



New York State Archives

**New York State Supreme Court of Judicature (Geneva)
Common Rule Books for Returns of Writs of Capias J1167**

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Table of Contents

Overview of the Records 3

Arrangement 3

Scope and Contents 3

Related Information 4

Other Finding Aids 5

Use of Records 5

Administrative Information 5

Access Terms 5

Overview of the Records

Repository:	New York State Archives
Summary:	The rules in this series were entered on motion by the plaintiff's attorney. Defendants not required to file special bail endorsed the writ, whereupon the court rule entered the defendant's (fictitious) appearance. Other rules direct the sheriff to re-arrest a defendant who had not put in special bail within twenty days as required. Each entry gives the title of the cause, the rule, the sheriff's fee, and the name of the plaintiff's attorney.
Creator:	New York (State). Supreme Court of Judicature (Geneva)
Title:	Common rule books for returns of writs of capias
Quantity:	0.6 cubic feet
Quantity:	10 volumes
Inclusive Date:	1829-1839
Series:	J1167

[^ Return to Table of Contents](#)

Arrangement

Alphabetic by name of county, then chronological by court term, then by type of rule.

[^ Return to Table of Contents](#)

Scope and Content Note

These rules were entered on motion by the plaintiff's attorney. Defendants not required to file special bail endorsed the writ, whereupon the court rule entered the defendant's (fictitious) appearance. Other rules direct the sheriff to rearrest a defendant who had not put in special bail within twenty days as required. Each entry gives the title of the cause, the rule, the sheriff's fee, and the name of the plaintiff's attorney.

The volumes in this series contain common rules for the appearance of defendants served with writs of capias ad respondendum. The rules were entered on motion by the plaintiff's attorney. In actions in which the defendant was not required to file special bail, the rule of the court

enters his appearance up on his endorsement of the writ which was served and returned by the sheriff. In actions in which bail was required but the arrested defendant failed to put in special bail within twenty days, as he had undertaken to do, the plaintiff's attorney moved the court for a common rule directing the sheriff to arrest the defendant again. The penalty against the sheriff for failing to compel the putting in of bail was attachment of his property for the amount of the judgment awarded to the plaintiff.

These volumes record the rules entered in these two situations. When the defendant was required to put in special bail and did so by the time specified for return of the writ of capias, the entry is simply cepi corpus, "I took the body." When the sheriff was unable to find the defendant, or the defendant did not reside within his bailiwick, the entry is non est (inventus), "he is not (found)." In causes where the defendant was a corporation, a writ of summons was served because a corporation, being a fictitious person, could not be arrested.

Each entry in these books gives the title of the cause, the rule entering the defendant's appearance or directing the sheriff to make a second arrest, the sheriff's fee in each case, and the name of the plaintiff's attorney. As noted above, in place of a rule the entry may simply state that the defendant was arrested (and that he put in bail) or was not found.

[^ Return to Table of Contents](#)

Related Information

Related Material

J0167Series J0167, New York State Supreme Court of Judicature (Geneva) Common Rule Books, contains some rules concerning return of writs of capias

J0137Series J0137, New York State Supreme Court of Judicature (Geneva) Judgment Rolls, contains bail pieces (memoranda of putting in bail)

J0027Series J0027, New York State Supreme Court of Judicature (Albany, Utica, and Geneva) Writs of Inquiry and Inquisitions, and

J0028Series J0028, New York State Supreme Court of Judicature (Geneva) Writs of Execution, contain related records

[^ Return to Table of Contents](#)

Other Finding Aids

Available at Repository

Volume list is available at the repository.

[^ Return to Table of Contents](#)

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.

[^ Return to Table of Contents](#)

Access Terms

- Adjudicating
- Arrest
- Writs
- Bail
- Sheriffs
- Courts
- Judicial records
- New York (State)
- New York (State). Court of Appeals
- New York (State). Supreme Court of Judicature