30 A.L.R. 700 (Originally published in 1924)

American Law Reports | The ALR databases are made current by the weekly addition of relevant new cases.

ALR
G. S. G.

Formality in authentication of judicial acts

[Cumulative Supplement]

The reported case for this annotation is Fairbanks v. Beard, 247 Mass. 8, 141 N.E. 590, 30 A.L.R. 698 (1923).

TABLE OF CONTENTS

ARTICLE OUTLINE

Table of Cases, Laws, and Rules

Canada
Gagnon v. King (1911) 24 Can. Crim. Cas. 51 — IVc
Gagnon v. Rex (1911) 24 Can. Crim. Cas. 51 — IVc
King v. Lee Chu (1909) — N. S. —, 14 Can. Crim. Cas. 322 — IVb
Rex v. Lee Chu (1909) — N. S. —, 14 Can. Crim. Cas. 322 — IVb
Royal Bank v. Lee (1915) — Sask. —, 30 West. L. R. 577, 23 D. L. R. 216 — IVa

England
Aylesbury v. Harvey (1650) 3 Lev. 204, 83 Eng. Reprint, 652 — VIc1
Blades v. Lawrence (1874) L. R. 9 Q. B. 374, 43 L. J. Q. B. N. S. 133, 30 L. T. N. S. 378, 22 Week. Rep. 643 — II
Padfield v. Cabell (1743) Willes, Rep. 412, 125 Eng. Reprint, 1241 — VIc1, VIc2

Supreme Court
Aetna Ins. Co. v. Hallock, 73 U.S. 556, 18 L. Ed. 948, 1867 WL 11149 (1867) — VIc3
Aetna Ins. Co. v. Hallock (Aetna Ins. Co. v. Doe) (1868) 6 Wall. 560, 18 L. ed. 949 — VIc1
Bankers Trust Co. v. Mallis, 435 U.S. 381, 98 S. Ct. 1117, 55 L. Ed. 2d 357, 24 Fed. R. Serv. 2d 1197 (1978) — Supp
Edwards v. U.S., 312 U.S. 473, 61 S. Ct. 669, 85 L. Ed. 957 (1941) — Supp
Generes v. Campbell, 78 U.S. 193, 20 L. Ed. 110, 1870 WL 12872 (1870) — VId1
Idaho & Oregon Land Imp. Co. v. Bradbury, 132 U.S. 509, 10 S. Ct. 177, 33 L. Ed. 433 (1889) — Vd
Lane, In re, 135 U.S. 443, 10 S. Ct. 760, 34 L. Ed. 219 (1890) — IVc
Malony v. Adsit, 175 U.S. 281, 20 S. Ct. 115, 44 L. Ed. 163, 1 Alaska Fed. 574 (1899) — Vd
Mussina v. Cavazos (1867) 6 Wall. (U.S.) 335, 18 L. ed. 810 — VId1
Origet v. U.S., 125 U.S. 240, 8 S. Ct. 846, 31 L. Ed. 743 (1888) — Ia1
Overton v. Cheek, 63 U.S. 46, 22 How. 46, 16 L. Ed. 285, 1859 WL 10650 (1859) — VId1
Starr v. U.S., 153 U.S. 614, 14 S. Ct. 919, 38 L. Ed. 841 (1894) — VIb
U.S. ex rel Kinney v. U.S. Fidelity & Guaranty Co, 222 U.S. 283, 32 S. Ct. 101, 56 L. Ed. 200, 56 L. Ed. 220 (1911) — Ia1
Wehrman v. Conklin, 155 U.S. 314, 15 S. Ct. 129, 39 L. Ed. 167 (1894) — VIc1
Worcester v. State of Ga., 31 U.S. 515, 8 L. Ed. 483, 1832 WL 3389 (1832) — VIc1
Young v. Martin, 75 U.S. 354, 19 L. Ed. 418, 1869 WL 11531 (1869) — VId1

First Circuit
Coclin Tobacco Co. v. Griswold, 408 F.2d 1338 (1st Cir. 1969) — Supp
U.S. v. Jarvis, 26 F. Cas. 593, No. 15469 (C.C.D. Me. 1847) — III
U S v. Plumer, 27 F. Cas. 561, No. 16056 (C.C.D. Mass. 1859) — IVd

Second Circuit
Dwight v. Merritt, 4 F. 614, 59 How. Pr. 320 (C.C.S.D. N.Y. 1880) — Vb
Peaslee v. Haberstro, 19 F. Cas. 71, No. 10884 (C.C.N.D. N.Y. 1879) — Vb

Third Circuit
Virgin Islands, Government of v. Bedford, 671 F.2d 758, 9 Fed. R. Evid. Serv. 1645 (3d Cir. 1982) — Supp

Fourth Circuit
Hyman v. McLendon, 140 F.2d 76 (C.C.A. 4th Cir. 1944) — Supp

Oxford & Coast Line R. Co. v. Union Bank of Richmond, Va., 153 F. 723 (C.C.A. 4th Cir. 1907) — Vd
U.S. v. Atlantic Commission Co., 45 F. Supp. 187 (E.D. N.C. 1942) — Supp
W. G. Cosby Transfer & Storage Corp. v. Froehlke, 480 F.2d 498 (4th Cir. 1973) — Supp

Fifth Circuit
Hamilton v. McCotter, 772 F.2d 171 (5th Cir. 1985) — Supp
Kauz v. U.S., 41 F.2d 57 (C.C.A. 5th Cir. 1930) — Supp
U.S. v. Boruff, 909 F.2d 111 (5th Cir. 1990) — Supp
U.S. v. Marshall, 910 F.2d 1241 (5th Cir. 1990) — Supp

Sixth Circuit
Ackermann, In re, 82 F.2d 971 (C.C.A. 6th Cir. 1936) — Supp
Knight v. Illinois Cent. R. Co., 180 F. 368 (C.C.A. 6th Cir. 1910) — Vd
Miller v. U. S., 300 F. 529, 3 Ohio L. Abs. 92 (C.C.A. 6th Cir. 1924) — Supp
U.S. v. Lubowa, 118 Fed. Appx. 888 (6th Cir. 2004) — Supp

Seventh Circuit
Middleton Paper Co. v. Rock River Paper Co., 19 F. 252 (C.C.W.D. Wis. 1884) — Vb
U.S. v. Grady, 185 F.2d 273 (7th Cir. 1950) — Supp
U.S. v. Menk, 260 F. Supp. 784 (S.D. Ind. 1966) — Supp
U.S. v. Wright, 365 F.2d 135, 5 A.L.R. Fed. 911 (7th Cir. 1966) — Supp
U. S. ex rel. Frierson v. Pate, 354 F.2d 588 (7th Cir. 1965) — Supp
Wolf v. Cook, 40 F. 432 (C.C.E.D. Wis. 1889) — VIa, VIc2

Eighth Circuit
U.S. v. Stuart, 689 F.2d 759 (8th Cir. 1982) — Supp

Ninth Circuit
Copper River & N W R Co v. Reeder, 211 F. 280, 4 Alaska Fed. 161 (C.C.A. 9th Cir. 1914) — VId1
Dalton v. Hazelet, 182 F. 561, 3 Alaska Fed. 520 (C.C.A. 9th Cir. 1910) — Vd
U.S. v. Walls, 577 F.2d 690, 3 Fed. R. Evid. Serv. 621 (9th Cir. 1978) — Supp

Tenth Circuit
Bell v. Dillard Dept. Stores, Inc., 85 F.3d 1451 (10th Cir. 1996) — Supp

Eleventh Circuit
U.S. v. Cole, 755 F.2d 748 (11th Cir. 1985) — Supp
Yuan, Matter of, 178 B.R. 273 (Bankr. N.D. Ala. 1995) — Supp

District of Columbia Circuit
U.S. v. Perholtz, 622 F. Supp. 1253 (D.D.C. 1985) — Supp

Alabama
Armstrong v. Nelson, 57 Ala. 556, 1877 WL 1188 (1877) — VId1
Baker v. State, 18 Ala. App. 510, 93 So. 270 (1922) — Vc
Boyett v. State, 8 Ala. App. 93, 62 So. 984 (1913) — Vc
Coburn v. State, 151 Ala. 100, 44 So. 58 (1907) — II, Vc
Cross v. State, 78 Ala. 430, 1885 WL 310 (1885) — Vc
Dothan, City of v. Holloway, 501 So. 2d 1175 (Ala. Crim. App. 1986) — Supp
Edwards v. State, 628 So. 2d 1021 (Ala. Crim. App. 1993) — Supp
Foshee v. Mims, 279 Ala. 414, 186 So. 2d 129 (1966) — Supp
Griffin v. State, 22 Ala. App. 369, 115 So. 769 (1928) — Supp
Hagin v. Cohen, 17 Ala. App. 52, 81 So. 689 (1919) — Vd
Harrall v. State, 26 Ala. 52, 1855 WL 282 (1855) — Vc
Heath v. Hall, 39 Ala. App. 623, 106 So. 2d 38 (1958) — Supp
Holley v. State, 75 Ala. 14, 1883 WL 838 (1883) — Vc

Hughes v. State, 213 Ala. 555, 105 So. 664 (1925) — Supp
James v. State, 42 Ala. App. 665, 177 So. 2d 922 (1965) — Supp
Johnson v. State, 73 Ala. 21, 1882 WL 1142 (1882) — IVc
Jones v. Muse, 40 Ala. App. 480, 115 So. 2d 272 (1959) — Supp
Joyner v. State, 78 Ala. 448, 1885 WL 319 (1885) — Vc
Kenan v. Starke, 6 Ala. 773, 1844 WL 332 (1844) — VId1
Kerley v. Vann, 52 Ala. 7, 1875 WL 874 (1875) — Vd
LeFlore v. State ex rel. Moore, 288 Ala. 310, 260 So. 2d 581 (1972) — Supp
McCoy v. State, 18 Ala. App. 480, 93 So. 230 (1922) — Vc
Meshow v. Agee, 204 Ala. 621, 87 So. 95 (1920) — III
Mitchell v. State, 15 Ala. App. 109, 72 So. 507 (1916) — IVa
Parris v. State, 175 Ala. 1, 57 So. 857 (1911) — III
Parsons Steel, Inc. v. Beasley, 600 So. 2d 248 (Ala. 1992) — Supp
Phillips v. State, 447 So. 2d 1312 (Ala. Crim. App. 1984) — Supp
Pope v. State, 345 So. 2d 1382 (Ala. Crim. App. 1976) — Supp
Reach v. Quinn, 159 Ala. 340, 48 So. 540 (1909) — IVb
Rowe v. Buttram, 180 Ala. 456, 61 So. 258 (1913) — Vd
Swallow v. State, 22 Ala. 20, 1853 WL 345 (1853) — Vc
Walker v. Elrod, 284 Ala. 32, 221 So. 2d 391 (1969) — Supp
Ward v. State, 22 Ala. 16, 1853 WL 344 (1853) — Vc
Whitley v. State, 166 Ala. 42, 52 So. 203 (1910) — Vc
Williams v. State, 27 Ala. App. 540, 176 So. 312 (1937) — Supp
Williams v. State, 22 Ala. App. 262, 114 So. 567 (1927) — Supp
Worrell v. State, 26 Ala. App. 577, 163 So. 901 (1935) — Supp

Arizona
Burch & Cracchiolo, P.A. v. Pugliani, 144 Ariz. 281, 697 P.2d 674 (1985) — Supp
Cahn v. Schmitz, 56 Ariz. 469, 108 P.2d 1006 (1941) — Supp
Lamb v. Superior Court In and For Maricopa County, 127 Ariz. 400, 621 P.2d 906 (1980) — Supp
Purcell, State ex rel. v. Superior Court In and For Maricopa County, 109 Ariz. 460, 511 P.2d 642 (1973) — Supp
Quintana v. Myers, 108 Ariz. 95, 492 P.2d 1202 (1972) — Supp
Smart v. Staunton, 29 Ariz. 1, 239 P. 514 (1925) — Supp
State v. Birmingham, 96 Ariz. 109, 392 P.2d 775 (1964) — Supp
State v. Kuhnley, 74 Ariz. 10, 242 P.2d 843 (1952) — Supp
Wilburn v. Reitman, 54 Ariz. 31, 91 P.2d 865 (1939) — Supp

Arkansas
Alexander v. State, 138 Ark. 613, 211 S.W. 664 (1919) — Vd
Alexander v. State (1919) — Ark. —, 211 S.W. 664 — Vd
Anderson v. State, 5 Ark. 444, 1844 WL 419 (1844) — Vc
Arnold v. State, 233 Ark. 3, 342 S.W.2d 291 (1961) — Supp
Bridewell v. Mooney, 25 Ark. 524, 1869 WL 692 (1869) — VIc1
Carnehan v. Parker, 102 Ark. 439, 144 S.W. 907 (1912) — Vd
Collie v. Coleman, 223 Ark. 206, 265 S.W.2d 515 (1954) — Supp
Hall v. State, 326 Ark. 318, 326 Ark. 823, 933 S.W.2d 363 (1996) — Supp
Hempstead County v. Howard County, 51 Ark. 344, 11 S.W. 478 (1889) — Vd
Hobbs v. Bolz Cooperage Co., 145 Ark. 435, 224 S.W. 968 (1920) — Vd
Jelks v. Jelks, 207 Ark. 475, 181 S.W.2d 235 (1944) — Supp
Jones v. Hardesty, 261 Ark. 716, 551 S.W.2d 543 (1977) — Supp
McMinn v. Shultz, 34 Ark. 627, 1879 WL 1356 (1879) — Vd
Oliver v. Routh, 123 Ark. 189, 184 S.W. 843 (1916) — VIa
Reeder v. Murray, 3 Ark. 450, 1841 WL 317 (1841) — VIa
Rudd v. Thompson & Barnes, 22 Ark. 363, 1860 WL 843 (1860) — VIa
Stayton v. Newcomer, 6 Ark. 451, 1846 WL 620 (1846) — VIa
Taylor v. State, 169 Ark. 589, 276 S.W. 577 (1925) — Supp

Turner v. Collier & Davis, 37 Ark. 528, 1881 WL 1530 (1881) — Vd
Ward v. State, 135 Ark. 259, 204 S.W. 971 (1918) — Vd
Watkins v. State, 37 Ark. 370, 1881 WL 1504 (1881) — Vc
Wells v. Long, 6 Ark. 252, 1845 WL 409 (1845) — VId4
Williams v. Griffith, 101 Ark. 84, 141 S.W. 495 (1911) — Ia1
Woolford v. Dugan, 2 Ark. 131, 1840 WL 309 (1840) — VIa
Yelvington v. Hobson, 193 Ark. 1180, 102 S.W.2d 848 (1937) — Supp

California
Badella v. Miller, 44 Cal. 2d 81, 279 P.2d 729 (1955) — Supp
Bartholomew v. Cross, 42 Cal. App. 2d 28, 108 P.2d 49 (4th Dist. 1940) — Supp
Bognuda v. Pearson, 71 Cal. App. 105, 234 P. 857 (3d Dist. 1925) — Supp
Brown v. Superior Court of California in and for Los Angeles County, 70 Cal. App. 732, 234 P. 409 (2d Dist. 1925) — Supp
California Southern R. Co. v. Southern Pac. R. Co., 67 Cal. 59, 7 P. 123 (1885) — Va
Chula v. Superior Court In and For Orange County, 57 Cal. 2d 199, 18 Cal. Rptr. 507, 368 P.2d 107, 97 A.L.R.2d 421 (1962) — Supp
Clark v. Janss, 39 Cal. App. 2d 198, 102 P.2d 768 (4th Dist. 1940) — Supp
Crim v. Kessing, 89 Cal. 478, 26 P. 1074 (1891) — Va
Davis, In re Marriage of, 141 Cal. App. 3d 71, 190 Cal. Rptr. 104 (1st Dist. 1983) — Supp
De Johnson v. Sepulbeda, 5 Cal. 149, 1855 WL 693 (1855) — Vd
Desherow v. Rhodes, 1 Cal. App. 3d 733, 82 Cal. Rptr. 138 (2d Dist. 1969) — Supp
Dong Fay Kwon v. Kwon, 39 Cal. App. 2d 232, 102 P.2d 808 (4th Dist. 1940) — Supp
Engleman v. Green, 125 Cal. App. 2d 882, 125 Cal. App. 2d Supp. 882, 270 P.2d 127 (App. Dep't Super. Ct. 1954) — Supp
Gee v. Terrio, 55 Cal. 381, 1880 WL 1918 (1880) — Vd
Gilreath, Application of, 167 Cal. App. 2d 655, 335 P.2d 203 (2d Dist. 1959) — Supp
Hager v. Astorg, 145 Cal. 548, 79 P. 68 (1904) — VIc1, VIc3
Helms v. Dunne, 107 Cal. 117, 40 P. 100 (1895) — IVb
Ligare v. California S.R. Co., 76 Cal. 610, 18 P. 777 (1888) — II
McMullen v. Saunders, 138 Cal. App. 2d 554, 292 P.2d 282 (1st Dist. 1956) — Supp
O'Connell v. O'Connell, 203 Cal. 541, 264 P. 1095 (1928) — Supp
O'Donnell v. Merguire, 131 Cal. 527, 63 P. 847 (1901) — Vb
People v. Ashnauer, 47 Cal. 98, 1873 WL 1261 (1873) — IVc
People v. Balthazar, 197 Cal. App. 2d 227, 17 Cal. Rptr. 58 (1st Dist. 1961) — Supp
People v. Sylvia, 54 Cal. 2d 115, 4 Cal. Rptr. 509, 351 P.2d 781 (1960) — Supp
Rocklite Products v. Municipal Court of Los Angeles Judicial Dist., 217 Cal. App. 2d 638, 32 Cal. Rptr. 183 (2d Dist. 1963) — Supp
Sande v. Sande, 276 Cal. App. 2d 324, 80 Cal. Rptr. 826 (2d Dist. 1969) — Supp
Shively v. Kochman, 20 Cal. App. 2d 688, 68 P.2d 255 (1st Dist. 1937) — Supp
Steiner, In re, 134 Cal. App. 2d 391, 285 P.2d 972 (2d Dist. 1955) — Supp
20th Century Ins. Co. v. Superior Court, 28 Cal. App. 4th 666, 33 Cal. Rptr. 2d 674 (2d Dist. 1994) — Supp
Watson v. Borcovich, 34 Cal. App. 2d 585, 94 P.2d 76 (1st Dist. 1939) — Supp
Wheeler v. Superior Court of City and County of San Francisco, 82 Cal. App. 202, 255 P. 275 (1st Dist. 1927) — Supp
White v. Ostly, 173 Cal. App. 2d 636, 343 P.2d 937 (1st Dist. 1959) — Supp
Younesi v. Lane, 228 Cal. App. 3d 967, 279 Cal. Rptr. 89 (2d Dist. 1991) — Supp

Colorado
Almond v. People, 55 Colo. 425, 135 P. 783 (1913) — II
De La Mar v. Hurd, 4 Colo. 442, 1878 WL 292 (1878) — VId1
Eberville v. Leadville Tunneling, Min. & Drainage Co., 28 Colo. 241, 64 P. 200 (1901) — Va
Forbes v. Goldenhersh, 899 P.2d 246 (Colo. App. 1994) — Supp
Hammond v. Bovee, 4 Colo. App. 269, 35 P. 674 (1894) — VId1
Hebron v. District Court In and For San Miguel County, 192 Colo. 346, 558 P.2d 997 (1977) — Supp
Joslin Dry Goods Co. v. Villa Italia, Ltd., 35 Colo. App. 252, 539 P.2d 137 (App. 1975) — Supp
Laffey v. Chapman, 9 Colo. 304, 12 P. 152 (1886) — VId1
Lindsley v. Lewis, 49 Colo. 289, 112 P. 538 (1911) — VId1, VId3

Morgenson v. Middlesex Min. & Mill. Co., 11 Colo. 176, 17 P. 513 (1888) — VId1
Pasbrig v. Walton, 651 P.2d 459 (Colo. App. 1982) — Supp
People v. Turner, 680 P.2d 1290 (Colo. App. 1983) — Supp
Rocky Mountain Ass'n of Credit Management v. District Court of City and County of Denver, in Second Judicial Dist., 193 Colo. 344, 565 P.2d 1345 (1977) — Supp
Scott v. People, 176 Colo. 289, 490 P.2d 1295 (1971) — Supp
Spar Consolidated Mining & Development Co. v. Aasgaard, 33 Colo. App. 35, 516 P.2d 127 (App. 1973) — Supp
Spector, In re Marriage of, 867 P.2d 181 (Colo. App. 1993) — Supp
Thompson v. People, 156 Colo. 416, 399 P.2d 776 (1965) — Supp

Connecticut
Blakeney v. Commissioner of Correction, 47 Conn. App. 568, 706 A.2d 989 (1998) — Supp
Czelzewicz v. Turansky, 5 Conn. Cir. Ct. 567, 258 A.2d 555 (App. Div. 1969) — Supp
State v. Smith, 27 Conn. Supp. 429, 241 A.2d 870 (Super. Ct. 1968) — Supp
Walden v. Siebert, 102 Conn. 353, 128 A. 702 (1925) — Supp

Delaware
Draper v. State, 53 Del. 157, 166 A.2d 717 (1961) — Supp
State v. Abbott, 21 Del. 330, 5 Penne. 330, 63 A. 231 (Gen. Sess. 1905) — Vc

District of Columbia
District of Columbia v. Washington Gaslight Co., 14 D.C. 343, 3 Mackey 343, 1884 WL 20297 (D.C. 1884) — II

Florida
Burnes v. State, 89 Fla. 494, 104 So. 783 (1925) — Supp
Callaghan v. Callaghan, 337 So. 2d 986 (Fla. Dist. Ct. App. 4th Dist. 1976) — Supp
Carmenates v. State, 654 So. 2d 601 (Fla. Dist. Ct. App. 3d Dist. 1995) — Supp
Chaky v. State, 651 So. 2d 1169 (Fla. 1995) — Supp
Champlin v. Cochran, 125 So. 2d 565 (Fla. 1960) — Supp
Dade Federal Sav. & Loan Ass'n v. Miami Title & Abstract Division of American Title Ins. Co., 217 So. 2d 873 (Fla. Dist. Ct. App. 3d Dist. 1969) — Supp
Giamo v. State, 245 So. 2d 116 (Fla. Dist. Ct. App. 3d Dist. 1971) — Supp
Hall v. State, 136 Fla. 644, 187 So. 392 (1939) — Supp
Harrison v. State, 573 So. 2d 60 (Fla. Dist. Ct. App. 5th Dist. 1990) — Supp
Lewis v. Russell, 47 Fla. 184, 36 So. 166 (1904) — IVb
Meadows Development Co. v. Ihle, 345 So. 2d 769 (Fla. Dist. Ct. App. 1st Dist. 1977) — Supp
Pilgrim v. Melvin, 141 So. 2d 296 (Fla. Dist. Ct. App. 1st Dist. 1962) — Supp
Poole v. State, 129 Fla. 841, 177 So. 195 (1937) — Supp
Ricks, State ex rel. v. Davidson, 121 Fla. 196, 163 So. 588 (1935) — Supp
Saporito v. Bone, 195 So. 2d 244 (Fla. Dist. Ct. App. 2d Dist. 1967) — Supp
Schutt v. Lester, 141 Fla. 40, 192 So. 461 (1939) — Supp
Seiferth v. Seiferth, 121 So. 2d 689 (Fla. Dist. Ct. App. 3d Dist. 1960) — Supp
Skipper v. State, 114 Fla. 312, 153 So. 853 (1934) — Supp
State v. Hickman, 189 So. 2d 254 (Fla. Dist. Ct. App. 2d Dist. 1966) — Supp
State v. Tamvakis, 459 So. 2d 371 (Fla. Dist. Ct. App. 5th Dist. 1984) — Supp
Washington v. State, 21 Fla. 328, 1885 WL 1769 (1885) — IVd

Georgia
Adams v. State, 231 Ga. App. 279, 499 S.E.2d 105 (1998) — Supp
Allen v. Pratt, 87 Ga. App. 704, 75 S.E.2d 329 (1953) — Supp
Amick v. Poteet, 208 Ga. 674, 68 S.E.2d 903 (1952) — Supp
Arrowwood v. McKee, 119 Ga. 623, 46 S.E. 871 (1904) — III
Baker v. Moore, 182 Ga. 131, 184 S.E. 729 (1936) — Supp
Beasley v. Georgia Power Co., 207 Ga. 188, 60 S.E.2d 363 (1950) — Supp
Bettie v. Daniel Bros. Co., 175 Ga. 349, 165 S.E. 265 (1932) — Supp

Borden v. Atlantic Coast Line R. Co., 60 Ga. App. 206, 3 S.E.2d 469 (1939) — Supp
Broussard v. Williams, 164 Ga. App. 545, 298 S.E.2d 269 (1982) — Supp
Brown v. Happ, 39 Ga. 61, 1869 WL 1631 (1869) — Vd
Brown v. State, 177 Ga. App. 284, 339 S.E.2d 332 (1985) — Supp
Clay v. Floyd, 208 Ga. 374, 66 S.E.2d 916 (1951) — Supp
Crowell v. State, 234 Ga. 313, 215 S.E.2d 685 (1975) — Supp
Day v. Harper, 95 Ga. App. 600, 98 S.E.2d 140 (1957) — Supp
Dever v. Akin, 40 Ga. 423, 1869 WL 1836 (1869) — VIc1, VIc3
Dickson v. Thurmond, 57 Ga. 153, 1876 WL 3116 (1876) — IVb
Dunagan v. Sims, 119 Ga. App. 765, 168 S.E.2d 914 (1969) — Supp
Ellison v. State, 82 Ga. App. 760, 62 S.E.2d 407 (1950) — Supp
Evans v. State, 168 Ga. App. 716, 310 S.E.2d 3 (1983) — Supp
First Nat. Bank of Commerce v. Brown, 85 Ga. App. 370, 69 S.E.2d 624 (1952) — Supp
Georgia Securities Co. v. Sanders, 74 Ga. App. 295, 39 S.E.2d 570 (1946) — Supp
Grier v. Travelers Ins. Co., 112 Ga. App. 159, 144 S.E.2d 196 (1965) — Supp
Gunn v. Tackett, 67 Ga. 725, 1881 WL 3469 (1881) — Ia1
Hall v. Young L. G. Harris College, 38 Ga. App. 662, 145 S.E. 96 (1928) — Supp
Hardin v. State, 203 Ga. 641, 47 S.E.2d 745 (1948) — Supp
Harper v. Green, 113 Ga. App. 557, 149 S.E.2d 163 (1966) — Supp
Henderson v. Pitman, 20 Ga. 735, 1856 WL 2002 (1856) — IVb
Ingle v. Rubenstein, 112 Ga. App. 767, 146 S.E.2d 367 (1965) — Supp
Kimsey v. Hall, 68 Ga. App. 409, 23 S.E.2d 196 (1942) — Supp
Krasner v. Verner Auto Supply, Inc., 130 Ga. App. 892, 204 S.E.2d 770 (1974) — Supp
Lanier v. Lanier, 79 Ga. App. 131, 53 S.E.2d 131 (1949) — Supp
Lowe v. Morris, 13 Ga. 147, 1853 WL 1568 (1853) — VId1
McGuffie v. State, 17 Ga. 497, 1855 WL 1863 (1855) — IVd
McIntyre v. Balkcom, 229 Ga. 81, 189 S.E.2d 445 (1972) — Supp
Moore v. Green, 86 Ga. App. 70, 70 S.E.2d 782 (1952) — Supp
Newman v. State, 101 Ga. 534, 28 S.E. 1005 (1897) — Vc
Newton v. Bailey, 208 Ga. 415, 67 S.E.2d 239 (1951) — Supp
Peacock v. Peacock, 212 Ga. 401, 93 S.E.2d 575 (1956) — Supp
Polk v. State, 275 Ga. App. 467, 620 S.E.2d 857 (2005) — Supp
Ray v. Atlanta Trust & Banking Co., 147 Ga. 265, 93 S.E. 418 (1917) — Vb
Reserve Life Ins. Co. v. Ayers, 103 Ga. App. 576, 120 S.E.2d 165 (1961) — Supp
Roman v. Terrell, 195 Ga. App. 219, 393 S.E.2d 83 (1990) — Supp
Sapp v. Parrish, 3 Ga. App. 234, 59 S.E. 821 (1907) — IVa
Seaboard Air Line R. Co. v. Drake, 101 Ga. App. 242, 113 S.E.2d 227 (1960) — Supp
Sellers v. Whaley, 84 Ga. App. 715, 67 S.E.2d 241 (1951) — Supp
Shield Ins. Co. v. Kemp, 117 Ga. App. 538, 160 S.E.2d 915 (1968) — Supp
Sikes v. Charlton County, 103 Ga. App. 251, 119 S.E.2d 59 (1961) — Supp
Spencer v. Taylor, 144 Ga. App. 641, 242 S.E.2d 308 (1978) — Supp
State v. Caswell, Charlton 280 (Ga. Super. Ct. 1809) — VIb
Switzer v. State, 28 Ga. App. 747, 113 S.E. 55 (1922) — Vc
Tingle v. Kelly, 90 Ga. App. 496, 83 S.E.2d 212 (1954) — Supp
Tyree v. Jackson, 226 Ga. 690, 177 S.E.2d 160 (1970) — Supp
Wallace v. State, 34 Ga. App. 281, 129 S.E. 299 (1925) — Supp
Ward v. State, 87 Ga. 160, 13 S.E. 711 (1891) — Vd
West v. Myers-Dickson Furniture Co., 70 Ga. App. 775, 29 S.E.2d 440 (1944) — Supp
Whitney v. Birdsong, 216 Ga. 756, 119 S.E.2d 569 (1961) — Supp
Willingham Finance Co. v. Walden, 95 Ga. App. 770, 98 S.E.2d 605 (1957) — Supp
Young v. Germania Sav. Bank, 132 Ga. 490, 64 S.E. 552 (1909) — IVb

Hawaii
Scott v. Liu, 46 Haw. 221, 377 P.2d 696 (1962) — Supp

Idaho
Cuoio v. Koseris, 68 Idaho 483, 200 P.2d 359 (1948) — Supp
Eichner v. Meyer, 56 Idaho 751, 58 P.2d 845 (1936) — Supp
Harpold v. Doyle, 16 Idaho 671, 102 P. 158 (1908) — VIc1
People v. Butler, 1 Idaho 231, 1869 WL 2370 (1869) — Vc

Illinois
Alton, City of v. Eck, 122 Ill. App. 282, 1905 WL 2219 (4th Dist. 1905) — Vd
Anastaplo v. Radford, 14 Ill. 2d 526, 153 N.E.2d 37 (1958) — Supp
Anglin v. Nott, 2 Ill. 395, 1 Scam. 395, 1837 WL 2368 (1837) — VIa
Bank of Montreal v. Griffin's Estate, 190 Ill. App. 221, 1914 WL 3050 (2d Dist. 1914) — Vd
Bishop Hill Colony v. Edgerton, 26 Ill. 54, 1861 WL 4088 (1861) — Ib
Bloomington, City of v. Clark, 78 Ill. App. 392, 1898 WL 2605 (3d Dist. 1898) — VId1
Bloomington, City of v. Lishka, 78 Ill. App. 389, 1898 WL 2603 (3d Dist. 1898) — VId1
Byrd, People ex rel. v. Twomey, 2 Ill. App. 3d 774, 277 N.E.2d 358 (3d Dist. 1972) — Supp
Chicago, City of v. Wohlbach, 316 Ill. 203, 147 N.E. 121 (1925) — Supp
Chicago & N.W. Ry. Co. v. Benham, 25 Ill. App. 248, 1888 WL 4189 (1st Dist. 1888) — VId1
Chicago, B. & Q.R. Co. v. Johnson, 34 Ill. App. 351, 1889 WL 2432 (2d Dist. 1890) — VId1
Cities Service Oil Co. v. Village of Oak Brook, 84 Ill. App. 3d 381, 39 Ill. Dec. 626, 405 N.E.2d 379 (2d Dist. 1980) — Supp
Cline v. Toledo, St. L. & K.C.R. Co., 41 Ill. App. 516, 1891 WL 2056 (4th Dist. 1891) — VId1
Cowhick v. Gunn, 3 Ill. 417, 2 Scam. 417, 1840 WL 2952 (1840) — VId4
Darien, City of v. Dublinski, 16 Ill. App. 3d 140, 304 N.E.2d 769 (2d Dist. 1973) — Supp
Dunlap v. Ennis, 8 Ill. 286, 3 Gilman 286, 1846 WL 3853 (1846) — VIa
Eagan v. Connelly, 107 Ill. 458, 1883 WL 10323 (1883) — VIc1, VIc3
Easton v. Altum, 2 Ill. 250, 1 Scam. 250, 1836 WL 2330 (1836) — VIa
Elder v. Bennett, 79 Ill. App. 335, 1898 WL 2754 (3d Dist. 1898) — Vd
Farmers Trust Co. v. Kimball, 84 Ill. App. 613, 1899 WL 2301 (1st Dist. 1899) — Vd
Gale v. Rector, 10 Ill. App. 262, 1881 WL 10979 (3d Dist. 1882) — VId1
Garland v. Britton, 12 Ill. 232, 1850 WL 4355 (1850) — VIa
Gradler v. Johnson, 372 Ill. 137, 22 N.E.2d 946, 159 A.L.R. 1123 (1939) — Supp
Gullett v. Otey, 19 Ill. App. 182, 1886 WL 8816 (3d Dist. 1886) — VIa
Hannum v. Thompson, 2 Ill. 238, 1 Scam. 238, 1835 WL 2189 (1835) — VIa
Harman v. Brigham, 78 Ill. App. 427, 1898 WL 2620 (3d Dist. 1898) — Vd
Higgins v. Hide & Leather Nat. Bank, 88 Ill. App. 33, 1800 WL 2606 (1st Dist. 1900) — Vd
Independent Electric Co. v. Donald, 86 Ill. App. 166, 1899 WL 2471 (1st Dist. 1899) — VId1
Jackman v. North, 398 Ill. 90, 75 N.E.2d 324, 175 A.L.R. 868 (1947) — Supp
Janett's Estate, In re, 199 Ill. App. 13, 1916 WL 2006 (4th Dist. 1916) — Vd
Kelley, People ex rel. v. Frye, 41 Ill. 2d 287, 242 N.E.2d 261 (1968) — Supp
Kruse v. People, 84 Ill. App. 620, 1899 WL 2303 (1st Dist. 1899) — Vd
K.S., In Interest of, 250 Ill. App. 3d 862, 189 Ill. Dec. 530, 620 N.E.2d 498 (4th Dist. 1993) — Supp
Maren v. Wolmer, 343 Ill. App. 353, 99 N.E.2d 213 (1st Dist. 1951) — Supp
Mason v. Gibson, 13 Ill. App. 463, 1883 WL 10526 (3d Dist. 1883) — VId4
Masterson v. Furman, 82 Ill. App. 386, 1898 WL 3143 (1st Dist. 1899) — Vd
McFarlane, In re Marriage of, 160 Ill. App. 3d 721, 112 Ill. Dec. 537, 513 N.E.2d 1146 (2d Dist. 1987) — Supp
Metropolitan Life Ins. Co. v. Bond, 66 Ill. App. 157, 1895 WL 3110 (2d Dist. 1896) — VId1
Miller v. Jenkins, 44 Ill. 443, 1867 WL 5180 (1867) — VId1
Morrison v. Silverburgh, 13 Ill. 551, 1852 WL 4320 (1852) — VIa
Ohio Millers Mut. Ins. Co. v. Inter-Insurance Exchange of Illinois Automobile Club, 367 Ill. 44, 10 N.E.2d 393 (1937) — Supp
People v. Audi, 61 Ill. App. 3d 483, 18 Ill. Dec. 761, 378 N.E.2d 225 (5th Dist. 1978) — Supp
People v. Ball, 412 Ill. 37, 104 N.E.2d 774 (1952) — Supp
People v. Billow, 377 Ill. 236, 36 N.E.2d 339 (1941) — Supp
People v. Cassidy, 67 Ill. App. 3d 43, 23 Ill. Dec. 805, 384 N.E.2d 599 (3d Dist. 1978) — Supp
People v. Childress, 2 Ill. App. 3d 319, 276 N.E.2d 360 (1st Dist. 1971) — Supp
People v. Clarke, 407 Ill. 353, 95 N.E.2d 425 (1950) — Supp

