



New York State Archives

**New York State Supreme Court of Judicature (Albany) Fines
and Chirographs J1011**

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Overview of the Records

Repository:	New York State Archives
Summary:	Records of court agreements settling legal actions concerning conveyance of real property include writs of covenant, licenses to agree, concords, the note of the fine summarizing the writ of covenant and the concord, and the foot of the fine conveying the property. Other documents in the series include warrants of attorney, writs of dedimus potestatem, and affidavits of newspaper publication.
Creator:	New York (State). Supreme Court of Judicature (Albany)
Title:	Fines and chirographs
Quantity:	1 cubic foot
Inclusive Date:	1793-1829
Series:	J1011

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Arrangement

Unarranged.

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Scope and Content Note

Records of court agreements settling legal actions concerning conveyance of real property include writs of covenant, licenses to agree, concords, the note of the fine summarizing the writ of covenant and the concord, and the foot of the fine conveying the property. Other documents in the series include warrants of attorney, writs of dedimus potestatem, and affidavits of newspaper publication.

A fine was the record of an amicable agreement in court ending an action at law to enforce a covenant to convey real property. The conveyance was accomplished after the plaintiff asked leave of the court to terminate his suit. In origin this procedure settled a genuine dispute, but for centuries a fine was normally based upon a fictitious lawsuit agreed to by the parties. This

procedure was followed because the (fictitious) lawsuit and all other (genuine) claims of title to the lands conveyed were forever quieted after proclamation and engrossment of the fine.

The formal parts of the fine, in order, were the original writ of covenant (or writ of praecipe), the license to agree, the concord, the note of the fine, and the foot of the fine. The writ of covenant was usually issued by an inferior court of record (such as the Court of Common Pleas). It commanded the deforciant (the name for the defendant in this type of proceeding) to perform the (fictitious) covenant made by him with the plaintiff to convey a parcel of land, which is located and described by metes and bounds. The writ was signed by a Supreme Court justice and a note of the proclamation of the writ was added by the clerk.

The license to agree was an enrolled note signed by the justice and the clerk giving leave to the plaintiff to settle his dispute with the deforciant, despite the fact that he had commenced an action against him and (supposedly) given pledges for prosecution. The concord was an enrolled order to the deforciant to perform the covenant made to convey the parcel of land, which is again described. The document is signed by the deforciant and acknowledged by a justice of the Supreme Court. The note of the fine is a summary of the writ of covenant and the concord. The foot of the fine is the actual conveyance of the property made in the Supreme Court. The document was executed in duplicate on one sheet of parchment and is a true "indenture" because the two parts were cut apart in an indented (wavy) line. On the interlocking "teeth" of the indenture was written the word CHIROGRAPH, an ancient name for an instrument of conveyance. The "foot" or bottom part was filed with the court, while the top part went to the plaintiff.

Three other documents may be found along with those comprising the fine. The warrant of attorney designated a person to prosecute a writ of covenant on behalf of a plaintiff who was unable to appear in court to acknowledge the fine, as the law demanded. The writ of dedimus potestatem was issued out of the Court of Chancery and ordered other persons to act in place of the justices of the Supreme Court in taking acknowledgment of the fine from a party to the action who resided out of state or who because of illness or other reason was unable to appear in court. The affidavit of newspaper publication of the notice of levying a fine contains an attached copy of the notice. Occasionally some parts of the fines are missing.

The procedure for levying a fine was carefully outlined in a law of 1787 but in all essentials it dated back to the twelfth century. The 1787 act required that fines be recorded in the clerk's office in the county where the property conveyed was located. A law of 1808 required the original writ and subsequent documents in a fine to include an accurate description of the lands to be conveyed. It also required a notice of the fine to be published in a New York City newspaper, and an affidavit of publication to be filed with the court. The proceeding of "fine and recovery" was abolished by legislation of 1829.

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Related Information

Related Material

J0130Series J0130, General and Special Term Minute Books (Albany), contains orders for the proclamation of fines.

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Use of Records

Access Restrictions

There are no restrictions regarding access to or use of the 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

- Judicial records
- Fines and recoveries
- Adjudicating
- Conveyancing
- Courts
- Real property
- New York (State)
- New York (State). Court of Appeals
- New York (State). Supreme Court of Judicature