleadings. Finally scattered through the minute books are orders setting terms of circuit courts in each county.

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Related Information

Related Material

J0031Series J0031, New York State Supreme Court of Judicature (Utica) Writs of Error

J0170Series J0170 New York State Supreme Court of Judicature (Albany and Utica) Writs of Commission

J0175Series J0175, New York State Supreme Court of Judicature (Utica) Orders of Circuit Judges on Motions for New Trials or for Commissions

J1014Series J1014, New York State Supreme Court of Judicature (New York) Reports of Commissioners Appointed to Appraise Lands Taken for Street Openings in New York City and Brooklyn and

J0126Series J0126, New York State Supreme Court of Judicature Motions (Utica), contain related records.

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Other Finding Aids

Available at Repository

Each volume indexed by name of party making a motion or petition.

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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
- Sheriffs
- Courts
- Judicial records
- New York (State)
- Minutes (administrative records)
- Mandamus
- Streets
- Appellate courts
- Motions (Law)
- Writ of error

- Writs
- Lawyers
- Real property
- Partition
- Appellate procedure
- Attachment and garnishment
- New York (State). Supreme Court of Judicature
- New York (State). Court of Appeals
- New York (State). Circuit Court