People v. Cox, 53 Ill. 2d 101, 291 N.E.2d 1 (1972) — Supp
People v. Danley, 181 Ill. App. 80, 1913 WL 2488 (3d Dist. 1913) — Ib
People v. Faciano, 66 Ill. App. 2d 431, 213 N.E.2d 587 (2d Dist. 1966) — Supp
People v. Kamrowski, 412 Ill. 383, 107 N.E.2d 725 (1952) — Supp
People v. Kessler, 394 Ill. 26, 67 N.E.2d 197 (1946) — Supp
People v. McCall, 42 Ill. App. 2d 295, 192 N.E.2d 257 (1st Dist. 1963) — Supp
People v. Rice, 238 Ill. App. 460, 1925 WL 4551 (3d Dist. 1925) — Supp
People v. Ross, 312 Ill. App. 186, 37 N.E.2d 930 (1st Dist. 1941) — Supp
People v. Smith, 350 Ill. App. 127, 111 N.E.2d 841 (2d Dist. 1953) — Supp
People v. Strauch, 247 Ill. 220, 93 N.E. 126 (1910) — Vc
People v. Tabet, 402 Ill. 93, 83 N.E.2d 329 (1948) — Supp
People v. Thompson, 81 Ill. App. 2d 263, 226 N.E.2d 80 (5th Dist. 1967) — Supp
People v. Troutt, 51 Ill. App. 3d 656, 9 Ill. Dec. 113, 366 N.E.2d 370 (5th Dist. 1977) — Supp
People v. Vlcek, 68 Ill. App. 2d 178, 215 N.E.2d 673 (2d Dist. 1966) — Supp
People v. Wilson, 400 Ill. 461, 81 N.E.2d 211 (1948) — Supp
Person, People ex rel. v. Miller, 56 Ill. App. 3d 450, 13 Ill. Dec. 920, 371 N.E.2d 1012 (1st Dist. 1977) — Supp
Prange v. City of Marion, 319 Ill. App. 136, 48 N.E.2d 980 (4th Dist. 1943) — Supp
Richmond v. Richmond, 326 Ill. App. 234, 61 N.E.2d 573 (1st Dist. 1945) — Supp
Robertson v. Robertson, 123 Ill. App. 3d 323, 78 Ill. Dec. 593, 462 N.E.2d 712 (5th Dist. 1984) — Supp
Second Nat. Bank of Robinson v. Jones, 309 Ill. App. 358, 33 N.E.2d 732 (4th Dist. 1941) — Supp
Songer v. Pfeiffer, 199 Ill. App. 190, 1916 WL 2047 (4th Dist. 1916) — Vd
Suttles v. Zimmerman, 287 Ill. App. 316, 5 N.E.2d 94 (4th Dist. 1936) — Supp
Tapp, Leathers & Co. v. Greenwald, 109 Ill. App. 504, 1903 WL 1674 (4th Dist. 1903) — VId1
Thompson v. Duff, 17 Ill. App. 304, 1885 WL 8401 (4th Dist. 1885) — VId1
Vosseler v. Wheeler, 99 Ill. App. 21, 1901 WL 2178 (1st Dist. 1901) — Vd
Wade v. Mathis, 7 Ill. App. 2d 113, 128 N.E.2d 927 (3d Dist. 1955) — Supp
White v. Prenzler, 19 Ill. App. 2d 231, 153 N.E.2d 477 (3d Dist. 1958) — Supp
Widows' and Orphans' Beneficiary Ass'n of the Ancient Order of Hibernians of State of Illinois v. Powers, 30 Ill. App. 82, 1889 WL 2014 (1st Dist. 1889) — VId1
Williams v. Vanmetre, 19 Ill. 293, 1857 WL 5709 (1857) — VIc1, VIc2

Indiana
Anderson v. State, 26 Ind. 89, 1866 WL 2434 (1866) — Ib
Aurora Fire Ins. Co. v. Johnson, 46 Ind. 315, 1874 WL 5992 (1874) — Vd
Baldwin v. State, 12 Ind. 383, 1859 WL 4951 (1859) — IVc
Bietman v. Hopkins, 109 Ind. 177, 9 N.E. 720 (1887) — Va
Blizzard v. Riley, 83 Ind. 300, 1882 WL 6927 (1882) — Vd
Board of Com'rs of Monroe County v. State ex rel. Underwood, 156 Ind. 550, 60 N.E. 344 (1901) — VId1, VId3
Boyd v. Fitch, 71 Ind. 306, 1880 WL 6258 (1880) — VIa
Brunt v. State ex rel. French, 36 Ind. 330, 1871 WL 5015 (1871) — VId4
Chicago, St. L. & P. R. Co. v. Wolcott, 141 Ind. 267, 39 N.E. 451 (1895) — VId4
Comstock v. Stoner, 30 Ind. App. 529, 66 N.E. 501 (1903) — VId4
Conkey v. Conder, 137 Ind. 441, 37 N.E. 132 (1894) — VId1
Cook v. State, 219 Ind. 234, 37 N.E.2d 63 (1941) — Supp
Cooper v. State, 79 Ind. 206, 1881 WL 6802 (1881) — Vc
Craig v. State, 232 Ind. 293, 112 N.E.2d 296 (1953) — Supp
Davis v. Pelley, 230 Ind. 248, 102 N.E.2d 910 (1952) — Supp
Diane Co. v. Beebe, 131 Ind. App. 161, 169 N.E.2d 542 (Div. 1 1960) — Supp
Dukes v. State, 11 Ind. 557, 1858 WL 6277 (1858) — Vc
Eastes v. Daubenspeck, 4 Ind. 617, 1853 WL 3410 (1853) — Vd
Fisher v. Driskell, 129 Ind. App. 29, 144 N.E.2d 161 (1957) — Supp
Forschner v. Garrison, 142 Ind. App. 638, 236 N.E.2d 835 (1968) — Supp
Freed, State ex rel. v. Circuit Court of Martin County, 214 Ind. 152, 14 N.E.2d 910 (1938) — Supp
Fromm v. Lawrence, 16 Ind. 384, 1861 WL 2737 (1861) — Vd
Galbraith v. Sidener, 28 Ind. 142, 1867 WL 2949 (1867) — Va

Germania Ins. Co. v. Johnson, 46 Ind. 331, 1874 WL 5993 (1874) — Vd
Gescheidler v. National Cas. Co., 120 Ind. App. 673, 96 N.E.2d 123 (1951) — Supp
Hamer v. State, 200 Ind. 403, 163 N.E. 91 (1928) — Supp
Hamilton v. State, 103 Ind. 96, 2 N.E. 299 (1885) — II
Harp, State ex rel. v. Vanderburgh Circuit Court, 227 Ind. 353, 85 N.E.2d 254, 11 A.L.R.2d 1108 (1949) — Supp
Harris v. State, 225 Ind. 115, 73 N.E.2d 51 (1947) — Supp
Harvey v. State, 5 Ind. App. 422, 31 N.E. 835 (1892) — Vd
Heacock v. State, 42 Ind. 393, 1873 WL 5595 (1873) — Vc
Hesch v. Bolin, 30 Ind. App. 3, 64 N.E. 39 (1902) — VId3
Hesch v. Bolin (1902) 30 Ind. App. 2, 64 N.E. 39 — VId1
Hinton v. Brown, 1 Blackf. 429, 1826 WL 1074 (Ind. 1826) — VId1, VId4
Home Ins. Co. v. Mathis, 109 Ind. App. 25, 32 N.E.2d 108 (1941) — Supp
Hunter v. Burnsville Turnpike Co., 56 Ind. 213, 1877 WL 6362 (1877) — VIc1, VIc3
Johnson v. Johnson, 156 Ind. 592, 60 N.E. 451 (1901) — VId1, VId3
Johnson v. State, 201 Ind. 264, 167 N.E. 531 (1929) — Supp
Johnson v. State, 23 Ind. 32, 1864 WL 3215 (1864) — Vc
Jones v. Frost, 42 Ind. 543, 1873 WL 5254 (1873) — VId1, VId4
Keeshin Motor Express Co. v. Glassman, 219 Ind. 538, 38 N.E.2d 847 (1942) — Supp
Keiser v. Lines, 79 Ind. 445, 1881 WL 6833 (1881) — Vd
Knapp v. State, 203 Ind. 610, 181 N.E. 517 (1932) — Supp
Lankenau v. Lankenau, 174 Ind. App. 45, 365 N.E.2d 1241 (1977) — Supp
Lindley v. Seward, 103 Ind. App. 600, 5 N.E.2d 998 (1937) — Supp
Malone v. State, 14 Ind. 219, 1860 WL 4406 (1860) — IVc
Manufacturers' Discount Co. v. American Sec. Co., 87 Ind. App. 446, 161 N.E. 660 (1928) — Supp
Nichols v. Baltimore & O. S.W. R. Co. (1904) 33 Ind. App. 229, 70 N.E. 183 — VId1
No. 4 Fidelity Bldg. & Sav. Union v. Byrd, 154 Ind. 47, 55 N.E. 867 (1900) — VId1, VId4
Owen v. Harriott, 47 Ind. App. 359, 94 N.E. 591 (1911) — Va
Pahmeier v. Rogers, 102 Ind. App. 480, 1 N.E.2d 287 (1936) — Supp
Patterson v. State, 10 Ind. 296, 1858 WL 4015 (1858) — Vd
Pittsburgh, C. C. & St. L. R. Co. v. Johnson (1911) 49 Ind. App. 126, 93 N.E. 683, 95 N.E. 610 — Va
Pursley v. Hisch, 119 Ind. App. 232, 85 N.E.2d 270 (1949) — Supp
Reeder v. English, 62 Ind. 78, 1878 WL 6444 (1878) — Vd
Sanford v. Sinton, 34 Ind. 539, 1870 WL 3769 (1870) — VId1
State v. Bowman, 103 Ind. 69, 2 N.E. 289 (1885) — III, IVd
State v. Bridenhager, 257 Ind. 544, 276 N.E.2d 843 (1971) — Supp
State v. Davis, 73 Ind. 359, 1881 WL 6362 (1881) — VIa
State v. Schell, 248 Ind. 183, 224 N.E.2d 49 (1967) — Supp
Stitson v. Board of Com'rs of Lawrence County, 45 Ind. 173, 1873 WL 5410 (1873) — VId1
U.S. Cement Co. v. Koch, 42 Ind. App. 251, 85 N.E. 490 (1908) — VId4
Vanderkarr v. State, 51 Ind. 91, 1875 WL 5867 (1875) — Ib
V.M.E., In re Paternity of, 668 N.E.2d 715 (Ind. Ct. App. 1996) — Supp
Warmoth v. Dryden, 125 Ind. 355, 25 N.E. 433 (1890) — VIc1, VIc3
Wassels v. State, 26 Ind. 30, 1866 WL 2427 (1866) — Ib
Zimmerman v. State, 4 Ind. App. 583, 31 N.E. 550 (1892) — Ib

Iowa
Burry v. Haynes, 232 Iowa 1209, 7 N.W.2d 914 (1943) — Supp
Cummings v. Landes, 140 Iowa 80, 117 N.W. 22 (1908) — II
Dermedy v. Jackson, 147 Iowa 620, 125 N.W. 228 (1910) — Va
Foss v. Isett (1853) 4 G. Greene, 77, 91 Am. Dec. 117 — VIc1
Foss v. Issett (1853) 4 G. Greene (Iowa) 77, 91 Am. Dec. 117 — VIc2
Loughren v. B.F. Bonniwell & Co., 125 Iowa 518, 101 N.W. 287 (1904) — II
McCoy v. Fire Ass'n of Philadelphia, 192 Iowa 453, 185 N.W. 101 (1921) — Va
McCubbin Seed Farm, Inc. v. Tri-Mor Sales, Inc., 257 N.W.2d 55, 22 U.C.C. Rep. Serv. 599 (Iowa 1977) — Supp
Shaffer v. Sundwall, 33 Iowa 579, 1872 WL 554 (1872) — VIc1, VIc2

Smith v. Middle States Utilities Co. of Delaware, 224 Iowa 151, 275 N.W. 158 (1937) — Supp
State v. Groome, 10 Iowa 308, 1860 WL 142 (1860) — Ib
State v. Hammer, 246 Iowa 392, 66 N.W.2d 490 (1954) — Supp
State v. Hiatt, 231 Iowa 643, 1 N.W.2d 736 (1942) — Supp
State v. Ruby, 61 Iowa 86, 15 N.W. 848 (1883) — Vc
State v. Wilmoth, 63 Iowa 380, 19 N.W. 249 (1884) — Vc

Kansas
Atchison, T. & S.F.R. Co. v. Whitbeck, 57 Kan. 729, 48 P. 16 (1897) — VId2
Atkinson v. Board of Educ., Unified School Dist. No. 383, 235 Kan. 793, 684 P.2d 424, 18 Ed. Law Rep. 1061 (1984) — Supp
Busch v. Busch, 165 Kan. 132, 193 P.2d 171 (1948) — Supp
Dennis v. Southeastern Kansas Gas Co., Inc., 227 Kan. 872, 610 P.2d 627 (1980) — Supp
Dexter v. Cochran, 17 Kan. 447, 1877 WL 893 (1877) — VIa
Farr, In re, 41 Kan. 276, 21 P. 273 (1889) — Vb
Gates v. Gates, 160 Kan. 428, 163 P.2d 395 (1945) — Supp
Gordon v. Bodwell, 59 Kan. 51, 51 P. 906 (1898) — VIc1, VIc3
Hodgden v. Ellsworth County Com'rs, 10 Kan. 637, 1873 WL 705 (1873) — Vd
Karr v. Hudson, 19 Kan. 474, 1878 WL 782 (1878) — VId1, VId2
Kelso v. Norton, 74 Kan. 442, 87 P. 184 (1906) — VIa
Limerick v. Haun, 44 Kan. 696, 25 P. 1069 (1890) — VId1, VId2
Lindsay v. Board of Com'rs of Kearney County, 56 Kan. 630, 44 P. 603 (1896) — Vb
Longwell v. Harkness, 57 Kan. 303, 46 P. 307 (1896) — VId1, VId2
Marriage of Wilson, Matter of, 13 Kan. App. 2d 291, 768 P.2d 835 (1989) — Supp
State v. Nulf, 15 Kan. 404, 1875 WL 830 (1875) — IVc
State v. Rollins, 24 Kan. App. 2d 15, 941 P.2d 411 (1997) — Supp
State v. Tannahill, 4 Kan. 117, 1866 WL 453 (1866) — IVc
Stouffer v. Harlan, 68 Kan. 135, 74 P. 610 (1903) — VIc1, VIc3
Taylor v. Buck, 61 Kan. 694, 60 P. 736 (1900) — Vb

Kentucky
Auxier v. Auxier, 180 Ky. 518, 203 S.W. 310 (1918) — Va
Blackburn v. Hanlon, 29 Ky. L. Rptr. 1290, 97 S.W. 352 (Ky. 1906) — Vd
Brineger v. Louisville & N.R. Co., 24 Ky. L. Rptr. 1973, 72 S.W. 783 (Ky. 1903) — Vd
Brown v. Com., 135 Ky. 635, 117 S.W. 281 (1909) — Vc
Clark v. Mason, 264 Ky. 683, 95 S.W.2d 292 (1934) — Supp
Cochran v. Com., 210 Ky. 332, 275 S.W. 810 (1925) — Supp
Com., Dept. of Highways v. Daly, 374 S.W.2d 497 (Ky. 1964) — Supp
Cunningham v. Grey, 271 Ky. 84, 111 S.W.2d 579 (1937) — Supp
Davis v. City of Bowling Green, 289 S.W.2d 506 (Ky. 1955) — Supp
Ewell v. Jackson, 129 Ky. 214, 33 Ky. L. Rptr. 673, 110 S.W. 860 (1908) — Va
Farris v. Matthews, 149 Ky. 455, 149 S.W. 896 (1912) — Va
Flint v. Illinois Cent. R. Co., 28 Ky. L. Rptr. 1, 88 S.W. 1055 (Ky. 1905) — Vd
Fox v. Lantrip, 162 Ky. 178, 172 S.W. 133 (1915) — Va
Gaffeney v. Gaffeney, 311 Ky. 126, 223 S.W.2d 583 (1949) — Supp
Gross' Adm'x v. Couch, 292 Ky. 304, 166 S.W.2d 879 (1942) — Supp
Hazelip v. Doyel, 260 Ky. 313, 85 S.W.2d 685 (1935) — Supp
Henderson, City of v. Allen & Co., 10 Ky. L. Rptr. 282, 1888 WL 1133 (Super. Ct. 1888) — Vd
Johnson v. Commonwealth, 80 Ky. 377, 4 Ky. L. Rptr. 210, 1882 WL 8256 (1882) — Va
Jones' Adm'r v. Jones, 22 Ky. L. Rptr. 1280, 60 S.W. 488 (Ky. 1901) — Vd
Koontz v. Butler, 238 Ky. 406, 38 S.W.2d 204 (1931) — Supp
Langstaff v. Meyer, 305 Ky. 116, 203 S.W.2d 49 (1947) — Supp
Louisville Bridge Co. v. Neafus (1901) 110 Ky. 571, 62 S.W. 2, 63 S.W. 600 — Vd
Marcum v. Moore, 263 S.W.2d 89 (Ky. 1953) — Supp
Maslow Cooperage Corp. v. Jones, 316 S.W.2d 860 (Ky. 1958) — Supp

M. S. S. Enterprises, Inc. v. Louisville Gas & Elec. Co., 445 S.W.2d 425 (Ky. 1969) — Supp
Raymond v. Smith, 58 Ky. 65, 1 Met. 65, 1858 WL 4880 (1858) — Va
Second Nat. Bank of Paintsville v. Blair, 299 Ky. 650, 186 S.W.2d 796 (1945) — Supp
Smith v. Com., 217 Ky. 8, 288 S.W. 1059 (1926) — Supp
Stanford v. Parker (1891) 12 Ky. L. Rep. 878, 15 S.W. 784, 16 S.W. 268 — Vd
Staton v. Poly Weave Bag Co., Incorporated/Poly Weave Packaging, Inc., 930 S.W.2d 397 (Ky. 1996) — Supp
Tankersley v. Gilkey, 414 S.W.2d 589 (Ky. 1967) — Supp
Terrell v. Commonwealth, 194 Ky. 608, 240 S.W. 81 (1922) — III
Williams Bros. v. Newport News & M. V. R. Co., 13 Ky. L. Rptr. 202, 1891 WL 1227 (Super. Ct. 1891) — Vd
Wisconsin Chair Co. v. Columbia Finance & Trust Co. (1901) — Ky. L. Rep. —, 60 S.W. 19 — Vd

Louisiana
Kraeutler v. President, Directors, and Co. of Bank of U.S., 11 Rob. 160, 1845 WL 1562 (La. 1845) — Va
Mechanics' & Traders' Bank v. Walton, 7 Rob. 451, 1844 WL 1449 (La. 1844) — Va
Calhoun v. Serio, 161 So. 772 (La. Ct. App. 2d Cir. 1935) — Supp
Campbell, Richie & Co. v. Karr, 7 La. 70, 1834 WL 740 (1834) — VIa
Clark v. Cottage Builders, Inc., 237 La. 157, 110 So. 2d 562 (1959) — Supp
Collerton v. McCleary, 3 La. 429, 1832 WL 697 (1832) — Va
Conery v. His Creditors, 115 La. 807, 40 So. 173 (1905) — Ia1
Dupre v. Hartford Life Ins. Co., 291 So. 2d 821 (La. Ct. App. 3d Cir. 1973) — Supp
Employers Nat. Ins. Co. v. Workers' Compensation Second Injury Bd., 672 So. 2d 309 (La. Ct. App. 1st Cir. 1996) — Supp
Gallier v. Garcia, 2 Rob. 319, 1842 WL 1698 (La. 1842) — Va
Gates v. Bell, 3 La. Ann. 62, 1848 WL 3720 (1848) — Va
Guidry v. Seacoast Products, Inc., 214 So. 2d 904 (La. Ct. App. 3d Cir. 1968) — Supp
Haas v. Buck, 182 La. 566, 162 So. 181 (1935) — Supp
Haggerty, Succession of, 27 La. Ann. 667, 1875 WL 7342 (1875) — Ia2
Hatch v. Arnault, 3 La. Ann. 482, 1848 WL 3803 (1848) — Va
Isom v. Stevens, 148 So. 270 (La. Ct. App. 1st Cir. 1933) — Supp
Johnson v. Hamilton, 2 La. Ann. 206, 1847 WL 3338 (1847) — IVa
Lopez v. Southern Natural Gas Co., 287 So. 2d 211 (La. Ct. App. 4th Cir. 1973) — Supp
Luquette v. Floyd, 228 So. 2d 177 (La. Ct. App. 3d Cir. 1969) — Supp
Martin, State ex rel. v. Webster Parish School Board, 126 La. 392, 52 So. 553 (1910) — Vd
Meyers, Succession of, 16 La. App. 675, 133 So. 897 (Orleans 1931) — Supp
Nicholls, Ex parte, 4 Rob. 52, 1843 WL 1308 (La. 1843) — Va
Peoples' Enterprise, Inc. v. Landry, 288 So. 2d 701 (La. Ct. App. 3d Cir. 1974) — Supp
Perkins, State ex rel. v. Judge of the Fifth District Court, 12 La. Ann. 455, 1857 WL 4683 (1857) — Va
Ready v. Sun Oil Co., 315 So. 2d 840 (La. Ct. App. 1st Cir. 1975) — Supp
River & Rails Terminals v. Louisiana Ry. & Nav. Co., 157 La. 1085, 103 So. 331 (1925) — Supp
Saloy v. Collins, 30 La. Ann. 63, 1878 WL 8352 (1878) — Va
Schwing v. Dunlap, 125 La. 677, 51 So. 684 (1910) — Va
Smith v. Harrathy, 5 Mart. (n.s.) 319, 1827 WL 1918 (La. 1827) — Va
Smith's Heirs v. Blount, 10 La. 483, 1837 WL 678 (1837) — VIa
Sprigg v. Wells, 5 Mart. (n.s.) 104, 1826 WL 1664 (La. 1826) — Va
State v. Allen, 450 So. 2d 1378 (La. Ct. App. 1st Cir. 1984) — Supp
State v. Bay, 148 La. 559, 87 So. 294 (1920) — Vc
State v. Becnel, 441 So. 2d 339 (La. Ct. App. 5th Cir. 1983) — Supp
State v. Cooper, 249 La. 654, 190 So. 2d 86 (1966) — Supp
State v. Dominick, 354 So. 2d 1316 (La. 1978) — Supp
State v. Ferguson, 240 La. 593, 124 So. 2d 558 (1960) — Supp
State v. Folke, 2 La. Ann. 744, 1847 WL 3441 (1847) — Ib
State v. Granville, 34 La. Ann. 1088, 1882 WL 8966 (1882) — Ib
State v. Sopher, 35 La. Ann. 975, 1883 WL 8485 (1883) — IVd
State v. Stoma, 199 La. 529, 6 So. 2d 650 (1941) — Supp
State v. Tinney, 26 La. Ann. 460, 1874 WL 7822 (1874) — Vc
State v. Valere, 39 La. Ann. 1060, 3 So. 186 (1887) — IVd

State v. Williams, 107 La. 789, 32 So. 172 (1902) — Vc
U.S. Fidelity & Guaranty Co. v. Villere & Bertucci, 1 La. App. 533, 1925 WL 3617 (Orleans 1925) — Supp
Van Winckle v. Flecheaux, 12 La. 148, 1838 WL 746 (1838) — Va
Viator v. Heintz, 201 La. 884, 10 So. 2d 690 (1942) — Supp
Ward's Heirs v. Bowmar, 12 La. 571, 1838 WL 892 (1838) — VIa
Wilson v. Lee, 196 La. 271, 199 So. 117 (1940) — Supp
Young v. Geter, 187 So. 830 (La. Ct. App. 2d Cir. 1939) — Supp

Maine
Bailey v. Smith, 12 Me. 196, 1835 WL 441 (1835) — VIa
Hamlin v. Higgins, 102 Me. 510, 67 A. 625 (1907) — IVa
Hurley v. Hewett, 89 Me. 100, 35 A. 1026 (1896) — III
Miller v. Weisman, 125 Me. 4, 130 A. 504 (1925) — Supp
Palleria v. Farrin Bros. & Smith, 153 Me. 423, 140 A.2d 716 (1958) — Supp
Pinkham v. Jennings (1923) — Me. —, 122 Atl. 873 — Va, VIa
State v. Coyle, 33 Me. 427, 1851 WL 1597 (1851) — VIb
State v. Drake, 36 Me. 366, 1853 WL 1990 (1853) — VIb
State v. Flemming, 66 Me. 142, 1877 WL 4007 (1877) — VIb
State v. Haines, 153 Me. 465, 138 A.2d 460 (1958) — Supp
State v. McNally, 34 Me. 210, 1852 WL 1568 (1852) — VIb
State v. Reed, 67 Me. 127, 1877 WL 4084 (1877) — Vc
State v. Taggart, 38 Me. 298, 1854 WL 1826 (1854) — Ib
Tibbetts v. Shaw, 19 Me. 204, 1841 WL 1113 (1841) — VIa
Witherel v. Randall, 30 Me. 168, 1849 WL 1844 (1849) — VIa

Maryland
Apper v. Eastgate Associates, 28 Md. App. 581, 347 A.2d 389 (1975) — Supp
Cooper v. Holmes, 71 Md. 20, 17 A. 711 (1889) — Vd
Dunn v. State, 140 Md. 163, 117 A. 329 (1922) — Vd
Ellicott v. Martin, 6 Md. 509, 1854 WL 3420 (1854) — Vd
Goodman v. Saperstein, 115 Md. 678, 81 A. 695 (1911) — Vd
Hopkins v. Kent, 17 Md. 113, 1861 WL 3107 (1861) — Vd
Sellman v. Sellman, 238 Md. 615, 209 A.2d 61 (1965) — Supp
Somervell v. Hunt (1792) 3 Harr. & McH. 114 — VIb
State v. Dodd, 17 Md. App. 693, 304 A.2d 846 (1973) — Supp
Wilkerson v. State, 171 Md. 287, 188 A. 813 (1937) — Supp
Wise-Jones v. Jones, 117 Md. App. 489, 700 A.2d 852 (1997) — Supp

Massachusetts
Austin v. Lamar Fire Ins. Co., 108 Mass. 338, 1871 WL 8815 (1871) — VIa
Brewer v. Sibley, 54 Mass. 175, 13 Met. 175, 1847 WL 4023 (1847) — VIa
Com. v. Gleason, 110 Mass. 66, 1872 WL 8864 (1872) — Ib
Com. v. Stone, 105 Mass. 469, 1870 WL 7013 (1870) — Vc
Commonwealth v. Beaman, 74 Mass. 497, 8 Gray 497, 1858 WL 6303 (1858) — IVc
Eastern Sav. Bank v. City of Salem, 33 Mass. App. Ct. 140, 597 N.E.2d 55 (1992) — Supp
Foot v. Knowles, 45 Mass. 386, 4 Met. 386, 1842 WL 4056 (1842) — VIa
Hall v. Jones (1830) 9 Pick. 446 — VIa
Norton v. Musterole Co., 235 Mass. 587, 127 N.E. 431 (1920) — Ia1
Schulz v. Black, 369 Mass. 958, 336 N.E.2d 853 (1975) — Supp
Stevens v. Ewer, 43 Mass. 74, 2 Met. 74, 1840 WL 3181 (1840) — VIc1, VIc3
Volpe v. Sensatini, 249 Mass. 132, 144 N.E. 104 (1924) — Supp
Webber v. Davis, 87 Mass. 393, 5 Allen 393, 1862 WL 3930 (1862) — Ia2

Michigan
Norton Shores v. Carr, 59 Mich. App. 561, 229 N.W.2d 848 (1975) — Supp

People v. Crocker, 1 Mich. N.P. 31 (Cir. Ct. 1869) — VIb
People v. Thomas, 1 Mich. App. 118, 134 N.W.2d 352 (1965) — Supp

Minnesota
Ames v. Schurmeier, 9 Minn. 221, 9 Gil. 206, 1864 WL 1409 (1864) — II
Atwood v. Atwood, 253 Minn. 185, 91 N.W.2d 728 (1958) — Supp
Herrick v. Morrill, 37 Minn. 250, 33 N.W. 849 (1887) — II
Leyde v. Martin, 16 Minn. 38, 16 Gil. 24, 1870 WL 2362 (1870) — Va
McGregor, State ex rel. v. Rigg, 260 Minn. 141, 109 N.W.2d 310 (1961) — Supp
O'Farrell v. Heard, 22 Minn. 189, 1875 WL 3889 (1875) — VIc1, VIc2
Wheaton v. Thompson, 20 Minn. 196, 20 Gil. 175, 1873 WL 8821 (1873) — VIc1, VIc2

Mississippi
Burton v. Cramer, 123 Miss. 848, 86 So. 578 (1920) — VIa
Dawsey v. State, 144 Miss. 452, 110 So. 239 (1926) — Supp
Easterling v. State, 35 Miss. 210, 1858 WL 3070 (1858) — Ib
Graves v. Monet (1846) 7 Smedes & M. 45 — Vd
Hodges v. State, 912 So. 2d 730 (Miss. 2005) — Supp
Jackson v. Gordon, 194 Miss. 268, 11 So. 2d 901 (1943) — Supp
Jones v. State, 356 So. 2d 1182 (Miss. 1978) — Supp
Keithler v. State (1848) 10 Smedes & M. 192 — Vc
McAllum v. Spinks, 129 Miss. 237, 91 So. 694 (1922) — VIa
North v. Delta Chevrolet Co., 188 Miss. 252, 194 So. 478 (1940) — Supp
Pharis v. Conner (1844) 3 Smedes & M. 87 — VIa
Smith v. State, 152 Miss. 114, 118 So. 710 (1928) — Supp
Spratley v. Kitchens, 55 Miss. 578, 1878 WL 4506 (1878) — VIa
Triplett v. State, 910 So. 2d 581 (Miss. Ct. App. 2005) — Supp
Willenbrock v. Brown, 239 So. 2d 922 (Miss. 1970) — Supp
Wright v. Vesta (1840) 5 How. (Miss.) 152 — VIa, VIc2

Missouri
Brand v. Brand, 245 S.W.2d 94 (Mo. 1951) — Supp
Cooper v. Maloney, 162 Mo. 684, 63 S.W. 372 (1901) — Vd
Darrah v. The Lightfoot, 17 Mo. 276, 1852 WL 4122 (1852) — Vd
Fleisher v. Hinde (1906) — Mo. App. —, 93 S.W. 1126 — III
Gleason v. International Shoe Co. (1920) — Mo. App. —, 228 S.W. 524 — Vd
Gordon v. Gordon, 390 S.W.2d 583 (Mo. Ct. App. 1965) — Supp
Harding v. Bedoll, 202 Mo. 625, 100 S.W. 638 (1907) — Vd
Jump v. McClurg, 35 Mo. 193, 1864 WL 2790 (1864) — VIc1
Payne v. Payne, 695 S.W.2d 494 (Mo. Ct. App. S.D. 1985) — Supp
Perkins v. Bakrow, 39 Mo. App. 331, 1890 WL 1563 (1890) — Vd
Puller v. Thomas, 36 Mo. App. 105, 1889 WL 1619 (1889) — Vd
Reno v. Fitz Jarrell, 163 Mo. 411, 63 S.W. 808 (1901) — Vd
Roberts v. Jones, 148 Mo. 368, 49 S.W. 985 (1899) — Vd
Schmidt v. Schmidt, 617 S.W.2d 601 (Mo. Ct. App. E.D. 1981) — Supp
Smith v. Hannibal & St. J.R. Co., 55 Mo. 601, 1874 WL 8410 (1874) — Vd
Snell v. Harrison, 104 Mo. 158, 16 S.W. 152 (1891) — VId1
State v. Alexander, 675 S.W.2d 431 (Mo. Ct. App. E.D. 1984) — Supp
State v. Bockstruck (1917) — Mo. —, 192 S.W. 404 — Vd
State v. Bohannon, 361 Mo. 380, 234 S.W.2d 793 (1950) — Supp
State v. Branson, 262 S.W. 365 (Mo. 1924) — Supp
State v. Brock, 186 Mo. 457, 85 S.W. 595 (1905) — Ib
State v. Broyles, 340 Mo. 962, 104 S.W.2d 270 (1937) — Supp
State v. Bruce, 77 Mo. 193, 1882 WL 10077 (1882) — Vc
State v. Campbell, 210 Mo. 202, 109 S.W. 706 (1908) — IVc

State v. Collins, 196 Mo. 87, 93 S.W. 1117 (1906) — Vd
State v. Crader, 225 S.W.2d 353 (Mo. 1949) — Supp
State v. Easley, 338 S.W.2d 884 (Mo. 1960) — Supp
State v. Elgin, 391 S.W.2d 341 (Mo. 1965) — Supp
State v. Fleming, 240 Mo. App. 1208, 227 S.W.2d 106 (1950) — Supp
State v. Flowers, 630 S.W.2d 585 (Mo. Ct. App. W.D. 1981) — Supp
State v. Garrette, 699 S.W.2d 468 (Mo. Ct. App. S.D. 1985) — Supp
State v. Gilson, 114 Mo. App. 652, 90 S.W. 400 (1905) — IVd
State v. Goodson (1923) — Mo. —, 252 S.W. 366 — Vd
State v. Holden, 142 Mo. App. 502, 127 S.W. 399 (1910) — IVc
State v. Huett, 340 Mo. 934, 104 S.W.2d 252 (1937) — Supp
State v. Johnson, 349 Mo. 910, 163 S.W.2d 780 (1942) — Supp
State v. Keatley, 21 Mo. App. 484, 1886 WL 5063 (1886) — Vd
State v. Kelley, 191 Mo. 680, 90 S.W. 834 (1905) — Ib
State v. Kinney, 81 Mo. 101, 1883 WL 10029 (1883) — IVc
State v. Kyle, 166 Mo. 287, 65 S.W. 763 (1901) — Ib
State v. Long, 955 S.W.2d 951 (Mo. Ct. App. S.D. 1997) — Supp
State v. Murphy, 47 Mo. 274, 1871 WL 7624 (1871) — Vc
State v. Nidiffer, 337 Mo. 1020, 87 S.W.2d 636 (1935) — Supp
State v. Pace, 402 S.W.2d 351 (Mo. 1966) — Supp
State v. Sincup, 674 S.W.2d 689 (Mo. Ct. App. E.D. 1984) — Supp
State v. Souders, 703 S.W.2d 909 (Mo. Ct. App. E.D. 1985) — Supp
State v. Van Patton, 230 Mo. App. 1199, 94 S.W.2d 1119 (1936) — Supp
State v. VanSickel, 675 S.W.2d 907 (Mo. Ct. App. W.D. 1984) — Supp
State v. Walker, 221 Mo. 511, 120 S.W. 1198 (1909) — IVc
State v. Watts, 248 Mo. 494, 154 S.W. 721 (1913) — Vd
St. Louis Housing Authority v. Evans, 285 S.W.2d 550 (Mo. 1955) — Supp
Swink v. Thompson, 31 Mo. 336, 1861 WL 3938 (1861) — VIa
Thomas v. State, 6 Mo. 457, 1840 WL 2864 (1840) — Vc
Wilfong, In re Marriage of, 658 S.W.2d 45 (Mo. Ct. App. W.D. 1983) — Supp

Montana
Choate v. Spencer, 13 Mont. 127, 32 P. 651 (1893) — VIa
Sharman v. Huot, 20 Mont. 555, 52 P. 558 (1898) — Vb
State v. Mason, 283 Mont. 149, 941 P.2d 437 (1997) — Supp

Nebraska
Eisenmann v. Eisenmann, 1 Neb. App. 138, 488 N.W.2d 587 (1992) — Supp
Essex v. Brown, 139 Neb. 435, 297 N.W. 659 (1941) — Supp
Fouts v. Mann, 15 Neb. 172, 18 N.W. 64 (1883) — Va
Frazier's Estate, In re, 131 Neb. 61, 267 N.W. 181 (1936) — Supp
Gallentine v. Cummings, 96 N.W. 178 (Neb. 1903) — Va
Goldsberry v. State, 92 Neb. 211, 137 N.W. 1116 (1912) — Vc
Gossett, State ex rel. v. O'Grady, 137 Neb. 824, 291 N.W. 497 (1940) — Supp
J.A., In re Interest of, 244 Neb. 919, 510 N.W.2d 68 (1994) — Supp
People's Nat. Bank v. Ring, 95 Neb. 376, 145 N.W. 833 (1914) — Vb
Sawyer v. Kunkel, 166 Neb. 303, 88 N.W.2d 906 (1958) — Supp
Scott v. Rohman, 43 Neb. 618, 62 N.W. 46 (1895) — Va
Spanheimer Roofing & Supply Co. v. Thompson, 198 Neb. 710, 255 N.W.2d 265 (1977) — Supp
State v. Jones, 254 Neb. 212, 575 N.W.2d 156 (1998) — Supp
State v. Carrico, 86 Neb. 448, 125 N.W. 1110 (1910) — VIc1

Nevada
Nelson v. City of Las Vegas, 99 Nev. 548, 665 P.2d 1141 (1983) — Supp
State v. Pansey, 61 Nev. 330, 121 P.2d 441 (1942) — Supp

State v. Salge, 2 Nev. 321, 1866 WL 1638 (1866) — IVc

New Hampshire
Lowell v. Sabin, 15 N.H. 29, 1844 WL 2123 (1844) — II
Smith v. Smith, 15 N.H. 55, 1844 WL 2127 (1844) — Vb
State v. Farrar, 41 N.H. 53, 1860 WL 3260 (1860) — Vc
State v. Thibodeau, 101 N.H. 136, 135 A.2d 715 (1957) — Supp

New Jersey
Atlas v. Silvan, 128 N.J. Super. 247, 319 A.2d 758 (App. Div. 1974) — Supp
Binder v. Green, 8 N.J. Super. 88, 73 A.2d 357 (App. Div. 1950) — Supp
Hirsch v. De Puy, 11 N.J. Misc. 500, 166 A. 720 (Sup. Ct. 1933) — Supp
Lutes v. Alpaugh, 23 N.J.L. 165, 1851 WL 3502 (N.J. Sup. Ct. 1851) — Vd
State v. Bigley Bros., Inc., 53 N.J. Super. 264, 147 A.2d 52 (App. Div. 1958) — Supp
State v. Dime, 5 N.J. Misc. 85, 135 A. 510 (Sup. Ct. 1927) — Supp
State v. Goldfarb (1922) — N.J.L. —, 117 Atl. 698 — Vd
State v. Haimowicz, 125 N.J.L. 526, 17 A.2d 472 (N.J. Sup. Ct. 1941) — Supp
State v. Kelly, 84 N.J.L. 1, 87 A. 128 (N.J. Sup. Ct. 1913) — VIb
State v. Leschine (1905) — N.J. —, 60 Atl. 29 — Vd
State v. Lombardo, 18 N.J. Super. 511, 87 A.2d 375 (County Ct. 1952) — Supp
State v. Ramage, 91 N.J.L. 435, 103 A. 1043 (N.J. Sup. Ct. 1918) — Vd
State v. Woodworth, 121 N.J.L. 78, 1 A.2d 254 (N.J. Sup. Ct. 1938) — Supp
Steedle v. Woolston, 88 N.J.L. 91, 95 A. 737 (N.J. Sup. Ct. 1915) — II
Wood v. Fithian, 24 N.J.L. 33, 1853 WL 4004 (N.J. Sup. Ct. 1853) — Ib

New Mexico
Animas Consol. Mines Co. v. Frazier, 41 N.M. 389, 69 P.2d 927 (1937) — Supp
Quintana v. Vigil, 46 N.M. 200, 125 P.2d 711 (1942) — Supp

New York
Albanese, People ex rel. v. Hunt, 266 A.D. 105, 41 N.Y.S.2d 646 (4th Dep't 1943) — Supp
Barnard v. Heydrick, 2 Abb. Pr. N.S. 47, 32 How. Pr. 97, 49 Barb. 62, 1866 WL 5268 (N.Y. Sup 1866) — II
Broniszewski v. Newman, 16 A.D.2d 870, 228 N.Y.S.2d 313 (4th Dep't 1962) — Supp
Churchill v. Marsh, 2 Abb. Pr. 219, 1855 WL 6148 (N.Y.C.P. 1855) — VIc1, VIc2
Dobke v. Munro, 15 Abb. Pr. 363, 1863 WL 3925 (N.Y. Sur. Ct. 1863) — IVa
Farmers' Loan & Trust Co. v. Dickson, 9 Abb. Pr. 61, 17 How. Pr. 477, 1859 WL 7636 (N.Y. Sup 1859) — II
Frederick v. Hunkins, 197 Misc. 299, 97 N.Y.S.2d 562 (County Ct. 1950) — Supp
Funk v. Barry, 89 N.Y.2d 364, 653 N.Y.S.2d 247, 675 N.E.2d 1199 (1996) — Supp
Gano v. Hall (1864) 5 Park. Crim. Rep. 651 — VIb
George W. Collins, Inc. v. Olsker-McLain Industries, Inc., 22 A.D.2d 485, 257 N.Y.S.2d 201 (4th Dep't 1965) — Supp
Good v. Daland, 119 N.Y. 153, 23 N.E. 474 (1890) — Vb
Mantell v. Servidone Const. Corp., 61 A.D.2d 1071, 403 N.Y.S.2d 141 (3d Dep't 1978) — Supp
Mason v. Corbin, 29 A.D. 602, 51 N.Y.S. 178 (3d Dep't 1898) — Vb
Mierop v. State, 22 Misc. 2d 216, 201 N.Y.S.2d 2 (Ct. Cl. 1960) — Supp
Millett v. Baker, 42 Barb. 215, 1864 WL 3912 (N.Y. Gen. Term 1864) — VIb
Mutual Life Ins. Co. v. Ross, 10 Abb. Pr. 260 (N.Y. Sup 1860) — II
New York v. Eisler (1882) 2 N.Y. Civ. Proc. Rep. 125 — II
Parisi v. McElhatton, 209 A.D.2d 495, 619 N.Y.S.2d 92 (2d Dep't 1994) — Supp
People v. Childs, 247 A.D.2d 319, 670 N.Y.S.2d 4 (1st Dep't 1998) — Supp
People v. Cohen, 22 Misc. 2d 722, 205 N.Y.S.2d 481 (County Ct. 1960) — Supp
People v. Dorsey, 176 Misc. 932, 29 N.Y.S.2d 637 (County Ct. 1941) — Supp
People v. Du Bois, 26 N.Y.S. 895 (Ct. Sess. 1894) — IVb
People v. Foster, 60 Misc. 3, 112 N.Y.S. 706 (Gen. Sess. 1908) — Vc
People v. Holcomb (1858) 3 Park. Crim. Rep. (N.Y.) 656 — VIb
People v. McDermott, 158 Misc. 2d 823, 601 N.Y.S.2d 1017 (City Crim. Ct. 1993) — Supp

People v. Minuto, 71 Misc. 2d 800, 337 N.Y.S.2d 88 (City Ct. 1972) — Supp
People v. Scott, 3 N.Y.2d 148, 164 N.Y.S.2d 707, 143 N.E.2d 901 (1957) — Supp
Pepoon v. Jenkins (1798) Col. & Cai. Cas. (N.Y.) 60 — Vb
Radcliff v. Rhan, 5 Denio 234, 1848 WL 4483 (N.Y. Sup 1848) — VId1
Restivo v. Degnan, 191 Misc. 642, 77 N.Y.S.2d 563 (Sup 1948) — Supp
Salzman v. Mandel, 49 Misc. 625, 97 N.Y.S. 298 (App. Term 1906) — Ib
Sardo, People ex rel. v. Jackson, 6 A.D.2d 938, 175 N.Y.S.2d 637 (3d Dep't 1958) — Supp
Shirley v. Schulman, 78 N.Y.2d 915, 573 N.Y.S.2d 456, 577 N.E.2d 1048 (1991) — Supp
Slater v. Grannemann, 124 A.D. 98, 108 N.Y.S. 363 (3d Dep't 1908) — Vb
Smith v. City of New York, 213 A.D.2d 309, 624 N.Y.S.2d 166 (1st Dep't 1995) — Supp
Talcott v. Rosenberg, 8 Abb. Pr. N.S. 287, 1870 WL 7413 (N.Y.C.P. 1870) — VIc1
Tenement House Department of City of New York v. Weil, 76 Misc. 273, 134 N.Y.S. 1062 (App. Term 1912) — II
W. T. Grant Co. v. Payne, 64 Misc. 2d 797, 315 N.Y.S.2d 910 (County Ct. 1970) — Supp

North Carolina
Belcher v. Cobb, 169 N.C. 689, 86 S.E. 600 (1915) — Va
Bond v. Wool, 113 N.C. 20, 18 S.E. 77 (1893) — Va
Boone v. Sparrow, 235 N.C. 396, 70 S.E.2d 204 (1952) — Supp
Brown v. Harding, 170 N.C. 253, 86 S.E. 1010 (1915) — Va
Calmes v. Lambert, 153 N.C. 248, 69 S.E. 138 (1910) — VIa
Clark v. Hellen, 23 N.C. 421, 1 Ired. 421, 1841 WL 744 (1841) — VIa
Henderson v. Graham, 84 N.C. 496, 1881 WL 3088 (1881) — Vb
Hinson v. Jefferson, 287 N.C. 422, 215 S.E.2d 102 (1975) — Supp
Home Health and Hospice Care, Inc. v. Meyer, 88 N.C. App. 257, 362 S.E.2d 870 (1987) — Supp
Keener v. Goodson, 89 N.C. 273, 1883 WL 2514 (1883) — Va
McDonald v. Howe, 178 N.C. 257, 100 S.E. 427 (1919) — Va
Morehead v. Bennett, 219 N.C. 747, 14 S.E.2d 785 (1941) — Supp
Purcell v. McFarland, 23 N.C. 34, 1 Ired. 34, 1840 WL 705 (1840) — VIc1, VIc3
Rollins v. Henry, 78 N.C. 342, 1878 WL 2342 (1878) — Va
Seawell v. Bank of Cape Fear, 14 N.C. 279, 3 Dev. 279, 1831 WL 488 (1831) — VIc1, VIc3
Shackelford v. McRea's Adm'rs, 10 N.C. 226, 3 Hawks 226, 1824 WL 350 (1824) — VIc1
Siler v. Ward (1814) 4 N.C. (1 Car. Law Repos.) 548 — IVb
State v. Atkins, 242 N.C. 294, 87 S.E.2d 507 (1955) — Supp
State v. Chandler, 9 N.C. 439, 2 Hawks 439, 1823 WL 236 (1823) — IVd
State v. Collins, 14 N.C. 117, 3 Dev. 117, 1831 WL 450 (1831) — Ib
State v. Cox, 28 N.C. 440, 6 Ired. 440, 1846 WL 1051 (1846) — Vc
State v. Curtis, 2 N.C. 471, 1 Hayw. 471, 1797 WL 182 (Super. Ct. L. & Eq. 1797) — VIb
State v. Doughtie, 238 N.C. 228, 77 S.E.2d 642 (1953) — Supp
State v. Gilliam, 33 N.C. App. 490, 235 S.E.2d 421 (1977) — Supp
State v. Glover, 283 N.C. 379, 196 S.E.2d 207 (1973) — Supp
State v. House, 295 N.C. 189, 244 S.E.2d 654 (1978) — Supp
State v. Mace, 86 N.C. 668, 1882 WL 2849 (1882) — Vc
State v. Mitchell, 260 N.C. 235, 132 S.E.2d 481 (1963) — Supp
State v. Sellers, 273 N.C. 641, 161 S.E.2d 15 (1968) — Supp
State v. Vincent (1814) 4 N.C. (1 Car. Law. Repos.) 493 — Vc
State v. Worley, 33 N.C. 242, 11 Ired. 242, 1850 WL 1302 (1850) — VIb
State Trust Co. v. Toms, 244 N.C. 645, 94 S.E.2d 806 (1956) — Supp
Vick v. Flournoy, 147 N.C. 209, 60 S.E. 978 (1908) — VIa
Welch v. Scott, 27 N.C. 72, 5 Ired. 72, 1844 WL 1019 (1844) — VIb

North Dakota
Hagen v. Gresby, 34 N.D. 349, 159 N.W. 3 (1916) — II
Monson v. Nelson, 145 N.W.2d 892 (N.D. 1966) — Supp

Ohio

Baldine v. Klee, 10 Ohio Misc. 203, 39 Ohio Op. 2d 295, 224 N.E.2d 544 (C.P. 1965) — Supp
Barker v. Barker, 118 Ohio App. 3d 706, 693 N.E.2d 1164 (6th Dist. Lucas County 1997) — Supp
Boal's Lessee v. King, 6 Ohio 11, 1833 WL 2 (1833) — VIc1, VIc3
Boyle v. Public Adjustment & Const. Co., 87 Ohio App. 264, 42 Ohio Op. 478, 57 Ohio L. Abs. 129, 93 N.E.2d 795 (8th Dist. Cuyahoga County 1950) — Supp
Buck v. State, 80 Ohio St. 395, 88 N.E. 1099 (1909) — III
Dimond, In re, 37 Ohio L. Abs. 248, 46 N.E.2d 788 (Ct. App. 2d Dist. Clark County 1942) — Supp
Drucker, State ex rel. v. Reichle, 52 Ohio L. Abs. 94, 81 N.E.2d 735 (Ct. App. 8th Dist. Cuyahoga County 1948) — Supp
Foglio v. Alvis, 75 Ohio L. Abs. 228, 143 N.E.2d 641 (C.P. 1957) — Supp
Hower Corp. v. Vance, 144 Ohio St. 443, 30 Ohio Op. 38, 59 N.E.2d 377 (1945) — Supp
Jones v. State, 7 Ohio C.D. 305, 1897 WL 660 (Ohio Cir. Ct. 1897) — Vc
Justice, State ex rel. v. McMackin, 53 Ohio St. 3d 72, 558 N.E.2d 1183 (1990) — Supp
Kennedy v. Alvis, 76 Ohio L. Abs. 132, 145 N.E.2d 361 (C.P. 1957) — Supp
Knowlson v. Bellman, 160 Ohio St. 359, 52 Ohio Op. 232, 116 N.E.2d 430 (1953) — Supp
Krasny v. Metropolitan Life Ins. Co., 143 Ohio St. 284, 28 Ohio Op. 199, 54 N.E.2d 952 (1944) — Supp
Lenarci v. State (1915) 23 Ohio C. C. N. S. 73 — VIc1
Merion, State ex rel. v. Van Sickle, 42 Ohio L. Abs. 33, 59 N.E.2d 383 (Ct. App. 2d Dist. Franklin County 1944) — Supp
Roberts, State ex rel. v. Maxwell, 90 Ohio L. Abs. 481, 189 N.E.2d 736 (Ct. App. 10th Dist. Franklin County 1962) — Supp
Rowe v. AEtna Cas. & Sur. Co., 69 Ohio App. 291, 24 Ohio Op. 74, 36 Ohio L. Abs. 36, 42 N.E.2d 706 (2d Dist. Franklin County 1941) — Supp
San Filipo v. San Filipo, 81 Ohio App. 3d 111, 610 N.E.2d 493 (9th Dist. Summit County 1991) — Supp
Shilito v. Thacker (1885) 43 Ohio St. 63, 1 N.E. 438 — Vd
State v. Lewis, 7 Ohio N.P. 533, 5 Ohio Dec. 552, 1896 WL 700 (C.P. 1896) — III
State v. Turner, Wright 20 (Ohio 1831) — VId1, VId4
United Fairlawn, Inc. v. HPA Partners, 68 Ohio App. 3d 777, 589 N.E.2d 1344 (9th Dist. Summit County 1990) — Supp
VanBuskirk v. Wingard, 80 Ohio St. 3d 659, 1998-Ohio-173, 687 N.E.2d 776 (1998) — Supp
Venable v. State (1885) 1 Ohio C. D. 165, 1 Ohio C. C. 301 — VId3
Whiting v. State, 48 Ohio St. 220, 27 N.E. 96 (1891) — IVd

Oklahoma

Allen v. Clover Valley Lumber Co., 1935 OK 293, 171 Okla. 238, 42 P.2d 850 (1935) — Supp
Austin v. King, 1965 OK 117, 404 P.2d 1009 (Okla. 1965) — Supp
Bartlesville Interurban Ry. Co. v. Quaid, 1915 OK 639, 51 Okla. 166, 151 P. 891 (1915) — Vd
Beck v. Sweeney, 1926 OK 447, 114 Okla. 253, 246 P. 444 (1926) — Supp
Board of Com'rs of Creek County v. State, 1915 OK 540, 48 Okla. 477, 150 P. 455 (1915) — VId1, VId2, VId4
Board of Com'rs of Mayes County v. Vann, 60 Okla. 86, 159 P. 297 (1916) — VId1, VId2
Boyer v. Oklahoma Farm Bureau Mut. Ins. Co., 1995 OK CIV APP 102, 902 P.2d 83 (Ct. App. Div. 4 1995) — Supp
Boynton v. Crockett, 1902 OK 49, 12 Okla. 57, 69 P. 869 (1902) — Va
Campbell v. Williams, 1924 OK 1077, 104 Okla. 274, 231 P. 226 (1924) — Supp
Canfield v. Bell, 1915 OK 480, 47 Okla. 622, 149 P. 1088 (1915) — VId1
Chandler v. State, 1910 OK CR 1, 3 Okla. Crim. 254, 105 P. 375 (1909) — Vd
Coffer v. State, 1973 OK CR 188, 508 P.2d 1101 (Okla. Crim. App. 1973) — Supp
Depuy v. Hoeme, 1989 OK 42, 775 P.2d 1339 (Okla. 1989) — Supp
Edwards v. State, 1957 OK CR 21, 307 P.2d 872 (Okla. Crim. App. 1957) — Supp
Franks v. Franks, 1932 OK 99, 155 Okla. 91, 7 P.2d 866 (1932) — Supp
Garland, In re, 1915 OK 977, 52 Okla. 585, 153 P. 153 (1915) — VId1, VId2
Green v. Mee, 1945 OK 219, 197 Okla. 562, 173 P.2d 217 (1945) — Supp
Harbour v. Harbour (1923) — Okla. —, 218 Pac. 681 — VId1, VId2
Hardin v. State, 56 Okla. Crim. 440, 41 P.2d 922 (1935) — Supp
Heintz v. State, 49 Okla. Crim. 148, 295 P. 402 (1930) — Supp
Helms v. Faulkner, 1920 OK 342, 79 Okla. 308, 193 P. 621 (1920) — VId1, VId2
Humphrey v. State, 1910 OK CR 54, 3 Okla. Crim. 504, 106 P. 978 (1910) — Vd
Kinnon v. Cote Piano Mfg. Co. (1923) — Okla. —, 219 Pac. 307 — VId2
Landon v. State, 82 Okla. Crim. 336, 166 P.2d 781 (1946) — Supp
Lewis v. State, 1910 OK CR 38, 3 Okla. Crim. 448, 106 P. 647 (1910) — Vd

Lynch v. State, 1995 OK CR 65, 909 P.2d 800 (Okla. Crim. App. 1995) — Supp
Mangum v. Todd (1918) — Okla. —, 175 Pac. 197 — VId1, VId2
Manning v. State ex rel. Dept. of Public Safety, 1994 OK 62, 876 P.2d 667 (Okla. 1994) — Supp
Mid-West Life Ass'n, Oklahoma City v. Rivers, 1932 OK 780, 160 Okla. 199, 16 P.2d 561 (1932) — Supp
Miller v. Roberts, 1953 OK 43, 208 Okla. 549, 257 P.2d 1068 (1953) — Supp
Montemat v. Johnson, 1914 OK 300, 42 Okla. 443, 141 P. 779 (1914) — VId1
Oklahoma City v. McKean, 1913 OK 513, 39 Okla. 300, 135 P. 19 (1913) — VId1, VId2
Oligschlager v. Grell, 1904 OK 38, 13 Okla. 632, 75 P. 1131 (1904) — VId1, VId2
Sam v. State, 1973 OK CR 264, 510 P.2d 978 (Okla. Crim. App. 1973) — Supp
School Dist. No. 24 of Rogers County v. Brown, 1916 OK 59, 54 Okla. 632, 154 P. 525 (1916) — VId1, VId2
Smith v. First Nat. Bank, 1934 OK 478, 169 Okla. 90, 36 P.2d 27 (1934) — Supp
Stallard v. Knapp, 1900 OK 42, 9 Okla. 591, 60 P. 234 (1900) — VId1, VId2
State v. Jackson, 57 Okla. Crim. 277, 48 P.2d 861 (1935) — Supp
State v. Jones, 1910 OK CR 22, 3 Okla. Crim. 412, 106 P. 351 (1910) — Vd
Stewart v. State, 1909 OK CR 173, 3 Okla. Crim. 618, 105 P. 374 (1909) — Vd
Tarkenton v. Carpenter, 1915 OK 529, 48 Okla. 498, 150 P. 482 (1915) — VId1, VId2
Tiller v. State, 35 Okla. Crim. 31, 247 P. 421 (1926) — Supp
Vahlberg v. State, 96 Okla. Crim. 102, 249 P.2d 736 (1952) — Supp
Walker v. Walker, 1916 OK 41, 54 Okla. 666, 154 P. 512 (1916) — VId1, VId2
Washmood v. U.S., 1913 OK CR 291, 10 Okla. Crim. 254, 136 P. 184 (1913) — VId1
Wenner v. Board of Educ. of City of Perry, 1910 OK 38, 25 Okla. 515, 106 P. 821 (1910) — VIc1
West, Ex parte, 62 Okla. Crim. 260, 71 P.2d 129 (1937) — Supp
Wyant v. Beavers, 1915 OK 510, 49 Okla. 30, 150 P. 480 (1915) — VId1, VId2

Oregon
Fry v. Ashley, 228 Or. 61, 363 P.2d 555 (1961) — Supp
Oxman v. Baker County, 115 Or. 436, 234 P. 799 (1925) — Supp
Singer Mfg. Co. v. Graham, 8 Or. 17, 1879 WL 1191 (1879) — Vd
Starkey v. Lunz, 57 Or. 147, 110 P. 702 (1910) — VIa
State v. Cox, 12 Or. App. 215, 505 P.2d 360 (1973) — Supp
Utley v. City of Independence, 240 Or. 384, 402 P.2d 91 (1965) — Supp

Pennsylvania
In re Lower Towamensing Tp. Road, 25 Pa. C.C. 305, 10 Pa. Dist. 581, 1900 WL 4605 (Pa. Quar. Sess. 1900) — VIc1
Com. v. Bracalielly, 540 Pa. 460, 658 A.2d 755 (1995) — Supp
Com. v. Carsia, 341 Pa. Super. 232, 491 A.2d 237 (1985) — Supp
Com. v. Devault, 309 Pa. Super. 497, 455 A.2d 720 (1983) — Supp
Com. v. Ferguson, 8 Pa. Dist. 120, 1898 WL 3831 (Pa. Quar. Sess. 1898) — IVd
Com. v. Golden, 309 Pa. Super. 286, 455 A.2d 162 (1983) — Supp
Com. v. Klinger, 323 Pa. Super. 181, 470 A.2d 540 (1983) — Supp
Com. v. March, 308 Pa. Super. 343, 454 A.2d 567 (1982) — Supp
Com. v. Nelson, 311 Pa. Super. 1, 456 A.2d 1383 (1983) — Supp
Com. v. Shirey, 333 Pa. Super. 85, 481 A.2d 1314 (1984) — Supp
Com. v. Slyman, 334 Pa. Super. 415, 483 A.2d 519 (1984) — Supp
Sechrist v. York Rys., 26 Pa. Dist. 658, 1917 WL 4772 (Pa. C.P. 1917) — VIa

Rhode Island
Blazar v. Perkins, 463 A.2d 203 (R.I. 1983) — Supp
Darcy v. Carreiro, 112 R.I. 470, 311 A.2d 841 (1973) — Supp
Potter v. Smith, 7 R.I. 55, 1861 WL 1916 (1861) — VIc1
State v. Chappell, 26 R.I. 375, 58 A. 1009 (1904) — IVb
State v. Diggins, 92 R.I. 341, 168 A.2d 469 (1961) — Supp
Vieira v. Vieira, 98 R.I. 454, 204 A.2d 431 (1964) — Supp

South Carolina

Barnwell v. Marion, 58 S.C. 459, 36 S.E. 818 (1900) — IVa
Davis v. Sanders, 40 S.C. 507, 19 S.E. 138 (1894) — Vc
Genobles v. West, 23 S.C. 154, 1885 WL 3643 (1885) — Vb
Gowan v. Gentry, 32 S.C. 369, 11 S.E. 82 (1890) — VIe
Hughes v. Phelps, 3 S.C.L. 81, 1 Brev. 81, 1802 WL 514 (Const. Ct. App. 1802) — VIa
Pringle v. State, 287 S.C. 409, 339 S.E.2d 127 (1986) — Supp
Smith v. Affanassieffe, 31 S.C.L. 334, 2 Rich. 334, 1846 WL 2202 (Ct. App. Law 1846) — VIa
Southern Cotton Oil Co. v. Hewlett, 107 S.C. 532, 93 S.E. 195 (1917) — VIa, VIe
State v. Vaughn, 16 S.C.L. 313, Harp. 313, 1824 WL 941 (Const. Ct. App. 1824) — VIb

South Dakota
Badger State Bank, In re, 60 S.D. 484, 245 N.W. 41 (1932) — Supp
Brady v. Cooper (1923) — S.D. —, 193 N.W. 246 — Vb
Forming and Organizing Common School Dist. from Part of Territory Embraced in Independent School Dist. of Emery, In re, 61 S.D. 79, 246 N.W. 245 (1932) — Supp
Jones, Application of, 89 S.D. 191, 231 N.W.2d 844 (1975) — Supp
Schurman v. Schurman, 60 S.D. 489, 245 N.W. 39 (1932) — Supp

Tennessee
Anderson v. Sharp, 195 Tenn. 274, 259 S.W.2d 521 (1953) — Supp
Carter v. Board of Zoning Appeals of City of Nashville, 214 Tenn. 42, 377 S.W.2d 914 (1964) — Supp
Carter v. Norton (1899) — Tenn. —, 61 S.W. 561 — Vd
Cobb v. Brown, 42 Tenn. App. 595, 305 S.W.2d 241 (1956) — Supp
Elmore v. Elmore, 173 S.W.3d 447 (Tenn. Ct. App. 2004) — Supp
Freeman v. Freeman, 197 Tenn. 75, 270 S.W.2d 364 (1954) — Supp
Greenfield v. State (1872) 7 Baxt. 19 — IVc
Janow v. State, 567 S.W.2d 483 (Tenn. Crim. App. 1978) — Supp
Life & Cas. Ins. Co. v. Gardner, 21 Tenn. App. 244, 108 S.W.2d 1100 (1937) — Supp
McAmis v. Carlisle, 42 Tenn. App. 195, 300 S.W.2d 59 (1956) — Supp
Norris v. Richards, 45 Tenn. App. 100, 320 S.W.2d 730 (1958) — Supp
O'Dell v. City of Knoxville, 54 Tenn. App. 59, 388 S.W.2d 150 (1964) — Supp
Sandford, State ex rel. v. Cate, 199 Tenn. 195, 285 S.W.2d 343 (1955) — Supp
State v. Arnold, 719 S.W.2d 543 (Tenn. Crim. App. 1986) — Supp
State v. Brown, 27 Tenn. 89, 8 Hum. 89, 1847 WL 1625 (1847) — IVc
State v. Chambless, 682 S.W.2d 227 (Tenn. Crim. App. 1984) — Supp
State v. Evans, 27 Tenn. 110, 8 Hum. 110, 1847 WL 1630 (1847) — IVc
State v. Hawkins, 91 Tenn. 140, 18 S.W. 114 (1892) — Vd
State v. Lockett, 50 Tenn. 274, 3 Heisk. 274, 1871 WL 3593 (1871) — III
State v. Myers, 85 Tenn. 203, 5 S.W. 377 (1886) — IVc
Tackett v. State (1832) 3 Yerg. (Tenn.) 393, 24 Am. Dec. 582 — VIb
Teas v. State, 26 Tenn. 174, 7 Hum. 174, 1846 WL 1523 (1846) — IVc
Ward v. University of South, 209 Tenn. 412, 354 S.W.2d 246 (1962) — Supp
Wilson v. Tranbarger, 218 Tenn. 208, 402 S.W.2d 449 (1965) — Supp

Texas
Anderson v. State, 142 Tex. Crim. 291, 152 S.W.2d 765 (1941) — Supp
Arbuckle v. State, 142 Tex. Crim. 549, 155 S.W.2d 609 (1941) — Supp
Barber v. State, 374 S.W.2d 246 (Tex. Crim. App. 1963) — Supp
Barrier, Ex parte, 17 Tex. App. 585, 1885 WL 6756 (Ct. App. 1885) — VId4
Bloom v. Bloom, 767 S.W.2d 463 (Tex. App. San Antonio 1989) — Supp
Bradford v. State, 372 S.W.2d 336 (Tex. Crim. App. 1963) — Supp
Braun v. State, 158 Tex. Crim. 394, 257 S.W.2d 708 (1953) — Supp
Brewster v. Norfleet, 3 Tex. Civ. App. 103, 22 S.W. 226 (1893) — VIa
Bridgman v. Moore, 143 Tex. 250, 183 S.W.2d 705 (1944) — Supp
Brown v. State, 153 Tex. Crim. 22, 216 S.W.2d 987 (1949) — Supp

Canfield v. Jones (1898) 18 Tex. Civ. App. 721, 45 S.W. 741 — VIa
Carson Bros. v. McCord-Collins Co., 37 Tex. Civ. App. 540, 84 S.W. 391 (1904) — VIa
Cartwright v. Chabert, 3 Tex. 261, 1848 WL 3900 (1848) — VIa
Chambers v. Chapman, 32 Tex. 569, 1870 WL 5645 (1870) — VIa
Chambless v. State, 153 Tex. Crim. 5, 216 S.W.2d 203 (1948) — Supp
Clitus v. Langford (1893) — Tex. Civ. App. —, 24 S.W. 325 — Vd
Cobb v. State, 51 Tex. Crim. 464, 102 S.W. 1151 (1907) — VId1, VId4
Cook v. Davis, 22 S.W.2d 311 (Tex. Civ. App. Galveston 1929) — Supp
Corbett v. Rankin Independent School Dist., 100 S.W.2d 113 (Tex. Civ. App. El Paso 1936) — Supp
Cypert v. State, 215 S.W.2d 886 (Tex. Crim. App. 1948) — Supp
Day v. State, 61 Tex. Crim. 114, 134 S.W. 215 (1910) — IVd, Vc
Dewees v. Colorado County, 32 Tex. 570, 1870 WL 5646 (1870) — VIa
Diamond Chemical Co. v. Sonoco Products Co., 437 S.W.2d 307 (Tex. Civ. App. Corpus Christi 1968) — Supp
Dunn v. Dunn, 439 S.W.2d 830 (Tex. 1969) — Supp
Fator v. State, 59 Tex. Crim. 251, 128 S.W. 901 (1910) — Ia1
Fernandez v. State, 142 Tex. Crim. 297, 152 S.W.2d 758 (1941) — Supp
Flanigan v. Carswell, 315 S.W.2d 295 (Tex. Civ. App. Austin 1958) — Supp
Frosch v. Schlumpf, 2 Tex. 422, 1847 WL 3582 (1847) — VIa
Fuentes, In re, 960 S.W.2d 261 (Tex. App. Corpus Christi 1997) — Supp
Gehring v. Strakos, 345 S.W.2d 764 (Tex. Civ. App. Houston 1961) — Supp
Gibson v. Smith, 511 S.W.2d 327 (Tex. Civ. App. Tyler 1974) — Supp
Greer v. State, 165 Tex. Crim. 300, 306 S.W.2d 371 (1957) — Supp
Hale v. Gee (1895) — Tex. Civ. App. —, 29 S.W. 44 — VIa
Hannah v. State, 1 Tex. App. 578, 1877 WL 8292 (Ct. App. 1877) — Vc
Hardy Oil Co. v. Markham State Bank (1910) — Tex. Civ. App. —, 131 S.W. 440 — VIa
Hartford Acc. & Indem. Co. v. Ethridge, 149 S.W.2d 1040 (Tex. Civ. App. Eastland 1941) — Supp
Henry v. State, 141 Tex. Crim. 486, 149 S.W.2d 115 (1941) — Supp
Home Ben. Ass'n v. Dickerson, 275 S.W. 162 (Tex. Civ. App. Beaumont 1925) — Supp
Hoskins v. State, 373 S.W.2d 248 (Tex. Crim. App. 1963) — Supp
International Sec. Life Ins. Co. v. Spray, 468 S.W.2d 347 (Tex. 1971) — Supp
Irving v. State, 142 Tex. Crim. 306, 152 S.W.2d 759 (1941) — Supp
James v. State, 52 Tex. Crim. 21, 105 S.W. 179 (1907) — Vc
Jones v. State, 30 Tex. App. 426, 17 S.W. 1080 (Ct. App. 1891) — IVc, Vc
Jordan v. State (1897) 37 Tex. Crim. Rep. 224, 38 S.W. 780, 39 S.W. 111 — Va
King, Ex parte, 156 Tex. Crim. 231, 240 S.W.2d 777 (1951) — Supp
Kosanda v. State, 727 S.W.2d 783 (Tex. App. Dallas 1987) — Supp
Lacy v. State, 160 Tex. Crim. 95, 267 S.W.2d 139 (1954) — Supp
Land v. Klein, 21 Tex. Civ. App. 3, 50 S.W. 638 (1899) — Vd
Land v. State, 145 Tex. Crim. 86, 165 S.W.2d 730 (1942) — Supp
Landers, Ex parte, 366 S.W.2d 567 (Tex. Crim. App. 1963) — Supp
Leatherwood v. Holland, 375 S.W.2d 517 (Tex. Civ. App. Fort Worth 1964) — Supp
Liberty Mut. Ins. Co. v. Woody, 640 S.W.2d 718 (Tex. App. Houston 1st Dist. 1982) — Supp
Line v. Cranfell (1896) — Tex. Civ. App. —, 37 S.W. 184 — VIa
Lockhart v. State, 32 Tex. Crim. 149, 22 S.W. 413 (1893) — Va
Lott v. State, 379 S.W.2d 896 (Tex. Crim. App. 1964) — Supp
Love v. Spencer, 273 S.W. 883 (Tex. Civ. App. Texarkana 1925) — Supp
Lucas v. State, 153 Tex. Crim. 11, 216 S.W.2d 820 (1949) — Supp
Magee v. Magee, 272 S.W. 252 (Tex. Civ. App. Waco 1925) — Supp
McCullough v. State, 425 S.W.2d 359 (Tex. Crim. App. 1968) — Supp
McKinney v. State, 477 S.W.2d 295 (Tex. Crim. App. 1972) — Supp
McMahon v. State, 630 S.W.2d 730 (Tex. App. Houston 14th Dist. 1982) — Supp
Miller v. State, 36 Tex. Crim. 47, 35 S.W. 391 (1896) — II
Neely v. State, 144 Tex. Crim. 92, 161 S.W.2d 294 (1942) — Supp
Nelson v. State, 158 Tex. Crim. 514, 257 S.W.2d 306 (1952) — Supp

Norwood v. Snell, 95 Tex. 582, 68 S.W. 773 (1902) — Va
Nunn v. State, 136 Tex. Crim. 121, 123 S.W.2d 669 (1938) — Supp
Oak Creek Homes, Inc. v. Jones, 758 S.W.2d 288 (Tex. App. Waco 1988) — Supp
Ollora v. State, 60 Tex. Crim. 217, 131 S.W. 570 (1910) — VIb
Parkinson v. State, 87 Tex. Crim. 176, 220 S.W. 774 (1920) — Vc
Plains Chevrolet, Inc. v. Thorne, 656 S.W.2d 631 (Tex. App. Waco 1983) — Supp
Rameriz v. State, 171 Tex. Crim. 507, 352 S.W.2d 131 (1961) — Supp
Ranier v. Brown, 623 S.W.2d 682 (Tex. Civ. App. Houston 1st Dist. 1981) — Supp
Robinson v. Horton, 36 Tex. Civ. App. 333, 81 S.W. 1044 (1904) — VIa
Royal Surplus Lines Ins. Co. v. Samaria Baptist Church, 840 S.W.2d 382 (Tex. 1992) — Supp
Seago v. Bell, 764 S.W.2d 362 (Tex. App. Beaumont 1989) — Supp
Searcy v. State, 89 Tex. Crim. 478, 232 S.W. 319 (1921) — Vc
Sorrell v. State, 79 Tex. Crim. 437, 186 S.W. 336 (1916) — Vd
State v. Pierce, 816 S.W.2d 824 (Tex. App. Austin 1991) — Supp
State Bd. of Ins. v. Betts, 158 Tex. 612, 315 S.W.2d 279 (1958) — Supp
Stevens v. State, 134 Tex. Crim. 478, 116 S.W.2d 384 (1938) — Supp
Stigers v. State, 702 S.W.2d 301 (Tex. App. Houston 1st Dist. 1985) — Supp
Tatmon v. State, 815 S.W.2d 588 (Tex. Crim. App. 1991) — Supp
Tracy v. Lion Oil Co., 312 S.W.2d 562 (Tex. Civ. App. Eastland 1958) — Supp
Vansickle v. State, 80 Tex. Crim. 101, 188 S.W. 1006 (1916) — Vd
Wade v. State, 22 Tex. App. 256, 2 S.W. 594 (Ct. App. 1886) — III
Webb v. Oberkampf Supply of Lubbock, Inc., 831 S.W.2d 61 (Tex. App. Amarillo 1992) — Supp
Wellman v. State, 233 S.W.2d 147 (Tex. Crim. App. 1950) — Supp
Wells v. Ames Iron Works (1887) 3 Tex. App. Civ. Cas. (Willson) 364 — VIa
West Columbia Nat. Bank v. Griffith, 902 S.W.2d 201 (Tex. App. Houston 1st Dist. 1995) — Supp
White v. State, 106 Tex. Crim. 150, 291 S.W. 232 (1927) — Supp
White v. Taylor, 46 Tex. Civ. App. 471, 102 S.W. 747 (1907) — VIc1, VIc3
Willhite v. State, 141 Tex. Crim. 555, 150 S.W.2d 251 (1941) — Supp
Wilson v. Texas Cresoting Co., 270 S.W.2d 230 (Tex. Civ. App. Beaumont 1954) — Supp
Wright v. State (1897) 37 Tex. Crim. Rep. 3, 35 S.W. 150, 38 S.W. 811 — Va

Utah
State v. Merritt, 67 Utah 325, 247 P. 497 (1926) — Supp
State v. Sawyers, 819 P.2d 806 (Utah Ct. App. 1991) — Supp

Vermont
Anderson v. Souliere, 103 Vt. 10, 151 A. 509 (1930) — Supp
Andrus v. Carroll, 35 Vt. 102, 1862 WL 2562 (1862) — Vb
State v. Brown, 31 Vt. 602, 1859 WL 5411 (1859) — IVd
State v. Frotten, 114 Vt. 410, 46 A.2d 921 (1946) — Supp
State v. Harre, 109 Vt. 217, 195 A. 244 (1937) — Supp
State v. Ovitt, 126 Vt. 320, 229 A.2d 237 (1967) — Supp
State v. Rushford, 130 Vt. 504, 296 A.2d 472 (1972) — Supp

Virginia
Bolin v. Laderberg, 207 Va. 795, 153 S.E.2d 251, 30 A.L.R.3d 990 (1967) — Supp
Brown v. Com., 86 Va. 466, 10 S.E. 745 (1890) — Vc
Burley v. Griffith, 35 Va. 442, 1836 WL 1779 (1836) — VIb
Hall v. Com., 143 Va. 554, 130 S.E. 416 (1925) — Supp
Haskins v. Haskins, 185 Va. 1001, 41 S.E.2d 25 (1947) — Supp
Hensley v. Com., 178 Va. 392, 17 S.E.2d 425 (1941) — Supp
Jefferson v. Com., 269 Va. 136, 607 S.E.2d 107 (2005) — Supp
Larchmont Properties v. Cooperman, 195 Va. 784, 80 S.E.2d 733 (1954) — Supp
McDowell, by Gravatt v. Dye, 193 Va. 390, 69 S.E.2d 459 (1952) — Supp
Reed v. Com., 281 Va. 471, 706 S.E.2d 854 (2011) — Supp

Rollins v. Bazile, 205 Va. 613, 139 S.E.2d 114 (1964) — Supp

Washington
Cinebar Coal & Coke Co. v. Robinson, 1 Wash. 2d 620, 97 P.2d 128 (1939) — Supp
Millikan v. Board of Directors of Everett School Dist. No. 2, 92 Wash. 2d 213, 595 P.2d 533 (1979) — Supp
Moses v. Department of Labor and Industries, 44 Wash. 2d 511, 268 P.2d 665 (1954) — Supp
Schultz v. Anderson, 191 Wash. 326, 71 P.2d 365 (1937) — Supp
Seattle, City of v. Sage, 11 Wash. App. 481, 523 P.2d 942 (Div. 1 1974) — Supp

West Virginia
Adkins v. Globe Fire Ins. Co., 45 W. Va. 384, 32 S.E. 194 (1898) — Vd
Ambler v. Leach, 15 W. Va. 677, 1879 WL 3014 (1879) — Vb
Chivers, State ex rel. v. Boles, 149 W. Va. 339, 140 S.E.2d 805 (1965) — Supp
Coal Run Coal Co. v. Cecil (1923) — W. Va. —, 117 S.E. 697 — Vd
Crookshank v. Hall, 139 W. Va. 355, 80 S.E.2d 330 (1954) — Supp
Duckworth v. Stalnaker, 68 W. Va. 197, 69 S.E. 850 (1910) — IVa
Laidley's Adm'rs v. Bright's Adm'r, 17 W. Va. 779, 1881 WL 3799 (1881) — Vb
State v. Burnette, 118 W. Va. 501, 190 S.E. 905 (1937) — Supp
State v. De Board, 119 W. Va. 396, 194 S.E. 349 (1937) — Supp
State v. Huffman, 141 W. Va. 55, 87 S.E.2d 541 (1955) — Supp

Wisconsin
Johnston v. Hamburger (1860) 13 Wis. 176 — VIa
Mezchen v. More, 54 Wis. 214, 11 N.W. 534 (1882) — II
Porter v. Vandercook, 11 Wis. 70, 1860 WL 2485 (1860) — VIa
Riker v. Scofield, 6 Wis. 367, 1857 WL 3996 (1857) — Vd
Strong v. Catlin, 3 Chand. 130, 3 Pin. 121, 1850 WL 1743 (Wis. 1850) — VIa

Wyoming
Cisneros v. City of Casper, 479 P.2d 198 (Wyo. 1971) — Supp
Crouse v. State, 384 P.2d 321 (Wyo. 1963) — Supp
Fried v. Guiberson (1923) — Wyo. —, 217 Pac. 1087 — VId4
McClintock v. Ayers, 34 Wyo. 476, 245 P. 298 (1926) — Supp
State v. Cornwell, 14 Wyo. 526, 85 P. 977 (1906) — VId1, VId3

I. Use of initials as signature

a. Of both Christian name and surname

1. By judge

The courts are in accord in holding that where the signature of the judge is necessary to an order or decree, a signature by initials only, of both the Christian name and the surname, is insufficient. Origet v. United States (1888) 125 U.S. 240, 31 L. ed. 743, 8 Sup. Ct. Rep. 846; Conery v. His Creditors (1905) 115 La. 807, 40 So. 173; Fairbanks v. Beard (reported herewith) ante, 698; Fator v. State (1910) 59 Tex. Crim. Rep. 251, 128 S.W. 901.

A paper in the record, styled "Exceptions to the Charge to the Jury," initialed "J. P. McP., Trial Judge," cannot be considered as a bill of exceptions. United States ex rel. Kinney v. United States Fidelity & G. Co. (1911) 222 U.S. 283, 56 L. ed. 200, 32 Sup. Ct. Rep. 101.

A purported bill of exceptions to which are affixed the initials of the trial judge cannot be considered on appeal, for, in order to be considered, the bill of exceptions must be approved and authenticated by the trial judge officially. Fator v. State (1910)

59 Tex. Crim. Rep. 251, 128 S.W. 901.

In Fairbanks v. Beard (reported herewith) ante, 698, it is held that, assuming the initials preceding the letters "J. S. C.," which are an appropriate abbreviation for "judge of the superior court," on an entry denying motion to vacate a judgment, are the initials of the judge, they are of no effect, for judicial action should be manifested and authenticated by the writing of the distinctive characterization in words by which the judge was commissioned, by which he is known and distinguished from others, and which constitutes his name, or by a record of such action by the clerk.

Although an act of Congress has dispensed with the necessity of a seal to a bill of exceptions by providing that a bill of exceptions shall be sufficiently authenticated if signed by the judge of the court in which the cause was tried, without the seal being annexed thereto, the necessity for the signature of the judge still remains, and the initials "A. B.," signed to a purported bill of exceptions, cannot be regarded as the signature of the judge or as a sufficient authentication of the bill, and any question purporting to be raised by such paper cannot be considered on appeal. Origet v. United States (1888) 125 U.S. 240, 31 L. ed. 743, 8 Sup. Ct. Rep. 846.

Where a petition for appeal was presented to a judge in chambers and during vacation, the initials of the name of the judge written beneath an order of appeal cannot be regarded as his official signature, or as sufficient evidence of granting such order, and the order will be dismissed as an unsigned order of appeal. Conery v. His Creditors (La.) supra.

A printed paper, among the other papers making up the record on appeal, not entitled or signed, although identified by initials, containing a statement to the effect that the facts set out in certain affidavits were true and that the defendant corporation was not engaged in business in the state, is not, even assuming that it was the finding of facts by the judge of the superior court, a part of the record, because not signed and embodied in the bill of exceptions or report. Norton v. Musterole Co. (1920) 235 Mass. 587, 127 N.E. 431. It does not appear from the report whether or not the initials on the paper were those of the trial judge. In view, however, of the cases cited in support of the holding, the court's decision was apparently based upon the ground that a memorandum of a judge constitutes no part of the record, and not upon the ground that the paper in question was not sufficiently authenticated.

Where a judge signed a bill of exceptions when presented to him, and immediately following his signature added the words, "Proper corrections to be made, if necessary," which he attested by his initials, the court in Williams v. Griffith (1911) 101 Ark. 84, 141 S.W. 495, held that the indorsement made by the judge at the time he signed the bill of exceptions showed that he intended to qualify the certificate and leave the record open for correction, and the fact that the signature was preceded by the unqualified certificate, and followed by the qualifying certificate, did not distinguish the case from one where the qualifying certificate preceded the signature of the judge. The court, however, did not go into the question as to the sufficiency of the authentication of the qualifying certificate by the initials of the judge.

As the Georgia law requiring a justice of the peace to keep a docket in which to make entries of judgments does not require him to sign such judgments, the fact that a justice of the peace, in making an entry of judgment, signed it with his initals, to which the initials of his official title were superadded, does not avoid such entry. Gunn v. Tackett (1881) 67 Ga. 725.

2. By other officer of court

In Webber v. Davis (1862) 5 Allen (Mass.) 393, cited in the reported case (Fairbanks v. Beard, ante, 698), the question arose as to whether the signature, "H. H. Coolidge, Commissioner in Insolvency," to a certificate annexed to the execution authorizing the arrest of the debtor, was an official signature, the contention being that the letters "H. H." were not a Christian name, and that therefore there was no official signature; it was held, however, that the signature sufficiently indicated who signed the certificate and answered all the purposes of a signature. The court stated, however, that if the commissioner in the case had signed the certificate merely with the initials of his Christian name and surname, it would have been held to be defective on the ground that it did not sufficiently identify him.

In Haggerty's Succession (1875) 27 La. Ann. 667, it was held that a memorandum, stating that the original judgment had been duly signed and had been lost or mislaid, signed "J. G., Deputy Clerk," could not, where the records failed to show that the order or judgment had been signed, supply the omission or neglect to sign the same; but if the judgment had been signed that fact should be proved, like any other fact, by legal evidence. The court, however, did not discuss the effect of the deputy

clerk signing the memorandum with his initials.

b. Of Christian name with surname in full

But the signature of the judge or of any officer of the court to a court order or document requiring a signature is sufficient if the initials only of the Christian name are used, when the surname is written out in full.

Illinois
Bishop Hill Colony v. Edgerton (1861) 26 Ill. 54
People v. Danley (1913) 181 Ill. App. 80
Indiana
Wassels v. State (1866) 26 Ind. 30
Anderson v. State (1866) 26 Ind. 89
Vandekarr v. State (1875) 51 Ind. 91
Zimmerman v. State (1892) 4 Ind. App. 583, 31 N.E. 550
Iowa
State v. Groome (1860) 10 Iowa, 308
Louisiana
State v. Granville (1882) 34 La. Ann. 1088
Maine
State v. Taggart (1854) 38 Me. 298
Massachusetts
Com. v. Gleason (1872) 110 Mass. 66
Mississippi
Easterling v. State (1858) 35 Miss. 210
Missouri
State v. Kyle (1901) 166 Mo. 287, 56 L.R.A. 115, 65 S.W. 763
State v. Brock (1905) 186 Mo. 457, 105 Am. St. Rep. 625, 85 S.W. 595, 2 Ann. Cas. 768
State v. Kelley (1905) 191 Mo. 680, 90 S.W. 834
New Jersey
Wood v. Fithian (1853) 24 N.J.L. 33, affirmed in (1855) 24 N.J.L. 838
North Carolina
State v. Collins (1831) 14 N.C. (3 Dev. L.) 117

And in Salzman v. Mendel (1905) 49 Misc. 625, 97 N.Y. Supp. 298, it was held that the abbreviation of the word "Thomas" to "Thos.," in the clerk's signature upon the copy of a judgment served upon the defendant's attorneys, was not, alone, sufficient to invalidate the notice of entry, notwithstanding that the clerk's signature to the judgment was written in full. And see State v. Folke (1847) 2 La. Ann. 744, holding an indictment signed "Geo. W. West," sufficient, the court stating that there was authority requiring the foreman to sign his name in full.

In Wood v. Fithian (1853) 24 N.J.L. 33, where, in signing an original summons, the justice wrote the initial only of his Christian name, followed by his surname in full, it was contended, as a ground for a nonsuit, that no justice's name was signed to the summons, and the court, in holding that the summons was sufficiently signed, stated that the signatures of justices and other officers of the court, as well as of judges and justices of the peace, have been made in this abbreviated form from time immemorial without objection. And in affirming this case the court of errors and appeals, in (1855) 24 N. J. L. 838, stated that no authority had gone so far as to hold that every judicial writ must be signed by the proper officer with his name in full.

The use of initials instead of the full given name of the prosecuting attorney, in signing an information charging the commission of the crime, does not invalidate such information. State v. Kyle (1901) 166 Mo. 287, 56 L.R.A. 115, 65 S.W. 763. And see State v. Brock (1905) 186 Mo. 457, 105 Am. St. Rep. 625, 85 S.W. 595, 2 Ann. Cas. 768, holding that the failure of the prosecuting attorney to write his full name in the body of an information, or to sign in that way at the conclusion, could not possibly mislead the defendant or prejudice his rights upon the merits of the case.

And the signature of the prosecuting attorney to an indictment by the initial of the Christian name and full surname is

sufficient. State v. Kelley (1905) 191 Mo. 680, 90 S.W. 834.

Under the Code provision requiring an indictment to be signed by the prosecuting attorney, the signature of such officer to an indictment by the surname in full and the Christian name by its initial is sufficient. Vandekarr v. State (1875) 51 Ind. 91.

In State v. Taggart (1854) 38 Me. 298, on motion to quash an indictment on the ground that it did not appear to be certified by the foreman of the grand jury, it was held that the signature of the foreman of the grand jury, in which the initials only of his Christian name were used, was a proper certification of the indictment. The court stated that there was no rule of common law and no statutory provision which rendered official acts null when signed with the initials of the Christian name of the officer whose signature was required. And to the same effect, see Wassels v. State (1866) 26 Ind. 30; Anderson v. State (1866) 26 Ind. 89; Zimmerman v. State (1892) 4 Ind. App. 583, 31 N.E. 550; State v. Groome (1860) 10 Iowa, 308; State v. Granville (1882) 34 La. Ann. 1088; State v. Collins (1831) 14 N.C. (3 Dev. L.) 117, supra.

The signature of the foreman of the grand jury which contains the initial letter only of the Christian name is sufficient. Com. v. Gleason (1872) 110 Mass. 66. An objection to an indictment on such ground is frivolous. Easterling v. State (1858) 35 Miss. 210.

The use of the initials of the Christian name only, by the foreman of the grand jury in affixing his signature to an indictment, is a sufficient compliance with the statutory provision that the foreman shall sign his name to the indictment. People v. Danley (1913) 181 Ill. App. 80.

The signature of the clerk to a summons, which contains the initials of his first name, is a sufficient authentication of such paper. Bishop Hill Colony v. Edgerton (1861) 26 Ill. 54.

II. Printed, typewritten, or stamped signature

The courts seem to be generally in accord in holding that a printed or stamped signature of the judge or court officer issuing an order or writ is a sufficient authentication, fulfilling the requirement of a signature, where such signature has, in effect, been adopted by the issuing officer.

Alabama
Coburn v. State (1907) 151 Ala. 100, 44 So. 58, 15 Ann. Cas. 249
California
Ligare v. California Southern R. Co. (1888) 76 Cal. 610, 18 Pac. 777
Colorado
Almond v. People (1913) 55 Colo. 425, 135 Pac. 783
District of Columbia
District of Columbia v. Washington Gaslight Co. (1884) 3 Mackey, 343
Indiana
Hamilton v. State (1885) 103 Ind. 96, 53 Am. St. Rep. 491, 2 N.E. 299
Iowa
Loughren v. Bonniwell (1904) 125 Iowa, 518, 106 Am. St. Rep. 319, 101 N.W. 287
Cummings v. Landes (1908) 140 Iowa, 80, 117 N.W. 22
Minnesota
Herrick v. Morrill (1887) 37 Minn. 250, 5 Am. St. Rep. 841, 33 N.W. 849
New Jersey
Steedle v. Woolston (1915) 88 N.J.L. 91, 95 Atl. 737
New York
Mutual L. Ins. Co. v. Ross (1860) 10 Abb. Pr. 260, note
Barnard v. Heydrick (1866) 49 Barb. 62, 2 Abb. Pr. N. S. 47, 32 How. Pr. 97
Farmers' Loan & T. Co. v. Dickson (1859) 9 Abb. Pr. 61, 17 How. Pr. 477
Tenement House Dept. v. Weil (1912) 76 Misc. 273, 134 N.Y. Supp. 1062
North Dakota
Hagen v. Gresley (1916) 34 N.D. 349, L.R.A.1917B, 281, 159 S.W. 3

Texas
Miller v. State (1890) 36 Tex. Crim. Rep. 47, 35 S.W. 391
Wisconsin
Mezchen v. More (1882) 54 Wis. 214, 11 N.W. 534
England
Blades v. Lawrence (1874) L. R. 9 Q. B. 374, 43 L. J. Q. B. N. S. 133, 30 L. T. N. S. 378, 22 Week. Rep. 643
For, even if such signature is irregular, the irregularity is of a formal character which can be cured by amendment and is not ground for collateral attack. District of Columbia v. Washington Gaslight Co. (1884) 3 Mackey (D.C.) 343; Loughren v. Bonniwell (1904) 125 Iowa, 518, 106 Am. St. Rep. 319, 101 N.W. 518.

But a few cases have held that a printed signature does not meet the requirement that the instrument be signed. Ames v. Schurmeier (1864) 9 Minn. 221; Steedle v. Woolston (1915) 88 N.J.L. 91, 95 Atl. 737.

That a printed signature of a judge of the circuit court, to an order purporting to transfer a cause to the county court, is a sufficient authentication of such order, seems to be the basis of the decision in Blades v. Lawrence (1874) L. R. 9 Q. B. (Eng.) 374, 43 L. J. Q. B. N. S. 133, 30 L. T. N. S. 378, 22 Week. Rep. 643, where it is held that a judge of the county court is bound to obey such order, and cannot inquire into the circumstances under which it was made, since on its face it bears the proper authentication, his only course being to obey the order, or get it set aside by an application to the superior court, and this notwithstanding that in the case the order was made by one of the masters of the superior court, and drawn up by the clerk, and the signature of the judge was impressed thereon by the clerk.

The fact that the signature of a clerk to a writ of attachment had been taken from a blank summons and attached to the writ is an irregularity which may be taken advantage of on motion to quash the writ, but the objection cannot be made on motion in arrest of judgment, for the defendants, by pleading to the merits, admitted the writ to be regular. Lovell v. Sabin (1844) 15 N.H. 29.

In Coburn v. State (1907) 151 Ala. 100, 44 So. 58, 15 Ann. Cas. 249, where the defendant interposed a plea in abatement to an indictment, alleging that the foreman of the grand jury had failed to subscribe his name to the indorsement thereon, and that the name of the foreman was merely printed on the indictment and not signed, it was held that the ground mentioned in the first plea was good cause for abating a suit, or for quashing the indictment, while the court was of the opinion that the second plea was demurrable.

On appeal from a conviction for murder, it was held in Miller v. State (1890) 36 Tex. Crim. Rep. 47, 35 S.W. 391, that there was nothing in the defendant's contention that the name of the prosecuting attorney to the indictment was typewritten, and not signed with pen and ink.

A summons on which the name of the attorney for the plaintiff, together with his address, is printed by the clerk on a typewriter at the request and instruction of the attorney, in accordance with the general custom of his office, is not a nullity, for such signing is a sufficient compliance with the statute which provides that a summons "shall be subscribed by the plaintiff or his attorney, who must add to his signature his address." Hagen v. Gresby (1916) 34 N.D. 349, L.R.A. 1917B, 281, 159 N.W. 3.

Under a statutory provision requiring that a summons shall be subscribed by the plaintiff's attorney, it is sufficient if the name of plaintiff's attorney is printed thereon, and it need not be subscribed by him in his own proper handwriting. Mezchen v. More (1882) 54 Wis. 214, 11 N.W. 534. The court stated that the object in requiring the attorney's name to appear on the summons is that the defendant may know at what place he may serve his answer and other papers in the action, which object can be as well accomplished when the name of the attorney is printed at the end of the summons, as when it is written there.

In Ligare v. California Southern R. Co. (1888) 76 Cal. 610, 18 Pac. 777, it was held that the act of the clerk of the court in affixing the seal of the court to a form of summons to which was appended the clerk's printed name was an adoption of the printed signature which was sufficient to support a judgment by default in a condemnation proceeding, where service of the summons was by publication.

Where a district attorney's name and official title were printed on an information, followed by a written signature of the

deputy district attorney, it was held that there was no merit in the contention that the information was not properly signed, for when the district attorney's name is affixed, by his authority, to an information which is signed by his deputy, it is a sufficient compliance with the statute requiring that the name of the district attorney be subscribed to an information by himself or by his deputy. Almond v. People (1913) 55 Colo. 425, 135 Pac. 783.

The printed signature of the prosecuting attorney on an indictment, adopted and used by that official as his signature, is a sufficient signing within the meaning of the statute requiring an indictment to be signed by the prosecuting attorney, for, as he is required to sign the indictment as a matter of verification only, there is no reason for enforcing a more rigid rule as to the validity of the signature than in the case of ordinary business transactions. Hamilton v. State (1885) 103 Ind. 96, 53 Am. Rep. 491, 2 N.E. 299.

The printed name of the plaintiff's attorney at the end of the summons meets the requirement of the court provision that a summons shall be subscribed by the plaintiff or his attorney, it not being necessary that the plaintiff's name or that of his attorney be written thereon. Barnard v. Heydrick (1866) 49 Barb. (N.Y.) 62, 2 Abb. Pr. N. S. 47, 22 How. Pr. 97; New York v. Eisler (1882) 2 N.Y. Civ. Proc. Rep. 125; Farmers' Loan & T. Co. v. Dickson, 9 Abb. Pr. (N.Y.) 61, 17 How. Pr. 477.

An order of the tenement house department respecting alleged violations of the tenement house laws is properly authenticated, where, instead of being signed by the proper officer of the tenement house department, it bears the facsimile signature of such official made with a rubber stamp. Tenement House Dept. v. Weil (1912) 76 Misc. 273, 134 N.Y. Supp. 1062. The court stated that the order was, in the absence of evidence to the contrary, none the less the order of such department because it bore a facsimile of the signature of the proper official, instead of the original signature.

The court in Barnard v. Heydrick (N.Y.) supra, said that the name of the attorney issuing a summons is as effectually disclosed when printed as when written, and his responsibility to the defendant and to the court in either case is the same; that in any proceedings it would be necessary to show that he was in fact the attorney issuing the process, and although there might be more difficulty in making that proof when the name was printed than when written, there is no sufficient reason on the ground of public policy, or of inconvenience to the suitors, to require a different or more stringent rule in the case of legal process, than in any other case affecting the private rights of individuals. This case overruled Mutual L. Ins. Co. v. Ross (1860) 10 Abb. Pr. (N.Y.) 260, note.

But in Ames v. Schurmeier (1864) 9 Minn. 221, Gil. 206, it was held that a printed signature of the plaintiff on a summons did not meet the statutory requirement that a summons be subscribed by the plaintiff or his attorney, since the Statutory Construction Act provided that where the written signature of any person was required, it should always be in the proper handwriting of such person. And the court further stated that, after having discarded all formalities and permitted the plaintiff to put the process of the court in motion without applying to the court for leave, thus dispensing with the seal by which the process of courts of record is authenticated, it was natural for the legislature to require that process thus informally issued and served upon the defendant should be authenticated, at least, by the signature of the person by whom he was summoned.

The Ames Case was overruled by Herrick v. Morrill (1887) 37 Minn. 250, 5 Am. St. Rep. 841, 33 N.W. 849, which held that a printed signature to a summons was a sufficient authentication thereof. The court stated that, in view of an earlier Minnesota decision which held that the plaintiff's signature to a summons could be properly made by an agent at his direction, it logically followed that there need be no written signature at all, but that any signature, whether written, printed, or lithographed, which the person issuing the summons might adopt as his own, would be sufficient, and would accomplish the desired result in giving the plaintiff all the necessary information; the decision in Ames v. Schurmeier (Minn.) supra, it was said, was made upon the erroneous assumption that "subscribed" meant written signature, and that the statute defining the meaning of the words "written signature" applied to the construction of the statute requiring summonses to be subscribed.

A facsimile stencil signature of a justice of the peace to an original notice is a sufficient compliance with the statute requiring such notice to be subscribed by the justice to whom it is returnable, to confer jurisdiction, for, even if the signature is irregular, the notice would merely be voidable and not subject to collateral attack. Loughren v. Bonniwell (1904) 125 Iowa, 518, 106 Am. St. Rep. 319, 101 N.W. 287. The court said that the requirement of the statute that an original notice be subscribed by the justice of the peace to whom it was returnable referred rather to the placing of the signature than to the matter of signing. And see also Cummings v. Landes (1908) 140 Iowa, 80, 117 N.W. 22, holding that a printed signature to an original notice for service was sufficient.

And in District of Columbia v. Washington Gaslight Co. (1884) 3 Mackey (D.C.) 343, an objection was taken to an indictment charging the defendant with maintaining a nuisance, that the name or signature of the district attorney on the indictment was printed, and not written, and, on an application for a writ of certiorari, it was held that the alleged defect of the signature to the indictment related to a mere matter of form and procedure, which could be amended; that the court ought not to encourage writs of certiorari for mere matters of form.

A copy of a summons issuing from a small cause court which does not bear the signature of the justice has no binding force when served on the defendant, although it bears the name of the justice printed on the indorsement, if on its face there is no indication before what justice the cause is pending, so that what the defendant receives is a copy of an apparently unsigned and unused summons, which does not meet the requirement of the statute that a copy of the summons be left with the defendant. Steedle v. Woolston (1915) 88 N.J.L. 91, 95 Atl. 737.

III. Position of signature

The fact that a court officer, in signing an official paper, places his signature in a blank intended for the signature of some other person, does not detract from the validity of the paper. Parris v. State (1911) 175 Ala. 1, 57 So. 857; Fleisher v. Hinde (1906) — Mo. App. —, 93 S.W. 1126, affirmed on rehearing in (1906) 122 Mo. App. 218, 99 S.W. 25; State v. Lewis (1896) 7 Ohio N. P. 533, 5 Ohio S. & C. P. Dec. 592.

And if the signature appears at some other place on the instrument than at the end thereof, its validity is not affected if it was the intention that the name, as written, should fulfil the requirement of a signature. United States v. Jarvis (1847) 3 Woodb. & M. 217, Fed. Cas. No. 15,469; Meshow v. Agee (1920) 204 Ala. 621, 87 So. 95; Arrowood v. McKee (1904) 119 Ga. 623, 46 S.E. 871; State v. Bowman (1885) 103 Ind. 69, 2 N.E. 289, 6 Am. Crim. Rep. 296; Terrell v. Com. (1922) 194 Ky. 608, 240 S.W. 81; Hurley v. Hewett (1896) 89 Me. 100, 35 Atl. 1026; Buck v. State (1909) 80 Ohio St. 395, 88 N.E. 1099; State v. Lockett (1871) 3 Heisk. (Tenn.) 274.

But it has been held that the intent of the statutory provision requiring that the judge shall make out and sign a correct statement of the facts, which shall constitute a part of the record, is that the statement of facts must be authenticated by the official signature of the judge subscribed thereto, so that where the signature is placed at the beginning or some other place in the instrument, such signature, even though official, will not authenticate the statement of facts. Wade v. State (1886) 22 Tex. App. 256, 2 S.W. 594.

The object of the signature of the attorney general to an indictment is to give dignity and verity to the paper as a public act, having the sanction of the government; it is not essential that the signature of the officer should appear at the end of the indictment, if it sufficiently appear on some other part of the paper, provided that there is no doubt that the attestation relates to the indictment and every part thereof, and identifies the same as the act and accusation of the government, done through its own officers. State v. Lockett (1871) 3 Heisk. (Tenn.) 274, holding that the signature of the attorney general to a memorandum on the back of an indictment is not an official authentication of the whole paper, and affirming a judgment quashing such indictment, it being the rule in Tennessee that an indictment not authenticated by the official signature of the attorney general is a nullity.

In Parris v. State (1911) 175 Ala. 1, 57 So. 857, it was held that there was no error in overruling a motion to quash an indictment on the ground that the signature of the foreman of the jury appeared in the indorsement under the words, "Foreman of the grand jury," instead of over the said words, as such irregularity in the position of the name in no way affected the validity of the indorsement.

The fact that the foreman of a grand jury, in indorsing an indictment, placed his name above the words "the true bill," instead of upon the line preceding the word "Foreman," does not, where the statute provides that an indictment cannot be quashed for other defects or imperfections than such as tend to prejudice the substantial rights dependent upon the merits, destroy the validity of the indorsement or render the indictment bad, for the error in the form of the indorsement could not prejudice the substantial rights of the accused, and it is the duty of the court to disregard merely technical errors such as in the case at bar. State v. Bowman (1885) 103 Ind. 69, 2 N.E. 289, 6 Am. Crim. Rep. 296.

At common law, and in the absence of statute prescribing a requirement to the contrary, the signing of any writing which the law requires to be so evidenced need not be at the bottom or the close of the paper, but the signature may be placed in any position thereon, if so written with the intention that it should perform the legal requirement of the signature; and as the signature of the foreman of a grand jury to an indictment is only for the purpose of evidencing the legality of the finding of the indictment, and to verify it to the defendant and the court, it need not appear at the end thereof, but it is sufficient if placed in such a position thereon as clearly to indicate that it was the intention of the foreman to comply with the Code requirements as to writing his name. Terrell v. Com. (1922) 194 Ky. 608, 240 S.W. 81. Nor does the omission of the word "foreman" from the signature of the foreman of the grand jury to the indictment render the indictment, for that reason, insufficient.

In United States v. Jarvis (1847) 3 Woodb. & M. 217, Fed. Cas. No. 15,469, it was said that it was immaterial in what part of the record the bill of exceptions was set out or the signature and seal affixed, provided that the signature and seal appeared so as to cover and authenticate the exceptions.

In State v. Lewis (1899) 7 Ohio N. P. 533, 5 Ohio S. & C. P. Dec. 552, it was held that the fact that the foreman of the grand jury, in signing an indictment, signed in the wrong place and as clerk instead of as foreman, did not afford a ground for quashing the indictment on motion.

In Meshow v. Agee (1920) 204 Ala. 621, 87 So. 95, where the trial judge indorsed and signed a bill of exceptions on the back thereof, it was held that while it was customary, and perhaps more orderly, to place the signature as to the presentation and approval at the foot or conclusion of the document, instead of upon the back of the same, the action of the judge was a sufficient compliance with the provision of the Code requiring notation of the presentation and the signing of the same by the trial judge.

Under the statutory provision that the signature of the trial judge allowing, settling, and signing a bill of exceptions shall be sufficient evidence of such fact, and dispense with the necessity of making an entry thereof upon the journal of the court, it is not essential to the validity of the bill of exceptions that it be signed by the trial judge at the end thereof, but a signature indorsed on one of the covers embracing a bill of exceptions, to the effect that the said bill was allowed and signed is sufficient. Buck v. State (1909) 80 Ohio St. 395, 88 N.E. 1099.

It is immaterial whether the signatures of the presiding judge and the attorneys for the plaintiff appear on the right or left side of the page on which the judgment is entered, if the intention to sign the judgment by both parties is manifest. Arrowood v. McKee (1904) 119 Ga. 623, 46 S.E. 871.

In Fleisher v. Hinde (1906) — Mo. App. —, 93 S.W. 1126, affirmed on rehearing in (1906) 122 Mo. App. 218, 99 S.W. 25, it was held that the signature of the judge to a bill of exceptions, which appeared in the blank space intended for the attorney's signature beneath the indorsement, "The above and foregoing bill of exceptions O. K.," instead of in the blank intended for the judge's signature, was a sufficient authentication of the bill of exceptions; the fact that the signature certified to the correctness of the bill in the language intended for adoption by the attorneys does not detract from its authenticity.

The fact that the signature of a judge to a decree ordering a distribution of an estate appears before the names of the distributees and the amounts of the shares does not render the decree void, but is a mere formal irregularity which can be readily corrected by amendment, if necessary. Hurley v. Hewett (1896) 89 Me. 100, 35 Atl. 1026.

IV. Omission of, or mistake in, designation of official title in signing

a. By judge

The cases are in accord in holding that the fact that a judge, in signing an order or other judicial paper, improperly designates his official title or omits to designate it, does not detract from the authenticity of his signature or of the instrument. Mitchell v. State (1916) 15 Ala. App. 109, 72 So. 507; Territory ex rel. Eisenmann v. Shearer (1880) 2 Dak. 332, 8 N.W. 135; Sapp v. Parrish (1907) 3 Ga. App. 234, 59 S.E. 821; Hamlin v. Higgins (1907) 102 Me. 510, 67 Atl. 625; Munro's Estate (1863) 15 Abb. Pr. (N.Y.) 363; Barnwell v. Marion (1900) 58 S.C. 459, 36 S.E. 818; Duckworth v. Stalnaker (1910) 68 W. Va. 197, 69

S.E. 850; Royal Bank v. Lee (1915) — Sask. —, 30 West. L. R. 577, 23 D. L. R. 216, affirmed in (1915) 8 Sask. L. R. 17, 8 West. Week. Rep. 338, 23 D. L. R. 219.

Thus, in Mitchell v. State (Ala.) supra, where the judge of the county court, in signing the jurat of the affidavit and the warrant, omitted from his official designation of office the name of the county from which the warrant was issued, it was held that the omission of such word was wholly unimportant and, being a mere repetition of the caption of both the affidavit and the warrant, might properly be disregarded as surplusage; the court stated that it would take judicial notice of the jurisdiction of the court and the public functionary who was its judge, as well as of the county in which the court was sitting.

And where the statute gives a judge full power to sign writs of mandamus at chambers, the fact that he inserts the words "by the court" before his signature in issuing a writ at chambers is not open to objection, for such words are mere surplusage. Territory ex rel. Eisenmann v. Shearer (1880) 2 Dak. 332, 8 N.W. 135. And when such writ is issued by a judge at chambers, it is not necessary for the clerk to attest his signature.

The fact that the district court judge, in signing an order under the Creditor's Relief Act, signed over the initials "L. M.," instead of over the initials "J. D. C.," does not affect the validity of the order, for, as it was made by the proper person, the initials may be treated as surplusage. Royal Bank v. Lee (Sask.) supra.

On motion to dismiss a petition because the process, though bearing the name of the judge, did not bear his official title, the signature being, in other respects, in usual form, it was held that the omission of the judge to sign in his official capacity rendered the process voidable only, and that, upon the point being made, the court could permit the process to be amended by inserting the word "Judge" after the signature. Sapp v. Parrish (1907) 3 Ga. App. 234, 59 S.E. 821. And it was further held that the defendant, by appearing and pleading, had waived all the irregularities of process, and even the absence of process.

In Barnwell v. Marion (1900) 58 S.C. 459, 36 S.E. 818, it was said that the fact that the presiding justice of the common pleas court, in signing an order directing the master to take testimony in a foreclosure proceeding, appended to his name the words "Circuit Judge," instead of "Presiding Judge," could not have the effect of depriving him of jurisdiction to grant such order.

The omission of the judge of the surrogate's court to add to his signature, on an original decree issuing from the court, his official designation, is an amendable error. Munro's Estate (1863) 15 Abb. Pr. (N.Y.) 363.

Any error in the form of a notice on a petition for a writ of mandamus, notifying the respondents to appear at the supreme judicial court, which was signed by the justice as "Justice of the Supreme Judicial Court," instead of as "Presiding Justice," is merely an error in procedure which does not go to the jurisdiction of the court, if an error at all, and is fully cured by the respondents appearing at the time and place named in the notice, before the justice who signed it, and who had jurisdiction to hear the case. Hamlin v. Higgins (1907) 102 Me. 510, 67 Atl. 625.

Where the records contained eleven bills of exceptions, each of which bore the signature of the judge followed by his official designation of office, with the exception of No. 11, which bore the judge's signature only, without his official designation, it was held that the omission of the official designation was not material. Duckworth v. Stalnaker (1910) 68 W. Va. 197, 69 S.E. 850. The court stated that, while it was the usual practice for the trial judge to sign the bills of exceptions and to give his official designation, there was no rule of law which made such manner of signing essential to their validity, and as the name signed to No. 11 was the same as the name of the trial judge, it would take judicial notice that this bill of exceptions was signed by the judge who tried the case, and that he signed it in his official capacity.

The addition of the words "Parish Judge" to the signature of a judge on a judgment rendered by the court of probates does not in any way affect the judgment, the discharge of the duties of judge of the probate court being a part of the duties of the parish judge. Johnson v. Hamilton (1847) 2 La. Ann. 206.

b. By clerk of court, or justice of peace

And if a magistrate or a clerk of the court, in issuing a warrant or other writ, omits to affix to his signature thereon his official title, or improperly designates his official capacity, the validity of the instrument is not affected. Lewis v. Russell (1904) 47 Fla. 184, 36 So. 166; Henderson v. Pittman (1856) 20 Ga. 735, 65 Am. Dec. 649; Dickson v. Thurmond (1876) 57 Ga. 153;

Young v. Germania Sav. Bank (1909) 132 Ga. 490, 64 S.E. 552; People v. Du Bois (1894) 26 N.Y. Supp. 895; Siler v. Ward (1814) 4 N.C. (1 Car. Law Repos.) 548; Rex v. Lee Chu (1909) — N. S. —, 14 Can. Crim. Cas. 322.

But it has been held that under a Code provision requiring a warrant to be signed by the magistrate with his name and initials of office, or that the same in some way appear from the instrument, a warrant bearing the signature "J. W. Jones," without any designation as to the official character of the person thus signing, is inadmissible in evidence as a defense to an action for malicious prosecution. Reach v. Quinn (1909) 159 Ala. 340, 48 So. 540. And it is no answer to say that the court judicially knows who are justices of the peace, for the court cannot judicially know that there is but one person designated by the name appearing on the warrant, and hence, when the paper is signed by him as an individual, the court cannot know that he is a particular officer.

A warrant issued by an assistant justice who holds special office by virtue of which he is authorized to issue warrants, and signed by him as assistant justice, is sufficiently authenticated, and need not be authenticated in the manner prescribed by statute for the authentication of warrants issued by a justice of the peace. State v. Chappell (1904) 26 R. I. 375, 58 Atl. 1009.

It is not necessary that the signature of a justice of the peace to an attachment, every part of which on its face shows that the person signing it acted in his official capacity, with the exception of the signature, which shows nothing as to the character in which he acted, be followed by the letters "J. P.," for it is to be presumed that, as the other parts of the attachment show that the magistrate was acting in his official capacity, he also acted in such capacity as to the signature. Henderson v. Pittman (1856) 20 Ga. 735, 65 Am. Dec. 649. See also Dickson v. Thurmond (1876) 57 Ga. 153, holding that where a justice of the peace omitted to affix the letters "J. P." to his signature on an attachment, the signature could be amended on proof that the person whose name appeared thereon was the lawful acting justice, and as such had signed the said attachment.

In Helms v. Dunne (1895) 107 Cal. 117, 40 Pac. 100, it was held that under the California Code a summons, to be valid, need not be signed by the justice of the peace, but is properly authenticated if signed by the justice's clerk; and while "justice's clerk" is the technical name of the clerk's office, and it would be the better practice for such officer to sign all process as "Justice's Clerk," the fact that such clerk signed the summons as "Clerk of the Said Court" is so slight and unimportant a variance as not to affect the question of the jurisdiction of the court based upon such summons.

And in Siler v. Ward (1814) 4 N.C. (1 Car. Law Repos.) 548, where a warrant issued by a magistrate was signed by him in his proper name, with nothing annexed to the signature denoting the act to be official, it was held that as the warrant was peculiar to the official capacity of the magistrate, it was entirely unnecessary for him further to declare in what capacity he acted.

And where a magistrate, in issuing a criminal warrant, describes himself in the body of the warrant as "the undersigned magistrate, A. Bazin, Police Magistrate in and for the District of Montreal," it is unnecessary that he should, in signing the warrant, append to his signature his official title, for by his signature he adopts the description given on the face of the warrant, and the effect is the same as if those words were added after the signature. King v. Lee Chu (1909) — N. S. —, 14 Can. Crim. Cas. 322.

The failure of the clerk of the circuit court, who under the Constitution is also clerk of the county court, to add the words "County Clerk" after his signature in issuing an execution from the county court, does not render the execution absolutely void because of the statutory provision which requires that the "clerk of the county court shall sign all papers required to be signed, pertaining to the said county court, as county clerk," when he signed the execution as "Clerk" and affixed the seal of the county court thereto. Lewis v. Russell (1904) 47 Fla. 184, 36 So. 166.

And the court will not, on motion, dismiss a levy of execution where such execution is issued from the city court and signed "Arnold Broyles, Clerk," on the ground that it does not appear that the execution was officially signed by the clerk of the superior court and the ex officio clerk of the city court, for the word "Clerk," construed in connection with the recital to the execution to the effect that it issued upon a judgment rendered from the city court, imports that the paper was signed officially, as the court will take judicial cognizance that the law provides such clerk. Young v. Germania Sav. Bank (1909) 132 Ga. 490, 64 S.E. 552.

And where a justice of the peace, who had been appointed to act as recorder, issued a warrant, which he signed, describing

himself as acting recorder, it was held that there was no merit in the contention that the warrant was invalid because he failed to designate his official title as justice of the peace. People v. Du Bois (1894) 26 N.Y. Supp. 895.

c. By prosecuting attorney in signing indictment or information

The failure of a prosecuting attorney to add to his signature authenticating an indictment his official designation, or the name of the county and state for which he acts, or a mistake in either instance, does not affect the validity of the indictment; at least, where these facts appear from the record.

United States
Re Lane (1890) 135 U.S. 443, 34 L. ed. 219, 10 Sup. Ct. Rep. 760
California
People v. Ashnauer (1873) 47 Cal. 98
Indiana
Baldwin v. State (1859) 12 Ind. 383
Malone v. State (1860) 14 Ind. 219
Kansas
State v. Tannahill (1866) 4 Kan. 117
State v. Nulf (1875) 15 Kan. 404
Massachusetts
Com. v. Beaman (1857) 8 Gray, 497
Missouri
State v. Kinney (1883) 81 Mo. 101
State v. Walker (1909) 221 Mo. 511, 120 S.W. 1198
State v. Campbell (1908) 210 Mo. 202, 109 S.W. 706, 14 Ann. Cas. 403
State v. Holden (1910) 142 Mo. App. 502, 127 S.W. 399
Nevada
State v. Salge (1866) 2 Nev. 321
Tennessee
State v. Evans (1847) 8 Humph. 110
State v. Brown (1847) 8 Humph. 89
Greenfield v. State (1872) 7 Baxt. 19
State v. Myers (1886) 85 Tenn. 203, 5 S.W. 377
Texas
Jones v. State (1891) 30 Tex. App. 426, 17 S.W. 1080
Canada
Gagnon v. Rex (1911) 24 Can. Crim. Cas. 51

For, as the court judicially knows its officers, it is not important that the titles of such officers be appended to their signatures on an indictment. Malone v. State (Ind.) and State v. Kinney (Mo.) supra; State v. Campbell (1908) 210 Mo. 202, 109 S.W. 706, 14 Ann. Cas. 403.

And in Johnson v. State (1882) 73 Ala. 21, it was said that an indictment which is signed by a justice with his name and initials of office, and directed to any constable in the county, is a legal warrant within the meaning of the Code of 1876, §§ 4651 & 4652.

But in Teas v. State (1846) 7 Humph. (Tenn.) 174, where the office of "solicitor general" had been abolished by statute, and the office of "attorney general" created, to prosecute on behalf of the state, an indictment which purports to be signed by the solicitor general, drawn after the passage of such statute, is void and inoperative as if not signed at all, for all documents required to be authenticated by the signatures of public officers must be certified by them in their public character.

It is not necessary, however, that the attorney general add to his signature to an indictment a statement of the judicial district for which he acts, where from the whole indictment it appears that the person whose signature is appended thereto is prosecuting officer for the county in which the indictment is laid, for, by affixing his signature, in connection with an official act which belonged to and could be performed only by the attorney general of the district of which such county is a part,

under the words "Attorney General," he thereby asserts that he is attorney general of the district in which he thus acts. State v. Evans (Tenn.) supra; State v. Brown (1847) 8 Humph. (Tenn.) 89.

An indictment which bears the signature of the prosecuting attorney, followed by his official designation, is sufficiently authenticated, it not being necessary that he should designate the county and state of which he is prosecuting attorney, for the court takes judicial notice of its officers; nor need the indorsement of the clerk on the indictment describe the court in which the indictment was found. State v. Campbell (Mo.) supra.

An indictment signed by the district attorney in his official capacity is sufficient, where both the caption and the body of the indictment state the name of the county in which the indictment was found, without adding to the official signature the name of the county for which the district attorney acts. People v. Ashnauer (1873) 47 Cal. 98.

And although the statute provides that the official name of the officer who represents the state in a prosecution in the circuit court is "prosecuting attorney," and that of the officer who discharges similar duties in the common pleas court is "district attorney," an information filed in the common pleas court, signed by the district attorney with the official title of "Prosecuting Attorney," instead of "District Attorney," is not invalid, for such mistake in affixing to the officer's signature the improper designation could not prejudice substantial rights of the defendant upon the merits of the case. Baldwin v. State (1859) 12 Ind. 383.

Where the record recites the name of the prosecuting attorney for the county in which the indictment was found, the requirement of the statute that an indictment must be in fact signed by the prosecuting attorney of the county is substantially complied with, where the indictment was signed by the proper officer, notwithstanding a mistake in using the word "circuit," instead of "prosecuting," for the purpose of designating his office of attorney for the county; for the court is bound to take notice of its own officers, and will notice their signatures, whether their official designations are added or omitted. Moreover, the defect or imperfection in the signature in no way tended to prejudice the substantial rights of the defendant upon the merits in the case. State v. Kinney (1883) 81 Mo. 101.

And where an indictment found in Jefferson county was signed by the prosecuting officer as "Attorney for Jackson County," instead of as "Attorney for Jefferson County," it was held on motion to quash the indictment that, taking the whole record together, it clearly appeared that the indictment was in fact signed by the proper prosecuting officer, and that, under the circumstances, the signature was sufficient, the defendant having consented that it should be entered of record that the prosecuting officer was, at the time of the filing of the indictment, the county attorney for Jefferson county. State v. Tannahill (1866) 4 Kan. 117.

And see State v. Nulf (1875) 15 Kan. 404, where it was said that, as the statute requiring criminal information to be signed and filed by the prosecuting attorney did not, in terms, require that he should give the description of his official character, a mistake in such description would not be material.

In State v. Salge (1866) 2 Nev. 321, where an indictment was signed by the "Prosecuting Attorney of the Eighth Judicial District," instead of being signed by the "District Attorney of Douglass County," it was held, on motion to quash the indictment on the ground that it was signed by an officer unknown to the law, that as there was no statutory requirement that an indictment should be signed by the prosecuting attorney, such signature was not necessary. And the court stated that if such signature were necessary, the one in question was not defective, for the court would take judicial notice that Douglass county composed the eighth judicial district, in which the indictment was found, and that the terms "district attorney" and "prosecuting attorney" are synonymous.

As the court judicially knows the prosecuting officer it is not important that the title of such officer should be appended to his name when he signs an information, and, although the official name of the prosecuting officer is "district attorney," the fact that he appends to his signature to an information, as a designation of his office, "District Attorney, Prosecutor," is immaterial. Malone v. State (1860) 14 Ind. 219.

On a motion in arrest of judgment on the ground that the information was not officially signed by the county attorney, the court in Jones v. State (1891) 30 Tex. App. 426, 17 S.W. 1080, held that if the information purported to have been presented by the district attorney, the fact that it was not signed by him officially did not invalidate it, although the better practice

would have been to have so signed it.

In Greenfield v. State (1872) 7 Baxt. (Tenn.) 19, it was contended that the signature of the prosecuting officer to an indictment, who designated himself "Attorney General," was an insufficient authentication of the indictment, inasmuch as the new Constitution styled the prosecuting officer "attorney for the state," instead of "attorney general" as in the old Constitution; it was held, however, that the indictment was properly signed, the court stating that it would take judicial notice that the name of the person appearing on the indictment was that of the proper officer to prefer it, and the fact that he had designated himself by the title which had been used for more than fifty years would not throw doubt upon the question—taking the view that no change was made or intended by the Constitution in this respect. And to the same effect, see State v. Myers (1886) 85 Tenn. 203, 5 S.W. 377, holding that an indictment signed by the prosecuting officer as district attorney is sufficiently authenticated, the court stating that Greenfield v. State (Tenn.) supra, decided only that the words "attorney general" were proper for the prosecuting officer to use in designating his official title in signing an indictment, but did not decide that such was the only proper title of the officer, nor did it decide that any title was essential to his signature to an indictment.

As the Criminal Code authorizes the counsel for the Crown to present an indictment before the grand jury, an indictment presented by such prosecuting officer is sufficiently authenticated when signed by him, and need not contain a statement showing his representative capacity. Gagnon v. King (1911) 24 Can. Crim. Cas. 51.

The omission of the name of the county for which the prosecuting attorney acts from the signature of such attorney to an indictment does not affect its validity. State v. Walker (1909) 221 Mo. 511, 120 S.W. 1198; State v. Holden (1910) 142 Mo. App. 502, 127 S.W. 399; Com. v. Beaman (1857) 8 Gray (Mass.) 497, supra.

d. By foreman of grand jury

Cases dealing with the validity of an indictment as affected by the failure of the foreman of a grand jury to indorse thereon, "A true bill," are not included within this annotation.

The fact that the foreman of a grand jury omits to add his official title to his signature to an indictment does not detract from its authenticity.

United States
United States v. Plumer (1859) 3 Cliff. 28, Fed. Cas. No. 16,056
Florida
Washington v. State (1885) 21 Fla. 328
Indiana
State v. Bowman (1885) 103 Ind. 69, 2 N.E. 289, 6 Am. Crim. Rep. 296
Kentucky
Terrell v. Com. supra, III.
Louisiana
State v. Sopher (1883) 35 La. Ann. 975
Missouri
State v. Gilson (1905) 114 Mo. App. 652, 90 S.W. 400
North Carolina
State v. Chandler (1823) 9 N.C. (2 Hawks) 439
Ohio
Whiting v. State (1891) 48 Ohio St. 220, 27 N.E. 96
Pennsylvania
Com. v. Ferguson (1897) 8 Pa. Dist. R. 120
Texas
Day v. State (1910) 61 Tex. Crim. Rep. 114, 134 S.W. 215
Vermont
State v. Brown (1859) 31 Vt. 602
For where an indictment is signed by a juror without any designation of official title, it can be made certain from the minutes

of the record that he is the foreman, and the rule that that which can be made certain is certain applies. McGuffie v. State (1855) 17 Ga. 497.

And where, in signing an indictment as "Foreman," the foreman omitted to add the words "of the grand jury," it was held that an objection to the validity of the indictment on the ground of such omission was frivolous. State v. Valere (1887) 39 La. Ann. 1060, 3 So. 186.

The omission of the word "foreman" from the signature of the foreman of the grand jury upon an indictment does not affect its validity, for the court appoints the foreman, and his appointment is in all cases a matter of record, so that an inspection of the record will show who he is; no mischief is likely to ensue from the omission of the word, for the official signature would add nothing to the authenticity of the indictment. State v. Brown (1859) 31 Vt. 602.

On motion in arrest of judgment on the ground that the indictment under which the defendant was convicted was not properly indorsed, the foreman of the grand jury not having shown his official capacity by adding the word "foreman" to his signature, it was held in State v. Sopher (1883) 35 La. Ann. 975, that it was sufficient if the foreman signed his name to the finding of the grand jury, without mentioning his official capacity.

Where an indictment recites that the grand jurors were summoned from the body of Livingston county, and that they were duly impaneled, the objection that by the omission of the words "of the grand jury" from the signature of the foreman of the grand jury, and the words "of Livingston county" from the signature of the prosecuting attorney, there was nothing sufficiently and properly to designate these officers, is without merit, the recital in the body of the indictment being sufficient in that respect. State v. Gilson (1905) 114 Mo. App. 652, 90 S.W. 400.

Though it is a better practice for the foreman of a grand jury, in indorsing an indictment, to describe himself as foreman, as his appointment by the court is a matter of record, the court will take judicial notice as to who is the foreman, and the addition of his official title is not, as a matter of law, necessary to the authenticity of an indictment, and its omission does not afford a ground for quashing it. Whiting v. State (1891) 48 Ohio St. 220, 27 N.E. 96. And see Com. v. Ferguson (1897) 8 Pa. Dist. R. 120, holding that the omission of the word "foreman" from the signature of the foreman of the grand jury to an indictment is a matter of form which may be amended.

It has been held that a statutory provision requiring that an indictment shall be signed officially by the foreman of the grand jury is, in view of the fact that the statute does not purport to name the essentials of an indictment, directory only, and intended merely as an instruction to officers as to what they are to do in reference to the preparation of the indictment, so that the absence of the signature of the foreman from an indictment does not so detract from its authenticity as to render it invalid. Day v. State (1910) 61 Tex. Crim. Rep. 114, 134 S.W. 215.

An indictment which has subscribed to it the name of a person whom the record shows to have been the foreman of the grand jury, followed by the letters "F. G. J.," is sufficiently authenticated, for the signature can only be referred to the official capacity of the person signing, as his private capacity gave him no right to authenticate an official paper, while his official capacity did. State v. Chandler (1823) 9 N.C. (2 Hawks) 439.

V. Omission of signature

a. From judgments and decrees

The courts in general hold that the absence of the signature of the judge from a judgment or decree, or from the minutes, in no way affects the validity of the judgment or decree, even though such signature may be required by statute, as the statutes in that respect are generally regarded as directory only.

California

California Southern R. Co. v. Southern P. R. Co. (1885) 67 Cal. 59, 7 Pac. 123

Crim. v. Kessing (1891) 89 Cal. 478, 23 Am. St. Rep. 491, 26 Pac. 1074

Colorado

Eberville v. Leadville Tunneling, Min. & Drainage Co. (1901) 28 Colo. 241, 64 Pac. 200
Indiana
Beitman v. Hopkins (1887) 109 Ind. 177, 9 N.E. 720
Pittsburgh, C. C. & St. L. R. Co. v. Johnson (1911) 49 Ind. App. 126, 93 N.E. 683, 95 N.E. 610
Owen v. Harriott (1911) 47 Ind. App. 359, 94 N.E. 591
Iowa
Dermedy v. Jackson (1910) 147 Iowa, 620, 125 N.W. 228
Minnesota
Leyde v. Martin (1870) 16 Minn. 38, Gil. 24
Nebraska
Scott v. Rohman (1895) 43 Neb. 618, 47 Am. St. Rep. 767, 62 N.W. 46
Gallentine v. Cummings (1903) 4 Neb. (Unof.) 690, 96 N.W. 178
North Carolina
Rollins v. Henry (1878) 78 N.C. 342
Keener v. Goodson (1883) 89 N.C. 273
Bond v. Wool (1893) 113 N.C. 20, 18 S.E. 77
Belcher v. Cobb (1915) 169 N.C. 689, 86 S.E. 600
Brown v. Harding (1915) 170 N.C. 253, 86 S.E. 1010, Ann. Cas. 1917C, 548
McDonald v. Howe (1919) 178 N.C. 257, 100 S.E. 427
Oklahoma
Boynton v. Crockett (1902) 12 Okla. 57, 69 Pac. 869
Texas
Lockhart v. State (1893) 32 Tex. Crim. Rep. 149, 22 S.W. 413
Wright v. State (1897) 37 Tex. Crim. Rep. 3, 35 S.W. 150, 38 S.W. 811
Jordan v. State (1897) 37 Tex. Crim. Rep. 224, 38 S.W. 780, 39 S.W. 111
Norwood v. Snell (1902) 95 Tex. 582, 68 S.W. 773
And see Pinkham v. Jennings (1923) — Me. —, 122 Atl. 873, where the court stated that, as the omission of the seal from a writ was a fatal defect, it emphatically followed that the omission of the signature of the clerk of the court or his deputy, which by statute was required to be affixed to the writ in the proper handwriting of the officer, was a defect which was not amendable. In that case both the signature of the clerk, and the seal of the court had been omitted from the writ.

Some decisions, however, hold that where a statute requires the judge's signature to a judgment order or decree, the omission of such signature renders the judgment or decree invalid. Galbraith v. Sidener (1867) 28 Ind. 142; Raymond v. Smith (1858) 1 Met. (Ky.) 65, 71 Am. Dec. 458; Johnson v. Com. (1882) 80 Ky. 377; Ewell v. Jackson (1908) 129 Ky. 214, 110 S.W. 860; Farris v. Mathews (1912) 149 Ky. 455, 149 S.W. 896; Fox v. Lantrip (1915) 162 Ky. 178, 172 S.W. 133; Auxier v. Auxier (1918) 180 Ky. 518, 203 S.W. 310.

In Dermedy v. Jackson (Iowa) supra, it was held that there was no merit in the contention that the record of a decree was void for the reason that the judge omitted to add his official designation to his signature thereto, the court stating that the record would be sufficient without any signature, as the statute in that respect was directory only.

And see McCoy v. Fire Asso. of Phila. (1921) 192 Iowa, 453, 185 N.W. 101, holding that, as the statute requiring the judge to sign the record was directory only, a writ of execution could be had on an unsigned judgment in the same manner as though it had been signed.

In Norwood v. Snell (Tex.) supra, it was held that the statute requiring the judge to sign the records of the court at the end of each term was directory only, and that a failure to comply with such provision would not render a judgment void.

There being no statutory requirement that a judgment or decree be signed by the judge, it is sufficient that a decree be entered in the regular official judgment book, and certified by the clerk as having been pronounced by the court. Eberville v. Leadville Tunneling Min. & Drainage Co. (1901) 28 Colo. 241, 64 Pac. 200.

Despite the Code provision directing that the records shall be examined by the presiding judge, and if found correct signed by him, the absence of the signature of the judge from a decree of foreclosure does not affect the validity of the decree. Fouts v.

Mann (1883) 15 Neb. 172, 18 N.W. 64; Gallentine v. Cummings (1903) 4 Neb. (Unof.) 690, 96 N.W. 178. And to the same effect, see Scott v. Rohman (1895) 43 Neb. 618, 47 Am. St. Rep. 767, 62 N.W. 46.

An order of reference, made in open court and entered upon the minutes of the court, is sufficient without the signature of the judge. Leyde v. Martin (1870) 16 Minn. 38, Gil. 24.

In Galbraith v. Sidener (1867) 28 Ind. 142, it was held that under a statutory provision requiring the clerk of the circuit court to draw up each day's proceedings at full length, and read the same in open court, with a further provision that they should thereafter be signed by the judge, declaring that no process should issue on any judgment or decree until the same should have been so read and signed, the signature of the judge is essential to a judgment or decree.

But later Indiana cases hold that the failure of the trial judge to sign the record of the final judgment does not render it void, but is a mere irregularity. Beitman v. Hopkins (1887) 109 Ind. 177, 9 N.E. 720; Pittsburgh, C. C. & St. L. R. Co. v. Johnson (1911) 49 Ind. App. 126, 93 N.E. 683, 95 N.E. 610.

It is essential to the validity of decrees, judgments, and orders of the court that they shall be entered upon the order book and signed by the judge as required by statute; a judgment which is unsigned is of no effect. Raymond v. Smith (1858) 1 Met. (Ky.) 65, 71 Am. Dec. 458; Ewell v. Jackson (1908) 129 Ky. 214, 110 S.W. 860; Farris v. Mathews (1912) 149 Ky. 455, 149 S.W. 896; Fox v. Lantrip (1915) 162 Ky. 178, 172 S.W. 133.

In Louisiana a distinction is made, in respect to signatures to decrees, between interlocutory decrees and final decrees, it being held that the signature of the judge to a final decree is necessary to its validity. Sprigg v. Wells (1826) 5 Mart. N. S. (La.) 104; Smith v. Harrathy (1827) 5 Mart. N. S. (La.) 319; Collerton v. McCleary (1832) 3 La. 429; Gallier v. Garcia (1842) 2 Rob. (La.) 319; Ex parte Nicholls (1843) 4 Rob. (La.) 52; Mechanics & T. Bank v. Walton (1844) 7 Rob. (La.) 451; Hatch v. Arnault (1848) 3 La. Ann. 482; Gates v. Bell (1848) 3 La. Ann. 62; Saloy v. Collins (1878) 30 La. Ann. 63.

But no signature is required to an interlocutory decree, a signature being necessary only in cases of final decrees. VanWinckle v. Flecheaux (1838) 12 La. 148; Kraeutler v. Bank of United States (1845) 11 Rob. (La.) 160; State v. Judge of Fifth Dist. Ct. (1857) 12 La. Ann. 455; Schwing v. Dunlap (1910) 125 La. 677, 51 So. 684.

A rule to show cause why a judicial sale should not be annulled, made absolute, must, in order to be valid, be authenticated by the signature of the judge, in the same manner as any other judgment which decrees the rescission of a sale. Gallier v. Garcia (1842) 2 Rob. (La.) 319.

An order dismissing a rule to show cause why a judgment should not be rendered is final in the same way as a judgment of nonsuit, and must, in order to be complete, be signed by the judge. Collerton v. McCleary (1832) 3 La. 429.

b. From processes and orders

The cases are divided on the point as to the effect of the omission of the signature of the judge or clerk from a process or order issuing from the court. The majority hold that the omission of such signature, if required by statute, from a process or order, is a matter of substance, rendering the instrument void.

United States

Peaslee v. Haberstro (1879) 15 Blatchf. 472, Fed. Cas. No. 10,884
Dwight v. Merritt (1880) 18 Blatchf. 305, 4 Fed. 614
Middleton Paper Co. v. Rock River Paper Co. (1884) 19 Fed. 252

California

O'Donnell v. Merguire (1901) 131 Cal. 527, 82 Am. St. Rep. 389, 63 Pac. 847

Georgia

Ray v. Atlanta Trust & Bkg. Co. (1917) 147 Ga. 265, 93 S.E. 418

Kansas

Re Farr (1889) 41 Kan. 276, 21 Pac. 273
Lindsay v. Kearny County (1896) 56 Kan. 630, 44 Pac. 603

Montana
Sharman v. Huot (1898) 20 Mont. 555, 63 Am. St. Rep. 645, 52 Pac. 558
New Hampshire
Smith v. Smith (1844) 15 N.H. 55
Vermont
Andrus v. Carroll (1862) 35 Vt. 102
Other decisions hold that the omission of the signature of the clerk of the court or other official issuing a process or order otherwise properly authenticated is, at the most, a defect which renders the process or order voidable, and may be amended nunc pro tunc. Taylor v. Buck (1900) 61 Kan. 694, 78 Am. St. Rep. 346, 60 Pac. 736; Pepoon v. Jenkins (1798) Col. & Cai. Cas. (N.Y.) 60; Good v. Daland (1890) 119 N.Y. 153, 23 N.E. 474; Henderson v. Graham (1881) 84 N.C. 496; Genobles v. West (1885) 23 S.C. 154; Ambler v. Leach (1879) 15 W. Va. 677.

But it has been held that notice served for the purpose of limiting the time for appeal, which has attached to it a purported copy of the judgment which is not signed by the clerk, is not sufficient. Slater v. Grannemann (1908) 124 App. Div. 98, 108 N.Y. Supp. 363, citing Mason v. Corbin (1898) 29 App. Div. 602, 51 N.Y. Supp. 178; Good v. Daland (1890) 119 N.Y. 153, 23 N.E. 474.

The conflict on this point, as will be observed, is due in most part to different statutory requirements as to the necessity of signature in the various jurisdictions, the cases holding that a signature is necessary to the validity of a process or order arising, for the most part, in jurisdictions where the statutory requirement in that respect is mandatory.

A summons in a common-law action, which is not authenticated by the signature of the clerk or by the seal of the court, is not a summons in the nature of a process known to the Federal court, where an act of Congress provides that all writs and processes issuing from the courts of the United States shall be under the seal of the court from which they issue, and be signed by the clerk, and will be set aside; nor can such summons be amended by having the seal and the signature added. Peaslee v. Haberstro (1879) 15 Blatchf. 472, Fed. Cas. No. 10,884. And to the same effect, see Dwight v. Merritt (1880) 18 Blatchf. 305, 4 Fed. 614.

A summons on which a foreign judgment was based is not void because signed by the firm name of the plaintiff's attorney instead of by the attorney in his own proper name, such signing being according to the established practice of the court from which the summons was issued. People's Nat. Bank v. Ring (1914) 95 Neb. 376, 145 N.W. 833. And the judgment rendered on such process cannot be attacked on the ground that the court lacked jurisdiction.

Under the Code provision requiring the clerk to sign a writ of execution, the subscription of the clerk is the essential part of such writ, without which the execution is void and cannot be amended; the fact that the writ bears a seal cannot be regarded as sufficient authentication, without the signature of the officer affixing such seal. O'Donnell v. Merguire (1901) 131 Cal. 527, 82 Am. St. Rep. 389, 63 Pac. 847. But the court did not decide whether both the signature and the seal were necessary to the validity of the writ.

But as there is no constitutional direction to authenticate a process with the signature of the clerk issuing it, an execution for the sale of property, authenticated with the seal of the court, but lacking the signature of the clerk issuing it, may be amended after its return by order of the court upon the clerk to sign, when necessary to validate the proceedings thereunder, as the statute of amendments is very liberal and of equal efficacy with the statutory requirement to authenticate process with the signature of the clerk. Taylor v. Buck (1900) 61 Kan. 694, 78 Am. St. Rep. 346, 60 Pac. 736.

Under the statutory provision that every order of the court or judge shall become effective as such when signed by the court or judge and attested by the clerk and filed in his office, an order restraining the foreclosure sale by the mortgagee which was neither attested by the clerk nor filed in his office is invalid. Brady v. Cooper (1923) — S.D. —, 193 N.W. 246, holding that in an action by the mortgagor against the mortgagee, who had sold after the service of such purported restraining order, a demurrer to the complaint would be sustained where the complaint failed to allege that the restraining order was reduced to writing, signed by the court or judge, and attested by the clerk and filed in his office.

And in Pepoon v. Jenkins (1798) Col. & Cai. Cas. (N.Y.) 60, upon motion to quash the writ for want of the clerk's signature thereto, it was held that the absence of the signature might be considered as the omission of the clerk, and amendable.

An execution which was not signed by the clerk of the court rendering the judgment is void. Ray v. Atlanta Trust & Bkg. Co. (1917) 147 Ga. 265, 93 S.E. 418, holding that a sale under such void execution did not in any way change the status of the judgment or of the property levied on.

Where the court prescribes a book for entry of judgments and requires that each judgment shall be entered in the book and attested by the signature of the clerk, the service of a copy of a judgment from which the signature of the clerk is omitted is insufficient to initiate the running of the time limitation for appealing. Good v. Daland (1890) 119 N.Y. 153, 23 N.E. 474. The court stated, however, that it did not hold that the omission of the clerk to sign a judgment otherwise properly entered would deprive a party of his rights thereunder, for such judgment would be only irregular and could be amended, but that in this case the respondent, by moving to dismiss an appeal on the ground that the time for appealing had expired, stood upon a strict right, and must show a strict technical compliance with the statute on his part to entitle him to his relief. And to the same effect, see Slater v. Grannemann (1908) 124 App. Div. 98, 108 N.Y. Supp. 363, and Mason v. Corbin (1898) 29 App. Div. 602, 51 N.Y. Supp. 178.

And in Henderson v. Graham (1881) 84 N.C. 496, it was held that a summons which, though bearing the seal of the court, was not authenticated by the signature of the clerk in the blank space at the end of the instrument intended for that purpose, could be amended by the trial court in its discretion.

And it has been held that a garnishee summons is a process within the meaning of an act of Congress requiring that all writs and processes issuing from the United States courts shall be under the seal of the court from which they issue and be signed by the clerk, and the service of such unauthenticated garnishee summons is not sufficient to give the court jurisdiction. Middleton Paper Co. v. Rock River Paper Co. (1884) 19 Fed. 252.

Since the summons, under the Code, does not issue from the court, but is merely a notice by the plaintiff to the defendant that an action has been commenced in which defendant can appear or not as he thinks proper, such summons need not be authenticated by the signature of the clerk and the seal of the court. Genobles v. West (1885) 23 S.C. 154.

An order of commitment signed by the judge, which is not authenticated by the signature of the clerk or by the official seal, is insufficient in view of the Code provision requiring that all process be under the seal of the court from whence it issues, and be signed by the clerk. Re Farr (1889) 41 Kan. 276, 21 Pac. 273.

As the summons is the process by which the defendant is brought into court, a statutory requirement that the summons shall be under the seal of the court and signed by the clerk must be substantially complied with, and a paper purporting to be the summons, which is not signed by the clerk of the district court, is invalid, and on motion by the defendant, who specially appears, service of such papers should be set aside. Lindsay v. Kearny County (1896) 56 Kan. 630, 44 Pac. 603.

The requirement of the statute that original writs be signed by some of the several judicial officers named, and the further provision for the taking and making of the minute of recognizance upon a writ so signed, clearly import that the signing of the minute of recognizance shall be a different act from the signing of the writ, so that the signature of a magistrate issuing an original process, to the minute of recognizance thereon, is not a sufficient authentication of the process. Andrus v. Carroll (1862) 35 Vt. 102.

A writ, otherwise regular on its face, is voidable only, and not void, because the date is blank and it is not signed by the clerk, and a judgment by default is valid and binding. Ambler v. Leach (1879) 15 W. Va. 677. But see Laidley v. Bright (1881) 17 W. Va. 779.

Under the mandatory directions of the statute requiring that a summons be directed to the defendant, signed by the clerk, and issued under the seal of the court, the clerk's signature is a fundamental part of the summons and is a matter of substance, without which there is no summons. Sharman v. Huot (1898) 20 Mont. 555, 63 Am. St. Rep. 645, 52 Pac. 558.

In Smith v. Smith (1844) 15 N.H. 55, it was said that under a statute requiring that writs issued by a justice of the peace shall be signed by him, a writ of summons which did not purport to be signed by the justice issuing it was invalid; such defect must, however, be taken advantage of by a motion to quash or a plea in abatement, and where the writ has answered its

purpose, and served as a foundation for a writ of possession under a mortgage foreclosure proceeding, no question can be raised as to its invaliddity.

c. From indictment

An indictment receives its legal efficacy from being found and returned into court by a grand jury; and it does not have to be authenticated by the signature of the prosecuting officer in order to be valid—at least, if indorsed by the foreman.

Alabama
Ward v. State (1853) 22 Ala. 16
Swallow v. State (1853) 22 Ala. 20
Harrell v. State (1855) 26 Ala. 52
Holley v. State (1883) 75 Ala. 14
Cross v. State (1885) 78 Ala. 430
Joyner v. State (1885) 78 Ala. 448
Boyett v. State (1913) 8 Ala. App. 93, 62 So. 984
McCoy v. State (1922) 18 Ala. App. 480, 93 So. 230
Baker v. State (1922) 18 Ala. App. 510, 93 So. 270
Arkansas
Anderson v. State (1844) 5 Ark. 444
Watkins v. State (1881) 37 Ark. 370
Georgia
Newman v. State (1897) 101 Ga. 534, 28 S.E. 1005
Switzer v. State (1922) 28 Ga. App. 747, 113 S.E. 55
Idaho
People v. Butler (1869) 1 Idaho, 231
Illinois
People v. Strauch (1910) 247 Ill. 220, 93 N.E. 126
Indiana
Dukes v. State (1859) 11 Ind. 557, 71 Am. Dec. 370
Iowa
State v. Ruby (1883) 61 Iowa, 86, 15 N.W. 848
State v. Wilmoth (1884) 63 Iowa, 380, 19 N.W. 249
Louisiana
State v. Williams (1902) 107 La. 789, 32 So. 172
Maine
State v. Reed (1877) 67 Me. 127
Massachusetts
Com. v. Stone (1870) 105 Mass. 469
Mississippi
Keithler v. State (1848) 10 Smedes & M. 192
Missouri
Thomas v. State (1840) 6 Mo. 457
State v. Murphy (1871) 47 Mo. 274
New Hampshire
State v. Farrar (1860) 41 N.H. 53
New York
People v. Foster (1908) 60 Misc. 3, 112 N.Y. Supp. 706, 22 N.Y. Crim. Rep. 437
North Carolina
State v. Vincent (1814) 4 N.C. (1 Car. Law. Repos.) 493
State v. Cox (1846) 28 N.C. (6 Ired. L.) 440
State v. Mace (1882) 86 N.C. 668
Ohio
Jones v. State (1897) 14 Ohio C. C. 35, 7 Ohio C. D. 305

Texas
Jones v. State (1891) 30 Tex. App. 426, 17 S.W. 1080
Day v. State (1910) 61 Tex. Crim. Rep. 114, 134 S.W. 215
Virginia
Brown v. Com. (1890) 86 Va. 466, 10 S.E. 745
Although such authentication is proper. Holley v. State (1883) 75 Ala. 14.

But it has been held that a statutory requirement that "each indictment must be signed by the prosecuting attorney and … if the prosecuting attorney has neglected to sign his name, the court must cause … the prosecuting attorney to sign it … in the presence of the jury," is a positive requirement, and an indictment which is not signed by the prosecuting attorney or by any person, and which is not shown by the record to have been returned by the grand jury, is invalid, and will be quashed on motion. Heacock v. State (1873) 42 Ind. 393. And see Cooper v. State (1881) 79 Ind. 206.

And in State v. Bruce (1882) 77 Mo. 193, it was held that the statute which requires that every indictment be signed by the presecuting attorney, and provides that in case the prosecuting attorney has not signed it the court must cause him to sign it in the presence of the jury, imperatively requires the signature of the prosecuting attorney in order that there be a perfect and complete indictment.

In the absence of any statutory requirement, the signature of the prosecuting officer is not necessary to the authentication of an indictment, although such is usually the proper practice, for at common law such officer was not required or accustomed to attend the investigations of the grand jury. State v. Farrar (N.H.) supra. And to the same effect, see Brown v. Com. (Va.) supra.

As there is no requirement of the statute that an indictment shall be signed by the district attorney, further than the form prescribed, showing the signature of the officer, which is to be substantially followed, the absence of the signature of the district attorney to an indictment does not invalidate it, as such signature does not pertain to the substance. State v. Ruby and State v. Wilmoth (Iowa) supra.

The signature of the prosecuting attorney authenticating an indictment is not necessary to its validity, for the indictment derives its legal sanction from the certificate of the official signature of the foreman, together with its due presentation in open court in the presence of the jury. State v. Reed (1877) 67 Me. 127.

Notwithstanding the statute creating the office of district attorney provides that the district attorney shall sign all indictments found by the grand jury, as the Criminal Practice Act, in prescribing how and for what reasons indictments may be set aside, does not state that the omission of such signature shall invalidate the indictment, the failure of the district attorney to sign an indictment is not a ground for quashing the same. People v. Butler (1869) 1 Idaho, 231.

And in Jones v. State (1897) 14 Ohio C. C. 35, 7 Ohio C. D. 305, supra, in holding that the signature of the prosecuting officer to an indictment was unnecessary, the court stated that even if such signature were required, its absence would not authorize the court to set aside the judgment, for such omission would be cured by a statutory provision reciting that no indictment shall be void for any surplusage, when sufficient in substance to indicate the crime and the person charged.

And since the Code does not require the commonwealth's attorney to sign an indictment, it follows that the signing or printing, by mistake, of the name of a person to an indictment as commonwealth attorney, who is not such officer, does not operate to invalidate it. Brown v. Com. (1909) 135 Ky. 635, 135 Am. St. Rep. 471, 117 S.W. 281, 21 Ann. Cas. 672.

A criminal warrant must be authenticated by the signature of the justice issuing it, and where, in issuing a warrant, the trial justice inadvertently omitted his signature from the blank at the foot of the paper where such signature was intended to be, it was held that the paper on its face showed that it was incomplete, lacking the essential element of the signature, and did not afford a justification for an arrest thereunder. Davis v. Sanders (1894) 40 S.C. 507, 19 S.E. 138.

And there is a conflict of opinion as to the necessity of the signature of the foreman of the grand jury on an indictment found by the jury.

The Texas courts are uniform in holding that under the Code provision (Code Civ. Proc. § 576), in respect to the requirement of the signature of the foreman of the grand jury to an indictment and the effect of the omission thereof, his signature is not essential to the validity of the indictment. Hannah v. State (1876) 1 Tex. App. 578; James v. State (1907) 52 Tex. Crim. Rep. 21, 105 S.W. 179; Parkinson v. State (1920) 87 Tex. Crim. Rep. 176, 220 S.W. 774; Searcy v. State (1921) 89 Tex. Crim. Rep. 478, 232 S.W. 319.

And in State v. Abbott (1905) 5 Penn. (Del.) 330, 63 Atl. 231, an indictment from which the signature of the foreman of the grand jury was omitted, which was indorsed "A true bill," and returned into open court by the grand jury, was held sufficient.

But in most jurisdictions the signature of the foreman of the grand jury is deemed essential to the validity of an indictment. Coburn v. State (1907) 151 Ala. 100, 44 So. 58, 15 Ann. Cas. 249; Whitley v. State (1910) 166 Ala. 42, 52 So. 203; Johnson v. State (1864) 23 Ind. 32; State v. Tinney (1876) 26 La. Ann. 460; State v. Bay (1920) 148 La. 559, 87 So. 294; Goldsberry v. State (1912) 92 Neb. 211, 137 N.W. 1116.

d. From papers making up record on appeal

Where the trial judge fails to comply with a statutory provision requiring his signature to the bill of exceptions, the case made, or the transcript of the record, such papers cannot be considered on appeal.

United States

Idaho & O. Land Improv. Co. v. Bradbury (1889) 132 U.S. 509, 33 L. ed. 433, 10 Sup. Ct. Rep. 177
Malony v. Adsit (1899) 175 U.S. 281, 44 L. ed. 163, 20 Sup. Ct. Rep. 115
Oxford & C. L. R. Co. v. Union Bank (1907) 82 C. C. A. 609, 153 Fed. 723
Dalton v. Hazelet (1910) 105 C. C. A. 99, 182 Fed. 561
Knight v. Illinois C. R. Co. (1910) 103 C. C. A. 514, 180 Fed. 368

Alabama

Kerley v. Vann (1875) 52 Ala. 7
Rowe v. Buttram (1913) 180 Ala. 456, 61 So. 258
Hagin v. Cohen (1919) 17 Ala. App. 52, 81 So. 689

Arkansas

McMinn v. Shultz (1879) 34 Ark. 627
Turner v. Collier (1881) 37 Ark. 528
Carnehan v. Parker (1912) 102 Ark. 439, 144 S.W. 907
Ward v. State (1918) 135 Ark. 259, 204 S.W. 971
Alexander v. State (1919) 138 Ark. 613, 211 S.W. 664
Hobbs v. Bolz Cooperage Co. (1920) 145 Ark. 435, 224 S.W. 968

California

DeJohnson v. Sepulbeda (1855) 5 Cal. 149
Gee v. Terrio (1880) 55 Cal. 381

Georgia

Brown v. Happ (1869) 39 Ga. 61
Ward v. State (1891) 87 Ga. 160, 13 S.E. 711

Illinois

Harman v. Brigham (1898) 78 Ill. App. 427
Elder v. Bennett (1898) 79 Ill. App. 335
Masterson v. Furman (1899) 82 Ill. App. 386
Farmers Trust Co. v. Kimball (1899) 84 Ill. App. 613
Kruse v. People (1899) 84 Ill. App. 620
Higgins v. Hide & Leather Nat. Bank (1899) 88 Ill. App. 33
Vosseler v. Wheeler (1901) 99 Ill. App. 21
Alton v. Eck (1905) 122 Ill. App. 282
Bank of Montreal v. Griffin (1914) 190 Ill. App. 221
Re Janett (1916) 199 Ill. App. 13
Songer v. Pfeiffer (1916) 199 Ill. App. 190

Indiana
Patterson v. State (1858) 10 Ind. 296
Eastes v. Daubenspeck (1853) 4 Ind. 617
Fromm v. Lawrence (1861) 16 Ind. 384
Reeder v. English (1878) 62 Ind. 78
Keiser v. Lines (1881) 79 Ind. 445
Aurora F. Ins. Co. v. Johnson (1874) 46 Ind. 315
Germania Ins. Co. v. Johnson (1874) 46 Ind. 331
Blizzard v. Riley (1882) 83 Ind. 300
Harvey v. State (1892) 5 Ind. App. 422, 31 N.E. 835
Kansas
Hodgden v. Ellsworth County (1873) 10 Kan. 637
Kentucky
Stanford v. Parker (1891) 12 Ky. L. Rep. 878, 15 S.W. 784, 16 S.W. 268
Williams Bros. v. N. N. & M. V. R. Co. (1891) 13 Ky. L. Rep. 202 (abstract)
Wisconsin Chair Co. v. Columbia Finance & Trust Co. (1901) — Ky. L. Rep. —, 60 S.W. 19
Jones v. Jones (1901) 22 Ky. L. Rep. 1280, 60 S.W. 488
Louisville Bridge Co. v. Neafus (1901) 110 Ky. 571, 62 S.W. 2, 63 S.W. 600
Henderson v. Allen (1888) 10 Ky. L. Rep. 282
Brinegar v. Louisville & N. R. Co. (1903) 24 Ky. L. Rep. 1973, 72 S.W. 783
Flint v. Illinois C. R. Co. (1905) 28 Ky. L. Rep. 1, 88 S.W. 1055
Louisiana
State ex rel. Martin v. Webster Parish School Bd. (1910) 126 La. 392, 52 So. 553
Maryland
Goodman v. Saperstein (1911) 115 Md. 678, 81 Atl. 695
Dunn v. State (1922) 140 Md. 163, 117 Atl. 329
Mississippi
Graves v. Monet (1846) 7 Smedes & M. 45
Missouri
Darrah v. The Lightfoot (1852) 17 Mo. 276
State v. Keatley (1886) 21 Mo. App. 484
Puller v. Thomas (1889) 36 Mo. App. 105
Perkins v. Bakrow (1890) 39 Mo. App. 331
Smith v. Hannibal & St. J. R. Co. (1874) 55 Mo. 601
Roberts v. Jones (1899) 148 Mo. 368, 49 S.W. 985
Cooper v. Maloney (1901) 162 Mo. 684, 63 S.W. 372
Reno v. Jarrell (1901) 163 Mo. 411, 63 S.W. 808
State v. Collins (1906) 196 Mo. 87, 93 S.W. 1117
Harding v. Bedoll (1907) 202 Mo. 625, 100 S.W. 638
State v. Watts (1913) 248 Mo. 494, 154 S.W. 721
State v. Bockstruck (1917) — Mo. —, 192 S.W. 404
Gleason v. International Shoe Co. (1920) — Mo. App. —, 228 S.W. 524
New Jersey
Lutes v. Alpaugh (1851) 23 N.J.L. 165
State v. Leschine (1905) — N.J. —, 60 Atl. 29
State v. Ramage (1918) 91 N.J.L. 435, 103 Atl. 1043
State v. Goldfarb (1922) — N.J.L. —, 117 Atl. 698
Ohio
Shilito v. Thacker (1885) 43 Ohio St. 63, 1 N.E. 438
Oklahoma
Bartlesville Interurban R. Co. v. Quaid (1915) 51 Okla. 166, L.R.A.1918A, 653, 151 Pac. 891
Oregon
Singer Mfg. Co. v. Graham (1879) 8 Or. 17, 34 Am. Rep. 572
Tennessee

State v. Hawkins (1892) 91 Tenn. 140, 18 S.W. 114
Carter v. Norton (1899) — Tenn. —, 61 S.W. 561
Texas
Clitus v. Langford (1893) — Tex. Civ. App. —, 24 S.W. 325
Land v. Klein (1899) 21 Tex. Civ. App. 3, 50 S.W. 638
West Virginia
Adkins v. Globe F. Ins. Co. (1898) 45 W. Va. 384, 32 S.E. 194
Coal Run Coal Co. v. Cecil (1923) — W. Va. —, 117 S.E. 697
Wisconsin
Riker v. Scofield (1858) 6 Wis. 367
The omission of the trial judge to sign the bill of exceptions is not cured by a certificate by him to the effect that the bill was allowed and signed, or his indorsement showing presentation of the bill to him. Hagin v. Cohen (1919) 17 Ala. App. 52, 81 So. 689; Cooper v. Malony (1901) 162 Mo. 684, 63 S.W. 372; State v. Goodson (1923) — Mo. —, 252 S.W. 366; State v. Hawkins (Tenn.) supra; Coal Run Coal Co. v. Cecil (W. Va.) supra.

Nor is the omission of the trial judge to sign and seal a bill of exceptions cured by a record entry of the clerk of the court that the bill was signed by the judge. State v. Watts (1913) 248 Mo. 494, 154 S.W. 721.

And the attorneys in the case cannot dispense with the necessity of the judge's signature to a bill of exception, by an agreement to that effect. Sorrell v. State (1916) 79 Tex. Crim. Rep. 437, 186 S.W. 336; Vansickle v. State (1916) 80 Tex. Crim. Rep. 101, 188 S.W. 1006; Kerley v. Vann (1875) 52 Ala. 7.

And it has been held that each distinct exception which embraces an independent proposition of law must be signed and sealed by the lower court, before it can be considered on appeal. Ellicott v. Martin (1854) 6 Md. 509, 61 Am. Dec. 327. And see Cooper v. Holmes (1889) 71 Md. 20, 17 Atl. 711.

But where an exception duly signed, in its commencement, incorporates and makes a part thereof a prior exception, the prior exception need not be signed. Hopkins v. Kent (1861) 17 Md. 113.

In Oklahoma a certificate of the settlement of a case made from a county court is sufficient when signed and sealed by the judge thereof, without being attested by the clerk of the court. Stewart v. State (1909) 3 Okla. Crim. Rep. 618, 105 Pac. 374.

But the rule is different where the case is certified from the district court, it being held that the statutory provision that the case made shall be submitted to the judge, who shall settle and sign the same and cause it to be attested by the clerk or the probate judge, and the seal of the court to be attached, is mandatory, requiring the clerk of the district court to attest the signature of the trial judge in the case made and the seal of the court attached to such attestation. Lewis v. State (1910) 3 Okla. Crim. Rep. 448, 106 Pac. 647; Humphrey v. State (1910) 3 Okla. Crim. Rep. 504, 139 Am. St. Rep. 972, 106 Pac. 978. And see Chandler v. State (1909) 3 Okla. Crim. Rep. 254, 105 Pac. 375, affirmed on rehearing in (1910) 3 Okla. Crim. Rep. 264, 107 Pac. 735, holding that under the mandatory provisions of the statute requiring that the case made shall be submitted to the judge to settle and sign, to be attested by the clerk and a seal of the court attached, a case made will be dismissed where it was not settled and signed by the judge who tried the case.

And the transcript of the record of the county court need not be signed by the clerk of such court, but a certificate in proper form, signed by the county judge and attested with the seal of the court, is a sufficient authentication of the transcript of the records made in the county court. State v. Jones (1910) 3 Okla. Crim. Rep. 412, 106 Pac. 351.

The omission of the judge to sign the bill of exceptions is not supplied by his signature to orders allowing and settling such bill, so as to constitute signing within the act of Congress which provides that an exception, when settled and allowed, shall be signed by the judge and filed with the clerk, and thereafter deemed to be a part of the record in the cause. Dalton v. Hazelet (1910) 105 C. C. A. 99, 182 Fed. 561.

Where the transcript of the record, bearing the seal of the court, is not signed by the clerk, such improper authentication is a matter of practice and it is within the discretion of the Supreme Court to allow the omission to be supplied. Idaho & O. Land Improv. Co. v. Bradbury (1889) 132 U.S. 509, 33 L. ed. 433, 10 Sup. Ct. Rep. 177.

In Oxford & C. L. R. Co. v. Union Bank (1907) 82 C. C. A. 609, 153 Fed. 723, it was held that the act of Congress requiring that bills of exceptions shall be authenticated by the signature of the trial judge is mandatory, and must be strictly adhered to, and no bill of exceptions which does not bear the signature of the trial judge authenticating it should be considered on appeal; and the mere recital in the record to the effect that the judge signed the bill of exceptions is not sufficient, where his signature does not appear.

Under Act 218, Acts 1911, it is necessary for a bill of exceptions to be authenticated by the signature of the trial judge, and such signature cannot, in a felony case, be dispensed with by agreement of the parties and the bill authenticated by the signature of the counsel. Ward v. State (1918) 135 Ark. 259, 204 S.W. 971; Alexander v. State (1919) — Ark. —, 211 S.W. 664.

And in Harvey v. State (1892) 5 Ind. App. 422, 31 N.E. 835, it was held that under the Indiana statute a bill of exceptions must be examined by the judge, and that fact attested by his official signature, and it is not enough that a purported bill of exceptions should be presented to the judge and the fact of such presentation certified thereto by him, without any further signature or certification.

In the absence of the signature of the trial judge, a purported bill of exceptions is in fact no bill of exceptions, and the omission of the signature of the judge to the bill is not cured by his signature to the indorsement showing the presentation of the bill to him. Hagin v. Cohen (1919) 17 Ala. App. 52, 81 So. 689.

Matter contained in a proposed bill of exceptions which was not signed by the trial judge, although certified to by the clerk of the court to be a true statement of what took place at the trial, will not be considered on appeal. Bank of Montreal v. Griffin (1914) 190 Ill. App. 221.

It is not enough that the bill of exceptions be presented to the judge and the fact of such presentation certified to by him, but the fact of its examination and correctness must be attested by his official signature. Harvey v. State (1892) 5 Ind. App. 422, 33 N.E. 835.

A statement in the transcript after the close of the term, to the effect that the bill of exceptions was signed and sealed by the judge and made a part of the record, cannot supply the defect of the absence of the judge's signature to the bill. Cooper v. Maloney (1901) 162 Mo. 684, 63 S.W. 372.

The stipulations of counsel that a case made is correct will not do away with the necessity for the authentication of the case made by the signature of the judge, where the statute requires that it must be signed and settled by the judge who tried the cause. Hodgden v. Ellsworth County (1873) 10 Kan. 637.

A paper purporting to be a bill of exceptions, which was not signed as required by statute, will not be considered as a part of the record, notwithstanding the journal entry in the case reciting that the bill of exceptions was duly signed, sealed, and allowed in order to be made a part of the record. Shilito v. Thacker (1885) 43 Ohio St. 63, 1 N.E. 438.

In Hempstead County v. Howard County (1888) 51 Ark. 344, 11 S.W. 478, on motion to dismiss an appeal from the judgment of the county court on the ground that the clerk of the county court had affixed the seal of the circuit court to the certificate of the proceedings below, the court stated that such objection was technical, and that after the circuit court had acquired jurisdiction of the proceedings upon the filing of the original papers in pursuance of the appeal, it possessed the undoubted power to cause the county clerk to certify a transcript of the records in the cause appealed.

In Songer v. Pfeiffer (1916) 199 Ill. App. 190, it was said that it was better practice, in cases where the signature of the trial judge was omitted from the bill of exceptions, to call the attention of the court to the defective record by a proper motion, but, having failed to do this, the appellate court could not review any question raised by such unsigned bill.

But in Blackburn v. Hanlon (1906) 29 Ky. L. Rep. 1290, 97 S.W. 352, it was said that if the failure of the circuit judge to sign the bill of exceptions was an inadvertence, he could thereafter sign.

VI. Omission of seal

a. From original process or writ in civil cases

There seems to be a conflict among the courts as to the necessity of a seal to authenticate an original writ or process, or, rather, as to the effect of the absence of a seal on such document. The Federal courts (see Wolf v. Cook (U.S.) infra) and some of the state courts (see Choate v. Spencer (Mont.) infra) have taken the view that at common law an original writ in a civil case was required to bear a seal, and the absence thereof was a matter of substance. This matter is now almost entirely regulated by statute, and a majority, perhaps, of the courts, have adopted the view that the seal on the original writ is a matter of substance, the omission of which renders the writ void and prevents it from serving as a basis of jurisdiction.

United States
Wolf v. Cook (1889) 40 Fed. 432
Arkansas
Woolford v. Dugan (1839) 2 Ark. 131, 35 Am. Dec. 52
Reeder v. Murray (1841) 3 Ark. 450
Stayton v. Newcomer (1846) 6 Ark. 451, 44 Am. Dec. 524
Illinois
Hannum v. Thompson (1835) 2 Ill. 238
Anglin v. Nott (1837) 2 Ill. 395
Garland v. Britton (1850) 12 Ill. 232, 52 Am. Dec. 487
Kansas
Dexter v. Cochran (1877) 17 Kan. 447
Kelso v. Norton (1906) 74 Kan. 442, 87 Pac. 184
Maine
Bailey v. Smith (1835) 12 Me. 196
Tibbetts v. Shaw (1841) 19 Me. 204
Witherel v. Randall (1849) 30 Me. 168
Pinkham v. Jennings (1923) — Me. —, 122 Atl. 873
Massachusetts
Hall v. Jones (1830) 9 Pick. 446
Mississippi
Pharis v. Conner (1844) 3 Smedes & M. 87
Montana
Choate v. Spencer (1893) 13 Mont. 127, 20 L.R.A. 424, 40 Am. St. Rep. 425, 32 Pac. 651
Pennsylvania
Sechrist v. York R. Co. (1917) 26 Pa. Dist. R. 658
South Carolina
Hughes v. Phelps (1802) 3 S.C.L. (1 Brev.) 81
Smith v. Affanassieffe (1845) 31 S.C.L. (2 Rich.) 334

But although a summons which does not bear the seal of the court is void and gives the court no jurisdiction in the case, where it appears in the journal entry of the judgment that the court found that due personal service of summons had been made as required by law, such finding and adjudication are prima facie evidence of the due and legal authentication of the summons, and the presumption raised that the court had jurisdiction is not overthrown by the fact that in the record presented no copy or mark of a seal is annexed to the summons therein set forth, for, as nothing was brought to the appellate court but a transcript of the judgment and proceedings below, the impression of the seal on the summons may have been so slight as to have disappeared between the date of its issuance and the time the transcript was prepared and certified—a period of approximately two years. Dexter v. Cochran (Kan.) supra.

It is sufficient, however, if the court actually affixed the seal of the court to a writ; it is not required to state on the face of the process that it is issued under the seal of the court. Morrison v. Silverburgh (1852) 13 Ill. 551.

A scroll annexed to the name of the clerk issuing a process is a sufficient authentication thereof, where the statute requires the

clerk to affix his private seal to all process, where he has not been provided with an official seal. Swink v. Thompson (1861) 31 Mo. 336.

The trend of the decisions seems, however, to be toward the view that the absence of the seal from such writ is a formal irregularity, which, if anything, renders the writ void only, and is waived by appearance, or may be amended, nunc pro tunc, at the direction of the court.

Arkansas
Rudd v. Thompson & Barnes (1860) 22 Ark. 363
Oliver v. Routh (1916) 123 Ark. 189, 184 S.W. 843
Indiana
Boyd v. Fitch (1880) 71 Ind. 306
State v. Davis (1881) 73 Ind. 359
Massachusetts
Foot v. Knowles (1842) 4 Met. 386
Brewer v. Sibley (1847) 13 Met. 175
Austin v. Lamar F. Ins. Co. (1871) 108 Mass. 338
Mississippi
Spratley v. Kitchens (1878) 55 Miss. 578
McAllum v. Spinks (1922) 129 Miss. 237, 91 So. 694
North Carolina
Clark v. Hellen (1841) 23 N.C. (1 Ired. L.) 421
Vick v. Flournoy (1908) 147 N.C. 209, 60 S.E. 978
Calmes v. Lambert (1910) 153 N.C. 248, 69 S.E. 138
South Carolina
Southern Cotton Oil Co. v. Hewlett (1917) 107 S.C. 532, 93 S.E. 195
Texas
Cartwright v. Chabert (1848) 3 Tex. 261, 49 Am. Dec. 742
Wisconsin
Strong v. Catlin (1850) 3 Pinney, 121
Porter v. Vandercook (1860) 11 Wis. 70
Johnston v. Hamburger (1860) 13 Wis. 176
But a writ of summons issued by the clerk of the court, without affixing the official seal, and without a notation by the clerk certifying that his office was not furnished with a seal, is void and will not support a judgment by default, for the seal, or accounting for its absence on the writ, is necessary to warrant such judgment. Burton v. Cramer (1920) 123 Miss. 848, 86 So. 578; McAllum v. Spinks (Miss.) supra.

Under a statutory requirement that all process be dated and attested by the clerk of the court and the seal of the court impressed thereon, it is essential, in order to give a citation an official and authentic character, that the signature of the clerk and the seal of the court appear thereon as evidence of official conduct in the premises. Frosch v. Schlumpf (1847) 2 Tex. 422, 47 Am. Dec. 655; Chambers v. Chapman (1870) 32 Tex. 569; Wells v. Ames Iron Works (1887) 3 Tex. App. Civ. Cas. (Willson) 364; Hale v. Gee (1895) — Tex. Civ. App. —, 29 S.W. 44; Line v. Cranfell (1896) — Tex. Civ. App. —, 37 S.W. 184; Canfield v. Jones (1898) 18 Tex. Civ. App. 721, 45 S.W. 741; Robinson v. Horton (1904) 36 Tex. Civ. App. 333, 81 S.W. 1044; Hardy Oil Co. v. Markham State Bank (1910) — Tex. Civ. App. —, 131 S.W. 440.

Nor is a citation bearing upon it the impress of a seal of another court, from which the writ issued, authenticated in the manner required by law sufficiently to support a judgment by default. Chambers v. Chapman (1870) 32 Tex. 570; Imlay v. Brewster (1893) 3 Tex. Civ. App. 103, 22 S.W. 226; Carson Bros. v. McCord-Collins Co. (1904) 37 Tex. Civ. App. 540, 84 S.W. 391.

While the Code does not expressly require that the citation of appeal should be sealed, the signature of the clerk of the court to such instrument is incomplete without a seal, for it is his seal that authenticates it and makes it evidence in other courts. Campbell, R. & Co. v. Kerr (1834) 7 La. 70; Smith v. Blount (1837) 10 La. 483; Ward v. Bowmar (1838) 12 La. 571.

And in Illinois it has been held that as the object of the process is to bring the defendant into court, by his coming into court and pleading to the cause he waives the defect in the summons due to absence of the seal, so that he cannot thereafter take advantage of the defect. Easton v. Altum (1835) 2 Ill. 250; Gullett v. Otey (1886) 19 Ill. App. 182.

The impression of the seal of the court to a process is not a matter of form, but a matter of substance, giving the paper to which it is affixed judicial character, rendering it more difficult to counterfeit, and, where the seal of the court is omitted from the original writ, such writ is not amendable and will be quashed on motion of the defendant, at a term subsequent to the return. Bailey v. Smith (1835) 12 Me. 196.

Though a justice of the peace is vested with the powers of probate justice, and required, when acting in such latter capacity, to certify all process and proceedings of the probate court under the public seal, a summons issued by him in his capacity as justice of the peace, bearing his signature and official designation followed by the word "Seal," is not void because it does not bear the seal of office of the probate justice, for, as a justice of the peace has no seal of office, the probate justice, when acting in that capacity, need not affix the seal of his court to the process. Dunlap v. Ennis (1846) 8 Ill. 286.

And where a suit was filed in the district court, no other court having jurisdiction either by venue or amount, a citation issuing in such suit is not sufficiently authenticated when attested by the clerk of the district court, but impressed with the seal of the county court, it being required by statute that all process shall be attested by the clerk with the seal of the court impressed thereon, for the seal of the county court can give no validity to the process issuing out of the district court, notwithstanding the clerk of the county court and the clerk of the district court are one and the same person, as his duties and powers are just as much separated as though the offices were held by different persons. Hardy Oil Co. v. Markham State Bank (1910) — Tex. Civ. App. —, 131 S.W. 440.

While the statute requires that the summons contain a seal of the court, and its presence may serve to assure the officer of another state that the proceedings are in good faith and under official sanction, where it appears that the defendants have been actually notified not only of the time and place in which they are required to appear, but also of the nature and purpose of the action, the objection that there is no seal to the summons is not of substance, its absence being only an irregularity which may be cured by having the seal affixed at the direction of the court. Vick v. Flournoy (1908) 147 N.C. 209, 60 S.E. 978, holding that where a summons from which the seal of the court had been omitted had been personally served on a nonresident defendant, that the court had acquired jurisdiction. And see Calmes v. Lambert (1910) 153 N.C. 248, 69 S.E. 138.

And in Clark v. Hellen (1841) 23 N.C. (1 Ired. L.) 421, it was held that the omission of the clerk to affix the seal of the court to an original writ could be amended by his being directed to affix the seal, nunc pro tunc, under the broad provisions of the statute giving the court the power to amend any process, pleading, or proceeding, either in form or substance, in a pending action, for the purpose of justice, on such terms as shall be just; for a writ from which the seal has been omitted is not defective, but only lacks authentication.

The service of an original writ of summons, to which no seal is affixed to give it official character as required by statute, is not sufficient to give the court jurisdiction over the person, where the defendant does not appear at the hearing, or otherwise waive this defect in the writ. Sechrist v. York R. Co. (1917) 26 Pa. Dist. R. 658. And the court stated that, even where a seal is actually affixed by a magistrate to an original summons, the proceedings will be set aside where the defendant does not appear at the hearing, if the seal is not in substantial conformity with the requirement of the statute.

Where the statute requires that written process shall be under the seal of the court and signed by the clerk thereof in the county where the same may be returnable, a seal to a writ is a matter of substance, and its absence will render the writ void; nor can such defect be cured by amendment. Tibbetts v. Shaw (1841) 19 Me. 204; Witherel v. Randall (1849) 30 Me. 168.

Under the statutory requirement that all writs shall be signed by the clerks of the respective courts from which they issue and impressed with the seal of such court, a writ of capias without the seal of the circuit court is insufficient in law to authorize a judgment by default, for such process without judicial seal cannot impose any legal duty upon the person upon whom it is executed, to observe and obey its mandates, or become the foundation of a judgment by default for the nonappearance of the

defendant, and a judgment obtained on such writ will be reversed. Woolford v. Dugan (1839) 2 Ark. 131, 35 Am. Dec. 52.

On a plea in abatement to a writ because it was not sealed, it was held in Pharis v. Conner (1844) 3 Smedes & M. (Miss.) 87, that the writ was not good without the seal of the court, or a statement of the fact that there was no seal.

But a later decision holds that although it is required by statute that all civil process issued by a justice of the peace shall be under his name and seal, a summons issued by the justice of the peace, bearing no seal or scroll upon it, is not void in view of a further section of the statute which provides that in case any matter required to be inserted in or upon a process shall be omitted, such process shall not, on that account, be held void, but may be amended upon such terms as the court may think proper. Spratley v. Kitchens (1878) 55 Miss. 578.

A summons issued by the clerk of the district court without being authenticated by the seal of the court is void, and service thereof will not confer jurisdiction upon the court, even though the summons was served personally upon the defendant. Kelso v. Norton (1906) 74 Kan. 442, 87 Pac. 184, holding that a judgment based upon such process may be collaterally attacked.

And in Strong v. Catlin (1850) 3 Pinney (Wis.) 121, it was held that the omission of the seal of the court from the summons by which an action was commenced was a defect of the nature provided for in the statute of amendments, and such defect was cured by verdict.

The Oklahoma statute requires all writs issuing out of any court of record to be sealed with the judicial seal of such court, and where it is apparent from an inspection of the records that no seal was annexed to the writ upon which a judgment by default was obtained, nor any excuse offered by the clerk for its omission, such judgment will be reversed, for the writ, being unsealed, is a mere nullity, and imposes no legal obligation upon the defendants to appear and defend. Reeder v. Murray (1841) 3 Ark. 450; Stayton v. Newcomer (1845) 6 Ark. 451, 44 Am. Dec. 524; Rudd v. Thompson (1860) 22 Ark. 363.

The omission of a seal from a citation is a defect which may be amended. Cartwright v. Chabert (1848) 3 Tex. 261, 49 Am. Dec. 742. The court stated that no satisfactory reason could be assigned why the absence of the seal from the writ should be incurable, for it is not more particularly defined, or prescribed, or required by statute than the style of the writ, the teste in the name of the clerk, and other essential requisites, and, moreover, the omission of the seal would be less likely to mislead the defendant as to the essential facts of which he is to be notified by the citation, than the omission of any other of the essential requisites described.

A summons issuing from the court of record must, both at common law and under the Code, be authenticated by the seal of the court from which it issues, and in the absence of such seal the summons is void, as are all proceedings based upon such void summons; nor does the Code provision permitting the court in every action to correct any error or defect in pleading or proceeding which shall not affect the substantial rights of the parties, providing that no judgment shall be reversed or affected by reason of such error, give the court the right to amend or disregard such irregularity in the writ, for the writ is not merely defective, but void, and the court has acquired no jurisdiction under it. Choate v. Spencer (1893) 13 Mont. 127, 20 L.R.A. 424, 40 Am. St. Rep. 425, 32 Pac. 651.

But while the omission to affix the proper seal to a writ issuing from the court is such error as will abate the writ if the objection be properly taken, the omission is a merely formal defect, and the want of a seal on the writ will not furnish a ground for a motion in arrest of judgment, for the defendant, by pleading to the merits, waives any objection as to form of process. Foot v. Knowles (1842) 4 Met. (Mass.) 386; Brewer v. Sibley (1847) 13 Met. (Mass.) 175.

A summons which does not purport to be under the seal of the court, or under the private seal of the clerk issuing it, is, where the statute requires that the process issuing from the circuit court shall be sealed with the judicial seal, or, in case there be no judicial seal, that the clerk shall affix his private seal, void, and the service of the same is without effect, and, unless the defendant appears in the case, judgment cannot be rendered against him. Garland v. Britton (1850) 12 Ill. 232, 52 Am. Dec. 487.

Where a justice subscribed his name to the original writ and affixed opposite the name his scroll, with the word “Seal” written within, it was held that the requirement of the law that original writs be signed and sealed by the justice was

sufficiently complied with, as the law did not require the use of the words, "Witness my hand and seal." Wright v. Vesta (1840) 5 How. (Miss.) 152.

In Hall v. Jones (1830) 9 Pick. (Mass.) 446, where the original writ, which was made returnable to the supreme judicial court, was under the seal of the court of common pleas, the defendant pleaded in abatement that the writ was not under the seal of the court, and it was held, on motion of the plaintiff to amend the writ by affixing to it the seal of the court, that the amendment could not be made.

But in Austin v. Lamar F. Ins. Co. (1871) 108 Mass. 338, where the clerk, in issuing an original writ under the seal of the court, omitted therefrom his signature, it was held that notwithstanding the constitutional and statutory provisions that every original writ shall be under the seal of the court from which it issues, and signed by the clerk of the court, the absence of the signature did not render the writ void, for the signature is the official authentication of the seal, of which the clerk is the keeper, and as no question was raised as to the genuineness of the seal or the identity of the court, the omission of the signature could be treated as a clerical omission, which could be supplied by amendment under a statute which provides that no action shall be defeated by a plea in abatement if the defect be found capable of amendment and is amended on the terms prescribed by the court.

And where a clerk of the circuit court, in issuing a writ, omitted the seal of the court therefrom, it was said that there was some conflict of judicial expression existing respecting the validity of a process to which the officer issuing it had neglected to attach his seal, when he had one which he was required by law to affix, but these decisions could be reconciled if the various statutes under which they were rendered were examined; if, by such enactment, process can be amended before or after judgment has been rendered, the failure of the clerk of the court to attach to a writ his official seal will be regarded as an irregularity, but if the statute does not authorize such a change of process, the neglect to affix the seal makes the writ void. Starkey v. Lunz (1910) 57 Or. 147, 110 Pac. 702, Ann. Cas. 1912D, 783. The court held that as the Oregon statute expressly required that process issued by a clerk of the court should be authenticated by his official seal, without making provision for correcting a defect occasioned by the failure of such officer to affix his seal, a writ from which it was omitted was void, and where such writ was intended to serve as a basis by which jurisdiction of real property belonging to a nonresident was to be secured, the attempted levy thereof created no lien, and the judgment against the land was void and subject to collateral attack.

And the omission of the seal from a summons makes the summons voidable only, and furnishes no ground for reversal of judgment based upon such summons; the court below may, of its own motion or upon the motion of any interested party, at any time, cause the proper seal to be affixed to the summons, and thus validate and render it effectual ab initio, for all purposes. Boyd v. Fitch (1880) 71 Ind. 306.

In State v. Davis (1881) 73 Ind. 359, the court stated that while it was undoubtedly true that in common law a writ issuing from a court must, in order to be entitled to be considered as regular and authentic, be attested by the seal of the court from which it issued, under the Indiana statute, which provides that no summons shall be set aside or adjudged to be insufficient, if sufficient in substance to inform the party upon whom it is served, the absence of a seal from a summons, otherwise sufficient, does not render the writ void; and the court has the right to order the clerk to affix the seal.

But in the case of a judgment by default, where the summons was without the official seal of the clerk, the judgment will be reversed for the defects in the writ, where no application to amend was made. Rudd v. Thompson (1860) 22 Ark. 363.

Where the defendant was personally served with a subpoena from which the seal of the court had been omitted, the omission of the seal is, at the most, an irregularity subject to amendment at the time the cause comes on for trial, and where the writ was not amended by attaching the seal, a judgment based on such writ cannot be collaterally attacked. McAllum v. Spinks (1922) 129 Miss. 237, 91 So. 694, holding that a divorce decree based on a summons which did not contain the seal of the court cannot be attacked in a proceeding to determine who is entitled to the property of the party obtaining the divorce, based on such process, upon his death.

b. From warrant or other process in criminal cases

And in regard to the necessity of a seal authenticating a criminal warrant or other criminal process, the decisions are

conflicting, such conflict being traceable, for the most part, to opposing interpretations as to the requirement of a seal to such document at common law. The omission of the seal has been held by a number of courts to be only a formal irregularity which does not render the warrant void.

United States
Starr v. United States (1894) 153 U.S. 614, 38 L. ed. 841, 14 Sup. Ct. Rep. 919
Maine
State v. McNally (1852) 34 Me. 210, 56 Am. Dec. 650
Maryland
Somervell v. Hunt (1792) 3 Harr. & McH. 114
New Jersey
State v. Kelly (1913) 84 N.J.L. 1, 87 Atl. 128, affirmed in (1914) 86 N.J.L. 704, 94 Atl. 1103
New York
Gano v. Hall (1864) 5 Park. Crim. Rep. 651
Millett v. Baker (1864) 42 Barb. 215
South Carolina
State v. Vaughn (1824) 16 S.C.L. (Harp.) 313
Virginia
Burley v. Griffith (1836) 8 Leigh, 442
Other courts have held that a criminal warrant not under seal is void, taking the view that the common law required a warrant to be authenticated by a seal. State v. Caswell (1809) T. U. P. Charlt. (Ga.) 280; State v. Drake (1853) 36 Me. 366, 38 Am. Dec. 757; People v. Crocker (1869) 1 Mich. N. P. 31; People v. Holcomb (1858) 3 Park. Crim. Rep. (N.Y.) 656; State v. Curtis (1797) 2 N.C. (1 Hayw.) 471; Welch v. Scott (1844) 27 N.C. (5 Ired. L.) 72; State v. Worley (1850) 33 N.C. (11 Ired. L.) 242; Tackett v. State (1832) 3 Yerg. (Tenn.) 393, 24 Am. Dec. 582.

And it has been held that the grand jury venire, if not under seal, is void. State v. Flemming (1877) 66 Me. 142, 22 Am. Rep. 552; Ollora v. State (1910) 60 Tex. Crim. Rep. 217, 131 S.W. 570.

Where the warrant and original complaint are both upon the same paper, the fact that the magistrate's seal, which is necessary to the validity of the warrant but not to the validity of the complaint, appears on the margin of the complaint rather than of the warrant, will not prevent the court from considering the seal as attached to the warrant, where from the language of the two papers it appears that the warrant, and not the complaint, was designed to be under seal. State v. Coyle (1851) 33 Me. 427.

As the statute under which a criminal warrant was issued did not specify that it should be under seal, such warrant is, in the absence of a seal, valid, for at common law a seal was not necessary to a warrant in criminal proceedings. Millett v. Baker (N.Y.) supra.

The omission of a seal from a warrant of arrest does not afford a legal justification for the sheriff's refusal to receive a person arrested under such warrant, for, assuming that the warrant should have been under seal, the omission does not render it void, but is a mere irregularity, which can be taken advantage of only by the person arrested, and not by third parties. State v. Kelly (N.J.) supra. It was further held that the omission of the seal in the case at bar did not render the warrant irregular, inasmuch as it was issued by a justice sitting as a magistrate, and not by the court of which he was a member. The seal of the court would have added nothing to the validity of the warrant, nor was it necessary that the magistrate should attach his personal seal thereto, for at common law there was no rule invalidating warrants which were not under seal, unless the magistrate issuing such warrant had a seal of office, or unless such seal was required by statute.

The Texas statute, in express terms, gives defendant in a criminal case the right to a copy of the venire facias under the seal of the court from whence it is issued, and where the writ served upon the defendant did not bear the seal of the court from which it was issued, as required by law, it was held in Ollora v. State (Tex.) supra, that the action of the lower court in hearing and overruling a motion to quash the venire and ordering the clerk to amend the same by affixing thereto the seal of the court is reversible error, for, in permitting the seal, which had been omitted, to be affixed when objection has been made, so as to relate back to its original issuance, is to deny the appellant the right of the service of copy of the venire under the safeguards, sanctions, and formality of the law.

And in Burley v. Griffith (1836) 8 Leigh (Va.) 442, it was held that a warrant issued by a justice of the peace upon the application of the owner of a slave, authorizing the jailer to receive a slave into his custody, need not be authenticated by a seal.

In Starr v. United States (1894) 153 U.S. 614, 38 L. ed. 841, 14 Sup. Ct. Rep. 919, the court, after reviewing the ealer authorities, stated that it was of the opinion that there was no settled rule in common law invalidating warrants not under seal, unless the magistrate issuing the warrant had a seal of office, for the seal was required by statute, and it was held that a warrant of a commissioner of the United States, not having a seal of office, and not required to affix the seal thereto, is not void for the omission of the seal.

A search warrant issued by a magistrate, in the absence of statutory provisions dispensing with the necessity of a seal, is void if not under seal, for at common law a warrant was required to be under seal; and as the legislature has expressly provided for issuing warrants in various cases without a seal, a construction of the statute requires that warrants which are not expressly authorized to be issued without seal must, in order to be valid, bear a seal. People v. Holcomb (1858) 3 Park. Crim. Rep. (N.Y.) 656. But see Gano v. Hall (1864) 5 Park. Crim. Rep. (N.Y.) 651, taking a contrary view of the statute considered in the Holcomb Case, and holding that a warrant issued by a magistrate, without a seal, was valid.

In State v. McNally (1852) 34 Me. 210, 56 Am. Dec. 650, it was said that, under the statute which provides merely that a justice of the peace shall issue his warrant of search, a search warrant issued by such justice need not be under seal. There was, however, a label attached to the warrant in question, which was the usual seal in such cases, and which the court held prima facie sufficient.

But in State v. Drake (1853) 36 Me. 366, 58 Am. Dec. 757, it was held that a criminal warrant which did not bear the seal of the magistrate issuing it was void, the court stating that there could be little doubt that the common law requires that warrants issued for the arrest or imprisonment of a person by a magistrate shall be under seal. The court reviewed State v. McNally (Me.) supra, and held that that case showed that the warrant there was under seal.

A seal is essential to the validity of a criminal warrant, and the absence thereof renders the warrant void. State v. Curtis (1797) 2 N.C. (1 Hayw.) 471; Welch v. Scott (1844) 27 N.C. (5 Ired. L.) 72; State v. Worley (1850) 33 N.C. (11 Ired. L.) 242 (holding that the finding of the lower court that the scroll affixed to a warrant by the magistrate and certified by him to be his seal, was a seal, was a finding of fact which could not be reviewed on appeal, inasmuch as only errors of law could be reviewed).

In Somervell v. Hunt (1792) 3 Harr. & McH. (Md.) 114, it was held that a warrant of commitment, issued by a justice of the peace, which was not under seal, was void, and the sheriff would not be liable for the escape of the runaway slave committed to him under such void warrant.

In the absence of statutory requirement, a criminal warrant need not be under seal. State v. Vaugh (1824) 16 S.C.L. (Harp.) 313. The court stated that when the art of learning was confined to few, seals were used to designate persons, but that the person is now identified by the handwriting, and seals are seldom used but to give character to the instrument, and there appears no reason why the official act of the magistrate shall be under seal, as it derives its character from the law which prescribes it.

A criminal warrant which has not affixed thereto the seal of the magistrate issuing it is void (Tackett v. State (1832) 3 Yerg. (Tenn.) 393, 24 Am. Dec. 582), and an officer in making an arrest upon such warrant acts at his peril, for in contemplation of the law he has no process, and if in attempting to execute such void process the officer is killed, the crime is manslaughter, and not murder.

In State v. Flemming (1877) 66 Me. 142, 22 Am. Rep. 552, it is held that the seal of the court is necessary to the grand jury venire, the absence of the seal from such instrument at the time it was served being a matter of substance, which cannot be amended, and that an indictment found by a grand jury drawn by virtue of such venire is void.

c. From writ or process other than original, in civil cases

1. In general

As to the effect of the absence of a seal from a writ of execution, see annotation in 28 A.L.R. 936.

A conflict similar to that in regard to original process exists in regard to the effect of the absence of a seal from a mesne process, the absence thereof being held in a number of cases to be a matter of substance, invalidating the process.

United States
Aetna Ins. Co. v. Hallock (Aetna Ins. Co. v. Doe) (1868) 6 Wall. 560, 18 L. ed. 949
Illinois
Williams v. Vanmetre (1857) 19 Ill. 293
Eagan v. Connelly (1883) 107 Ill. 458
Iowa
Foss v. Isett (1853) 4 G. Greene, 77, 91 Am. Dec. 117
Shaffer v. Sundwall (1871) 33 Iowa, 579
Kansas
Gordon v. Bodwell (1898) 59 Kan. 51, 68 Am. St. Rep. 41, 51 Pac. 906
Stouffer v. Harlan (1903) 68 Kan. 135, 64 L.R.A. 320, 104 Am. St. Rep. 396, 74 Pac. 610
Minnesota
Wheaton v. Thompson (1873) 20 Minn. 196, Gil. 175
O'Farrell v. Heard (1875) 22 Minn. 189
New York
Churchill v. Marsh (1855) 4 E. D. Smith, 369
Talcott v. Rosenberg (1870) 8 Abb. Pr. N. S. 287
North Carolina
Governor v. M'Rea (1824) 10 N.C. (3 Hawks) 226
Den ex dem. Seawell v. Bank of Cape Fear (1831) 14 N.C. (3 Dev. L.) 279, 22 Am. Dec. 722
Ohio
Boal v. King (1833) 6 Ohio, 11
Lenarci v. State (1915) 23 Ohio C. C. N. S. 73
Pennsylvania
Re Road Dist. (1900) 10 Pa. Dist. R. 581
Texas
White v. Taylor (1907) 46 Tex. Civ. App. 471, 102 S.W. 747
While other decisions, aided in some instances by liberal statutes of amendments, hold that the omission of the seal is an irregularity only.

Arkansas
Bridwell v. Mooney (1869) 25 Ark. 524
California
Hager v. Astorg (1904) 145 Cal. 548, 104 Am. St. Rep. 68, 79 Pac. 68
Georgia
Dever v. Akin (1869) 40 Ga. 423
Idaho
Harpold v. Doyle (1908) 16 Idaho, 671, 102 Pac. 158
Indiana
Hunter v. Burnsville Turnp. Co. (1877) 56 Ind. 213
Warmoth v. Dryden (1890) 125 Ind. 355, 25 N.E. 433
Massachusetts
Stevens v. Ewer (1848) 2 Met. 74
Missouri
Jump v. McClurg (1854) 35 Mo. 193, 86 Am. Dec. 146
North Carolina
Purcell v. McFarland (1840) 23 N.C. (1 Ired. L.) 34, 35 Am. Dec. 734

England
Padfield v. Cabell (1743) Willes, Rep. 412, 125 Eng. Reprint, 1241
And see Wehrman v. Conklin, 155 U.S. 314, 39 L. ed. 167, 15 Sup. Ct. Rep. 129, holding that the absence of a seal from a writ of attachment does not, where the county from which the writ issued has been newly organized and the clerk of the court has not been furnished with a seal, render the writ void.

Under the Judicial Act the signature of the judge of the lower court was not necessary to the return of the clerk to a writ of error, made under the hand and seal of the clerk. Worcester v. Georgia (1832) 6 Pet. (U.S.) 515, 8 L. ed. 483.

In Aylesbury v. Harvey (1650) 3 Lev. 204, 83 Eng. Reprint, 652, it was held that as a warrant was not required by statute to be under seal, but only to be in writing, it was no objection that the defendant did not plead that the warrant under which he acted was under seal.

The signature of the clerk is not a sufficient proof of the authenticity of a writ issuing from a superior court of one county to another county, but such writ must bear a seal, and where the seal is omitted from the writ, a sheriff is not liable for failing to execute it. Governor v. M'Rea (1824) 10 N.C. (3 Hawks) 226. Taylor, Ch. J., stated: "A process by which a man's person or property is liable to be affected ought to bear on its face the highest evidence of its authenticity; and the law has always considered that the writs issuing from a court are most satisfactorily proved by the seal provided by public authority, which every man is presumed to know. A seal of some sort has been indispensable to all original writs from earliest times; and though the legislature has, in some instances, relaxed the common-law strictness of affixing them to all writs, they have assented and preserved the necessity of it in this case." (This last statement was in reference to an act of the legislature dispensing with the seal where the writ issues to a county within the district.)

As the only office of the seal is to authenticate or prove the genuineness of the writ to which it is attached, a writ of attachment from which the seal of the court is omitted is not a nullity, although the Code requires that writs of process should be under the seal of the court from which they issue, and such writ may be amended by permitting the respondent to affix the seal, pending a motion to quash the writ. Jump v. McClurg (Mo.) supra.

The omission of the seal of the court from an alias summons is a mere irregularity which does not affect the validity of the process. Harpold v. Doyle (1908) 16 Idaho, 671, 102 Pac. 158, the court stating that the publication of a copy not bearing any scroll or the word "Seal" could in no manner mislead the defendant, especially, as was the situation in the case at bar, where the copy was published and recited that it was issued under the seal of the court.

An order of view issued pursuant to a petition for a private road, by the court of quarter sessions, which had attached to it the seal of the court of common pleas, is as if not sealed at all, and, as all orders and process of the court must be authenticated by its seal, its absence from the order is a fatal defect in the writ and not a mere informality, for it is the seal that gives the writ authenticity. Re Road Dist. (1900) 10 Pa. Dist. R. 581.

The Code provision requiring that the allowance of the writ of mandamus be indorsed on the writ and signed by the justice of the court granting it does not authorize the judge to issue the writ, and a purported writ issued by the judge, which is not authenticated by the seal of the court and signed by the clerk, is void, it being a further provision of the Code that all process shall be under the seal of the court from whence it issues, and be signed by the clerk. State ex rel. Hansen v. Carrico (1910) 86 Neb. 448, 125 N.W. 1110.

On motion to quash an alternative writ of mandamus, which the record showed was signed by the judge of the district court and issued by him, it was held in Wenner v. Board of Education (1910) 25 Okla. 515, 106 Pac. 821, that the fact that the clerk did not attest the signature of the judge, or place upon the writ the seal of the court, or in any way sign or issue it, did not, in the absence of any statutory provision requiring such formalities, invalidate the writ.

In Potter v. Smith (1861) 7 R. I. 55, it was held that the omission of the seal of the court from a writ of replevin was a mere defect of form, and any objection to the writ was waived by a plea to the merits; such writ may, on motion to dismiss, be amended by affixing the seal of the court thereto. The court stated that the omission of the seal was a defect less likely to mislead the defendant, than the omission of any other requisite of the writ, and an amendment in that particular was least likely to do him injustice, and most likely to avoid injustice to the plaintiff.

2. From attachment

A warrant of attachment issued by a court commissioner and signed by him officially, which is not signed by the clerk of the court or authenticated by the seal of the court, is void, as are all proceedings thereunder. O'Farrell v. Heard (1875) 22 Minn. 189. And see Churchill v. Marsh (1855) 4 E. D. Smith (N.Y.) 369, supra, holding an attachment issued by the marine court void, because not under seal.

The signature of a justice, followed by a scroll within which the word "Seal" was written, appended to a writ of attachment, meets the requirement of law that judicial writs shall be signed and sealed by the justice issuing them, as the form of the writ prescribed does not require the use of the words "Witness my hand and seal;" nor are they essential to express the intention of the justice to give the scroll annexed to his name the character and dignity of a seal. Wright v. Vesta (1840) 5 How. (Miss.) 152.

And as the Wisconsin statutes empower the courts to amend any process at any stage of the action, by correcting a mistake in any respect, which has been interpreted by the highest court of the state to authorize the affixing to a writ of a seal omitted by mistake, a Federal court, in a case which has been removed from the state court, where the seal had been omitted from an attachment issued by the state court, will, where it has become impractical to cause the proper seal to be affixed to the writ, enforce the equitable doctrine that the court will deem that done which ought to have been done, and order that the writ stand amended and be held effectual to all intents and purposes, as though the proper seal had been originally affixed thereto. Wolf v. Cook (1889) 40 Fed. 432.

A distress warrant issued by a justice of the peace does not need to be authenticated by a seal in order to be sufficient to authorize the seizure of goods by virtue of such warrant. Padfield v. Cabell (1743) Willes, Rep. 412, 125 Eng. Reprint, 1241.

Under the statutory provisions permitting the district judge to allow a writ of attachment, and requiring the writ to be sealed with the seal of the court and signed by the clerk, a paper which purports to be a writ of attachment, bearing the signature of the judge, without the seal of the court and without the signature of the clerk, is ineffectual as a writ of attachment. Wheaton v. Thompson (1873) 20 Minn. 196, Gil. 175.

As the circuit court of each county is required to use its own seal, having on the face thereof the words "Circuit Court" and the names of the county and state, a writ of attachment issued by the circuit court cannot be authenticated by the seal of the district court; and the defect is of such a nature that it cannot be cured by amendment. Shaffer v. Sundwall (1871) 33 Iowa, 579.

A paper issued by the clerk of the court in the form of a writ of attachment is, in the absence of the impression of the seal of the court from which it issues, invalid as a writ, nor can it be amended, as it lacks the essential ingredient of a writ, for it is the seal which makes the writ and gives it force. Foss v. Issett (1853) 4 G. Greene (Iowa) 77, 91 Am. Dec. 117. And see Williams v. Vanmetre (1857) 19 Ill. 293, supra.

3. Order of sale

The omission of the seal of the court from an order of sale, which itself contains a complete copy of the decree of foreclosure, duly certified to by the clerk, with his signature and the seal of the court attached, does not affect the validity of the order, which is sufficiently authenticated to give the sheriff authority to sell and convey the property, and such sale cannot be collaterally attacked. Hager v. Astorg (1904) 145 Cal. 548, 104 Am. St. Rep. 68, 79 Pac. 68.

And in Hunter v. Burnsville Turnp. Co. (1877) 56 Ind. 213, where an order of sale was issued to a sheriff, which was not attested by the proper seal, and afterwards, on motion to which the judgment creditor was made a party, the court ordered the proper seal to be attached, it was held that, by amending the order of sale by affixing thereto the seal, the sale became valid as if the seal had been affixed at the time the order was placed in the hands of the sheriff, the court stating that the line of decisions holding that process without proper seal is voidable only, and can be amended, is more in consonance with the general spirit of the law, which regards substance rather than form. And to the same effect, see Warmoth v. Dryden (1890)

125 Ind. 355, 25 N.E. 433.

In White v. Taylor (1907) 46 Tex. Civ. App. 471, 102 S.W. 747, it was held that an order of sale upon an execution on a judgment, which was authenticated only by the clerk's signature, without the seal of the court, was not, in view of the statutory provision requiring that execution should be signed by the clerk and impressed with the seal of the court, in the absence of the seal, sufficiently authenticated.

The constitutional provision requiring "that all courts of record shall have a seal to be used in the authentication of all process," is mandatory, and an order of sale issued without the seal of the court is void; and the court has no power, after the sale has been made thereunder, to allow the process to be amended by attaching the seal, notwithstanding the statutory provision permitting the court, before or after judgment, to amend any pleading, process, or proceeding, by adding or striking out the name of any party, or correcting a mistake in the name of any party, or a mistake in any other respect, for the force of the constitutional provision cannot be impaired by the legislature through an indirect method of allowing the process to be amended after it has spent its force. Gordon v. Bodwell (1898) 59 Kan. 51, 68 Am. St. Rep. 341, 51 Pac. 906; Stouffer v. Harlan (1903) 68 Kan. 135, 64 L.R.A. 320, 104 Am. St. Rep. 396, 74 Pac. 610.

Although a precept authorizing the sale of land for taxes is not technically process, it answers the purpose and performs the office of an execution, and is governed by rules applicable thereto, and a precept which was not signed or sealed by the county clerk, nor had attached thereto the certificate of the clerk, is void, and no subsequent amendment can relate thereto and make valid a sale made under and by virtue of such void process. Eagan v. Connelly (1883) 107 Ill. 458.

An original order of sale issued to the sheriff on a decree of foreclosure, which is not authenticated by the seal of the court issuing it, is on its face void, and all proceedings thereunder are a nullity. Aetna Ins. Co. v. Hallock (Aetna Ins. Co. v. Doe) (1868) 6 Wall. (U.S.) 556, 18 L. ed. 949. The court stated that the authorities are uniform in holding that all process issuing from a court which, by law, authenticated a process with its seal, was void if issued without such seal.

From fieri facias.

The signature and seal of the clerk of the court, which by the clerk's authority were cut from another original writ and annexed to a blank sheet which was to be used as a scire facias, is a sufficient authentication of such writ, for the authenticity of the court seal is not required to be tested by any particular device or inscription, and any seal annexed by the clerk to the writ as the seal of the court is to be so considered. Stevens v. Ewer (1840) 2 Met. (Mass.) 74.

No principle is more definitely settled than that the process of a court having a seal can be evidenced only by its seal, which is the appointed mode of showing its authenticity, and a writ of fieri facias issued by such court, from which the seal is omitted, is void. Boal v. King (1833) 6 Ohio, 11.

A plea in a suit to enforce a judgment, that the fieri facias was not under seal, is bad. Dever v. Akin (1869) 40 Ga. 423; Warmoth v. Dryden (1890) 125 Ind. 355, 25 N.E. 433.

In Purcell v. McFarland (1840) 23 N.C. (1 Ired. L.) 34, 35 Am. Dec. 734, it was held that the omission of the clerk to affix the seal of the court to a writ of fieri facias was a defect which could be amended, nunc pro tunc, by affixing the seal of the court to protect the bona fide purchaser under the writ. But where the writ issues to another county, the absence of a seal renders it void. Doe ex dem. Seawell v. Bank of Cape Fear (1831) 14 N.C. (3 Dev. L.) 279, 22 Am. Dec. 722.

d. From writ of error or record on appeal

1. In general

It has been held that the rule of the court that a writ of error shall issue in the name of the governor, bear teste in the name of the judge of the court, and be signed by the clerk with the seal of the court attached, is merely directory to the clerk as to the manner in which a writ of error issued by him shall be authenticated, and the omission of the seal of the court therefrom is an irregularity which may be amended by attaching the seal of the court, and does not afford a ground for dismissing the writ.

Lowe v. Morris (1853) 13 Ga. 147.

A paper purporting to be a writ of error, which was certified with the transcript, but which was not authenticated by a seal, is void, and two terms of court having intervened since such transcript and void writ of error were filed, the cause will be dismissed. Overton v. Cheek (1860) 22 How. (U.S.) 46, 16 L. ed. 285.

If the bill of exceptions, the case made, or the transcript of the record is not authenticated by the seal of the trial court, the appellate court cannot consider questions raised by such documents.

United States
Copper River & N.W. R. Co. v. Reeder (1914) 127 C. C. A. 648, 211 Fed. 280
Alabama
Armstrong v. Nelson (1877) 57 Ala. 556
Colorado
Lindsey v. Lewis (1911) 49 Colo. 289, 112 Pac. 538
Indiana
Sanford v. Sinton (1870) 34 Ind. 539
Stitson v. Lawrence County (1873) 45 Ind. 173
Hinton v. Brown (1826) 1 Blackf. 429
Jones v. Frost (1873) 42 Ind. 543
Conkey v. Conder (1893) 137 Ind. 441, 37 N.E. 132
No. 4 Fidelity Bldg. & Sav. Union v. Byrd (1900) 154 Ind. 47, 55 N.E. 867
Johnson v. Johnson (1901) 156 Ind. 592, 60 N.E. 451
Monroe County v. State (1901) 156 Ind. 550, 60 N.E. 344
Hesch v. Bolin (1902) 30 Ind. App. 2, 64 N.E. 39
Kansas
Karr v. Hudson (1878) 19 Kan. 474
Limerick v. Haun (1890) 44 Kan. 696, 25 Pac. 1069
Longwell v. Harkness (1896) 57 Kan. 303, 46 Pac. 307
Ohio
State v. Turner (1831) Wright 20
Oklahoma
Stallard v. Knapp (1900) 9 Okla. 591, 60 Pac. 234
Oligschlager v. Grell (1904) 13 Okla. 632, 75 Pac. 1131
Oklahoma City v. McKean (1913) 39 Okla. 300, 135 Pac. 19
Washmood v. United States (1913) 10 Okla. Crim. Rep. 254, 136 Pac. 184
Montemat v. Johnson (1914) 42 Okla. 443, 141 Pac. 779
Creek County v. State (1915) 48 Okla. 477, 150 Pac. 455
Tarkenton v. Carpenter (1915) 48 Okla. 498, 150 Pac. 482
Wyant v. Beavers (1915) 49 Okla. 30, 150 Pac. 480
Walker v. Walker (1916) 54 Okla. 666, 154 Pac. 512
School Dist. v. Brown (1916) 54 Okla. 632, 154 Pac. 525
Re Garland (1918) 52 Okla. 585, 153 Pac. 153
Mayes County v. Vann (1916) 60 Okla. 86, 159 Pac. 297
Mangum v. Todd (1918) — Okla. —, 175 Pac. 197
Helms v. Faulkner (1920) 79 Okla. 308, 193 Pac. 621
Harbour v. Harbour (1923) — Okla. —, 218 Pac. 681
Texas
Cobb v. State (1907) 51 Tex. Crim. Rep. 464, 102 S.W. 1151
Wyoming
State ex rel. Gibson v. Cornwell (1906) 14 Wyo. 526, 85 Pac. 977
And a number of cases require that a bill of exceptions must be signed by the trial judge and impressed with the seal of the court, and, if not so signed and sealed, such bill cannot be considered. Mussina v. Cavazos (1867) 6 Wall. (U.S.) 335, 18 L. ed. 810; Young v. Martin (1869) 8 Wall. (U.S.) 354, 19 L. ed. 418; De La Mar v. Hurd (1878) 4 Colo. 442; Laffey v.

Chapman (1886) 9 Colo. 304, 12 Pac. 152; Gale v. Rector (1885) 10 Ill. App. 262; Thompson v. Duff (1885) 17 Ill. App. 304; Chicago & N.W. R. Co. v. Benham (1885) 25 Ill. App. 248; Chicago, B. & Q. R. Co. v. Johnson (1890) 34 Ill. App. 351; Cline v. Toledo, St. L. & K. C. R. Co. (1891) 41 Ill. App. 516; Metropolitan L. Ins. Co. v. Bond (1895) 66 Ill. App. 157; Bloomington v. Lishka (1898) 78 Ill. App. 389; Bloomington v. Clark (1898) 78 Ill. App. 392; Independent Electric Co. v. Donald (1899) 86 Ill. App. 166; Tapp, L. & Co. v. Greenwald (1903) 109 Ill. App. 504; Radcliff v. Rhan (1848) 5 Denio (N.Y.) 234.

But a seal to a special bill of exceptions is unnecessary where the record is duly attested by the general certificate of the clerk of the court, with the seal affixed. Nichols v. Baltimore & O. S.W. R. Co. (1904) 33 Ind. App. 229, 70 N.E. 183, rehearing denied in (1904) 33 Ind. App. 236, 71 N.E. 170.

The addition of the word "Seal," around which is a scroll, to the signature of the judge to a bill of exceptions, fulfils the requirement that a bill of exceptions be sealed. Kenan v. Starke (1844) 6 Ala. 773.

But no objection can be made that the bill of exceptions was not under seal, where the statute only requires the signature of the judge thereto, and makes no mention of the necessity of a seal. Snell v. Harrison (1891) 104 Mo. 158, 16 S.W. 152.

And in Armstrong v. Nelson (1877) 57 Ala. 556, it was said that as the statute, in requiring the clerk's certificate to the transcript, made no mention of the seal of the court, it was not necessary that such certificate to the transcript should be authenticated by a seal.

Though it is the usual practice in the Federal courts for a bill of exceptions to be sealed, as well as signed by the trial judge, a seal is not necessary in the absence of statute, it being sufficient if the bill is authenticated by the signature of the judge. Generes v. Campbell (1871) 11 Wall. (U.S.) 193, 20 L. ed. 110.

Under a statute providing that where an exception is made and reduced to writing it shall be the duty of the judge to allow it, and sign and seal the same, which thereupon becomes a part of the record, an exception from which the seal is omitted does not become a part of the record. Miller v. Jenkins (1867) 44 Ill. 443. The court stated that no satisfactory reason could be ascribed why the bill of exceptions should be sealed as well as signed; yet as the legislature had required it, its will must be obeyed for it was not for the judicial department of the government to pass upon the necessity or wisdom of the requirement. And to the same effect, see Widows & Orphans' Beneficiary Asso. v. Powers (1889) 30 Ill. App. 82.

The law requiring a bill of exceptions to be sealed does not contemplate the use and adoption by the trial judge of any other seal than his own private seal, and a bill of exceptions bearing the signature of the trial judge, followed by the letters "L. S.," inclosed in brackets, is sufficiently authenticated. Morgenson v. Middlesex Min. & Mill. Co. (1887) 11 Colo. 176, 17 Pac. 513.

The official signature of the judge, attested by his own seal, and not by the seal of the court, is essential to a proper authentication of a bill of exceptions. Hammond v. Bovee (1894) 4 Colo. App. 269, 35 Pac. 674.

Under the Code provision that an exception, when settled and allowed, shall be signed by the judge and filed by the clerk, and thereafter be deemed and taken as a part of the record of the cause, the seal of the court or judge is unnecessary to a proper authentication of a bill of exceptions, but such bill is to be deemed sufficiently authenticated if signed by the judge of the court in which the cause was tried. Copper River & N.W. R. Co. v. Reeder (1914) 127 C. C. A. 648, 211 Fed. 280.

And where the certificate of the trial judge to a case made was not attested by the clerk of the county court, and the case made was never filed in the office of the clerk of the trial court, as required by statute, the said case made is not properly certified as a transcript of the record, and the appeal will be dismissed. Canfield v. Bell (1915) 47 Okla. 622, 149 Pac. 1088.

In transferring a case from one place of holding court to another place in the same district, it is not necessary to the validity of the transfer that the seal of the court from which the case was transferred be attached thereto, it further appearing that the same person was the clerk at both places where court was held. Washmood v. United States (1913) 10 Okla. Crim. Rep. 254, 136 Pac. 184. The court assigned as another reason for upholding the jurisdiction of the court to which the case was transferred, that, as the defendant had made the application for the transfer, he should not be allowed to make a technical

objection which would result to his benefit.

2. From case made

A case made which is signed by the trial judge, but is not attested by the clerk of the court with his signature, and to which the seal of the court is not attached, is not sufficiently authenticated, as required by § 566 of the Oklahoma Code of Civil Procedure, to constitute a legal case made, and the judgment of the court cannot be reviewed and an appeal will be dismissed. Stallard v. Knapp (1900) 9 Okla. 591, 60 Pac. 234; Oligschlager v. Grell (1904) 13 Okla. 632, 75 Pac. 1131; Oklahoma City v. McKean (1913) 39 Okla. 300, 135 Pac. 19; Tarkenton v. Carpenter (1915) 48 Okla. 498, 150 Pac. 482; Wyant v. Beavers (1915) 49 Okla. 30, 150 Pac. 480; Walker v. Walker (1916) 54 Okla. 666, 154 Pac. 512; Creek County v. State (1915) 48 Okla. 477, 150 Pac. 455; School Dist. v. Brown (1916) 54 Okla. 632, 154 Pac. 525; Mayes County v. Vann (1916) 60 Okla. 86, 159 Pac. 297; Mangum v. Todd (1918) — Okla. —, 175 Pac. 197; Re Garland (1918) 52 Okla. 585, 153 Pac. 153; Helms v. Faulkner (1920) 79 Okla. 308, 193 Pac. 621; Harbour v. Harbour (1923) — Okla. —, 218 Pac. 681; Kinnon v. Cote Piano Mfg. Co. (1923) — Okla. —, 219 Pac. 307.

A paper purporting to be a case made, signed by the judge, but not attested by the clerk of the court, and not bearing the seal of the court, is not sufficiently authenticated to constitute a case made. Karr v. Hudson (1878) 19 Kan. 474; Limerick v. Haun (1890) 44 Kan. 696, 25 Pac. 1069; Longwell v. Harkness (1896) 57 Kan. 303, 46 Pac. 307.

A case made, settled and signed in due time, and bearing the signature of the judge, attested by the signature of the clerk, from which the seal of the trial court has been omitted, will not be dismissed for want of attestation, where permission was obtained more than one year after the rendition of the judgment, to withdraw the record and attach the seal, and such seal was accordingly attached; for, while affixing the seal is essential to a proper authentication of the record, where the case is in fact settled by the trial judge in due time, the mere authentication of the judge's signature by a seal is a formal matter of proof, which may be furnished after the expiration of the time limited for bringing cases to the supreme court. Atchison, T. & S. F. R. Co. v. Whitbeck (1897) 57 Kan. 729, 48 Pac. 16, 2 Am. Neg. Rep. 149.

3. From bill of exceptions

A bill of exceptions taken by the prosecuting attorney in a criminal case pursuant to a statutory provision which requires that such bill of exceptions shall be signed and sealed by the trial judge, if not authenticated by the seal of the trial judge, cannot be considered on appeal. State ex rel. Gibson v. Cornwell (1906) 14 Wyo. 526, 85 Pac. 977.

A purported bill of exceptions included in the transcript of the record cannot be considered for any purpose on appeal, when it is signed by the trial judge, but not sealed with the seal of the court. Lindsley v. Lewis (1910) 49 Colo. 289, 112 Pac. 538.

Special certificates of the clerk of the trial court attached to the original bill of exceptions are, without the seal of the trial court, of no effect for any purpose. Johnson v. Johnson (1901) 156 Ind. 592, 60 N.E. 451; Monroe County v. State (1901) 156 Ind. 550, 60 N.E. 344; Hesch v. Bolin (1902) 30 Ind. App. 3, 64 N.E. 39.

A bill of exceptions in a criminal case, which is signed by the trial judge, need not be further authenticated by a seal, where the statute has abolished private seals and provides that the affixing of a seal shall not give any instrument any additional force and effect. Venable v. State (1885) 1 Ohio C. D. 165, 1 Ohio C. C. 301.

4. From transcript of record

A transcript of the record of the lower court which is not under seal is a nullity, as it is the seal which gives authenticity to the proceedings of a court of record, and the appeal in such case will be dismissed. Wells v. Long (1845) 6 Ark. 252; Cowhick v. Gunn (1840) 3 Ill. 417; Mason v. Gibson (1883) 13 Ill. App. 463; Hinton v. Brown (1826) 1 Blackf. (Ind.) 429; Jones v. Frost (1873) 42 Ind. 543; Chicago, St. L. & P. R. Co. v. Wolcott (1895) 141 Ind. 267, 50 Am. St. Rep. 320, 39 N.E. 451; No. 4 Fidelity Bldg. & Sav. Union v. Byrd (1900) 154 Ind. 47, 55 N.E. 867; Comstock v. Stoner (1903) 30 Ind. App. 529, 66 N.E. 501; State v. Turner (1831) Wright (Ohio) 20; Creek County v. State (1915) 48 Okla. 477, 150 Pac. 455; Ex parte Barrier

(1885) 17 Tex. App. 585; Cobb v. State (1907) 51 Tex. Crim. Rep. 464, 102 S.W. 1151.

The transcript of a record transferring a criminal case from the district court to the county court, in order to give the county court jurisdiction, must bear the seal of the district court; such seal cannot be affixed by the district clerk after the transcript is filed in the county court. Cobb v. State (Tex.) supra, holding that where a transcript does not bear the seal of the district court, a motion to quash the indictment should be sustained.

Where a statute has conferred jurisdiction upon the supreme court, in criminal cases involving capital punishment, when the defendant shall elect to have his case tried therein, and requires that the indictment found in the lower court shall be recorded, and that a transcript of the proceedings shall be made out by the clerk of the court under the seal of his office, and the same deposited with the clerk of the supreme court, the supreme court has no jurisdiction to proceed in a case where the transcript of the proceedings, as certified by the clerk below, is not under the seal of his office, nor can jurisdiction be conferred by express consent, or by waiver of right to object to the authenticity of the transcript. State v. Turner (1831) Wright (Ohio) 20.

And in No. 4 Fidelity Bldg. & Sav. Union v. Byrd (1900) 154 Ind. 47, 55 N.E. 867, where the transcript of the record was not authenticated by the seal of the lower court, the appeal was dismissed, the court holding that it was the imperative requirement of the statute that the seal of the court be affixed to the certificate, as well as that the clerk should subscribe his name thereto, in order to present any question to the supreme court.

Where the papers purporting to be a transcript do not bear the seal of the court below, the supreme court cannot review the case, for one court cannot speak officially to another court otherwise than by its seal. Jones v. Frost (1873) 42 Ind. 543.

A purported transcript of the record, which is not certified under the seal of the court from which it purports to come, cannot be recognized as a copy or transcript of the record by the supreme court, and the appeal will be dismissed. Brunt v. State (1871) 36 Ind. 330. The fact that the transcript has been sealed with the private seal of the clerk, no public seal having been devised by the court, does not remedy the omission of the seal of the court. Hinton v. Brown (1826) 1 Blackf. (Ind.) 429.

The mere fact, however, that the impression of the seal of the court attesting the transcript of the record was not distinctly made, does not furnish a ground for dismissing the appeal for the reason that the record is not properly authenticated by the seal of the court, or a proper certificate from the clerk. United States Cement Co. v. Koch (1908) 42 Ind. App. 251, 85 N.E. 490.

On motion to strike a bill of exceptions from the record, where the transcript of the oral testimony was followed by the certificate and signature of the trial judge allowing the bill, the court in Fried v. Guiberson (1923) — Wyo. —, 217 Pac. 1087, refused to sustain the objection in reference to the transcript of the testimony on the ground that it was not authenticated as official by the certificate of the court reporter, since it had been accepted as containing all of the evidence.

e. From judgment

As to correcting clerical errors in judgments, see annotation in 10 A.L.R. 526.

The constitutional and Code provisions requiring that writs and processes be attested by the clerk of the court are not applicable to a summons, and as the Code provision providing that an action may be commenced by summons does not require that such summons be signed or sealed by the clerk, such signature and seal are not necessary to its validity. Southern Cotton Oil Co. v. Hewlett (1917) 107 S.C. 532, 93 S.E. 195.

The failure of the clerk of the court to affix the official seal to a judgment legally rendered and regularly entered is a clerical error, to be corrected by a nunc pro tunc amendment. Gowan v. Gentry (1890) 32 S.C. 369, 11 S.E. 82.

CUMULATIVE SUPPLEMENT

Even assuming that requirements for an effective judgment set forth in Federal Rules of Civil Procedure must generally be satisfied before a decision of a district court can be considered a final decision within meaning of appeal statute, it could not

have been intended the separate document requirements of Rule 58 be such a categorical imperative that the parties are not free to waive it. 28 U.S.C.A. § 1291; Fed.Rules Civ.Proc. rules 54(a), 58, 79, 28 U.S.C.A. Bankers Trust Co. v. Mallis, 435 U.S. 381, 98 S. Ct. 1117, 55 L. Ed. 2d 357, Fed. Sec. L. Rep. (CCH) P 96372, 24 Fed. R. Serv. 2d 1197 (1978).

Objection that indictment was indorsed by Foreman instead of by Foreman of the Grand Jury would be rejected as frivolous. Edwards v. U.S., 312 U.S. 473, 61 S. Ct. 669, 85 L. Ed. 957 (1941).

Under law of New York, a judgment is not final until entered. CPLR N.Y. 5003, 5230. Coclin Tobacco Co. v. Griswold, 408 F.2d 1338 (1st Cir. 1969).

Question of whether a crime is an additional or different offense for purpose of amending an information is not coextensive with the question of whether a crime is a lesser included offense of another and although amending of an information to include a lesser included offense will rarely violate amendment rule, it is not necessarily true that the amending of an information to include a crime which is not a lesser included offense will violate the rule. Fed.Rules Cr.Proc. Rule 7(e), 18 U.S.C.A. Government of Virgin Islands v. Bedford, 671 F.2d 758, 9 Fed. R. Evid. Serv. 1645 (3d Cir. 1982).

Local agent was not barred from relief from denial of his application for exemption from regulation of the Military Traffic Management and Terminal Service which restricts a local agent representation to four carriers, though agent contracted with the carriers it represented and not directly with the government. W. G. Cosby Transfer & Storage Corp. v. Froehlke, 480 F.2d 498 (4th Cir. 1973).

An unsigned judgment or order is effective as a contract between the parties. Hyman v. McLendon, 140 F.2d 76 (C.C.A. 4th Cir. 1944).

Special assistants to the Attorney General were authorized under statute to conduct grand jury proceedings resulting in indictment charging conspiracies in violation of Sherman Anti"Trust Act and the omission of district attorney signature was merely a formality that did not invalidate the indictment, although it is better practice for district attorney to sign all bills of indictment. Sherman Anti"Trust Act, §§ 1, 5, 15 U.S.C.A. §§ 1, 2; 18 U.S.C.A. §§ 4082, 4083; U.S.C.A. §§ 310, 315; U.S.C.A. Const.Amend. 5. U.S. v. Atlantic Commission Co., 45 F. Supp. 187 (E.D. N.C. 1942).

Concurrence form which indicated that 18 jurors concurred in finding of indictment against narcotics defendant offered sufficient proof that defendant was lawfully indicted; lack of foreperson signature on indictment did not deprive district court of jurisdiction. Fed.Rules Cr.Proc.Rules 6(a, c), 6 comment, 18 U.S.C.A. U.S. v. Marshall, 910 F.2d 1241 (5th Cir. 1990).

It was error for district court to proceed to trial when the defendant had not been arraigned on superseding indictment and no government attorney had signed it. Fed.Rules Cr.Proc.Rules 7(c)(1), 10, 18 U.S.C.A. U.S. v. Boruff, 909 F.2d 111 (5th Cir. 1990).

Under Texas law, mere absence of grand jury foreman signature on indictment otherwise actually properly returned by grand jury is not fatal to indictment validity. Hamilton v. McCotter, 772 F.2d 171 (5th Cir. 1985).

Assigned errors are not properly before reviewing court, where neither purported transcript nor exceptions and assignments are signed or verified by judge. Kauz v. U.S., 41 F.2d 57 (C.C.A. 5th Cir. 1930).

Original indictment charging defendant with mail fraud was properly signed by the grand jury foreman, and therefore any copy defendant received which may have been unsigned did not violate federal rules. 18 U.S.C.A. § 1341; Fed.Rules Cr.Proc.Rule 6(c), 18 U.S.C.A. U.S. v. Lubowa, 118 Fed. Appx. 888 (6th Cir. 2004), reh'g en banc denied, (Feb. 10, 2005).

Under Ohio law, all judgments and orders must be entered on journal of court and specify clearly relief granted, and such entry may be compelled. Gen.Code Ohio, § 11604. In re Ackermann, 82 F.2d 971 (C.C.A. 6th Cir. 1936).

Objection that indictment for violating National Prohibition Act was signed by assistant district attorney in his own name only was without merit, in view of 28 U.S.C.A. § 502, notwithstanding 28 U.S.C.A. § 507. Miller v. U. S., 300 F. 529, 3 Ohio L. Abs. 92 (C.C.A. 6th Cir. 1924).

Without agreement of United States Attorney, no criminal proceeding can be brought on indictment, and primary purpose served by affixing United States Attorney signature is to indicate that he joins with grand jury in instituting criminal proceeding. Fed.Rules Crim.Proc. rule 7, 18 U.S.C.A.; 18 U.S.C.A. § 2113(a). U.S. v. Wright, 365 F.2d 135, 5 A.L.R. Fed. 911 (7th Cir. 1966).

Omission of seal and signature of clerk or his deputy from space provided therefor following text of body of arrest warrant in Illinois did not invalidate warrant or arrest made thereunder. Ill.Rev.Stat.1961, c. 38, § 678. U. S. ex rel. Frierson v. Pate, 354 F.2d 588 (7th Cir. 1965).

An information need not be verified by affidavit, and affidavit becomes necessary only to enable the government to obtain issuance of a warrant. Fed.Rules Crim.Proc. rules 7(a), 9(a), 18 U.S.C.A. U.S. v. Grady, 185 F.2d 273 (7th Cir. 1950).

There is no requirement that an information, to be sufficient, must be verified by affidavit. U.S. v. Menk, 260 F. Supp. 784 (S.D. Ind. 1966).

Arrest of defendant charged with willful failure to file income tax returns for three years in question was not without probable cause on grounds that arrest warrant should have been supported by affidavit of the United States Attorney and that affidavit of special agent of Internal Revenue Service should have been signed before magistrate and not notary public. 26 U.S.C.A. § 7203. U.S. v. Stuart, 689 F.2d 759, 82-2 U.S. Tax Cas. (CCH) P 9602, 51 A.F.T.R.2d 83-523 (8th Cir. 1982).

Signature of United States Attorney himself was not essential to indictment, and signature of assistant United States Attorney was sufficient to indicate the necessary agreement of United States Attorney with action taken by grand jury. Fed.Rules Crim.Proc. rule 7(c)(1), 18 U.S.C.A. U.S. v. Walls, 577 F.2d 690, 3 Fed. R. Evid. Serv. 621 (9th Cir. 1978).

Under Oklahoma law, while any judgment or order is operative from the moment it is announced, the only legitimate evidence of the adjudication legal existence, of its terms, and of its legal effect is the record entry bearing judge signature. Bell v. Dillard Dept. Stores, Inc., 85 F.3d 1451 (10th Cir. 1996).

Signing of indictment by United States Attorney prior to its presentation to grand jury did not render it null or void. U.S. v. Cole, 755 F.2d 748 (11th Cir. 1985).

Purpose of Alabama statute requiring notice of lis pendens to be filed with judge of probate in county where real property lies, is to provide means whereby one wanting to purchase land can ascertain if there is any pending litigation which affects title by examining lis pendens record. Ala.Code 1975, § 35”4”131. Matter of Yuan, 178 B.R. 273 (Bankr. N.D. Ala. 1995).

Attesting to action of grand jury by having grand jury foreman affix signature to indictment is merely clerical and ministerial in nature and does not confer any special powers upon foreman or create any special significance to signing, and thus absence of foreman signature on indictment properly voted is a mere technical irregularity. Fed.Rules Cr.Proc.Rule 6(c), 18 U.S.C.A. U.S. v. Perholtz, 622 F. Supp. 1253 (D.D.C. 1985).

An information, the allegation made to a magistrate that a person has been guilty of some designated crime, is the foundation on which his jurisdiction rests, and it must be verified, and unless it is verified, a justice of the peace, who is a magistrate, does not acquire jurisdiction. Mierop v. State, 22 Misc. 2d 216, 201 N.Y.S.2d 2 (Ct. Cl. 1960).

Judgment is void when trial court lacked jurisdiction over defendants, lacked subject matter jurisdiction, or otherwise acted in manner inconsistent with due process. U.S.C.A. Const. Amend. 14. Parsons Steel, Inc. v. Beasley, 600 So. 2d 248 (Ala. 1992).

Recording of judgment in the minutes of the court may be regarded as essential to its effectiveness as against third parties, but as between the parties, the validity of the judgment is not affected by failure of the clerk of the court to note the judgment in the minutes book. LeFlore v. State ex rel. Moore, 288 Ala. 310, 260 So. 2d 581 (1972).

Judgments must be formally entered on minutes and are not provable except by such records nor is a judgment entered until it

is delivered to clerk to be filed or for writing it on motion docket or minutes. Walker v. Elrod, 284 Ala. 32, 221 So. 2d 391 (1969).

Certificate of ex-officio register of trial court certifying that foregoing pages were full, true and correct transcript of all records and proceedings had in Chilton County Law and Equity Court sufficiently complied with statute, though it omitted word complete, since full and complete are synonymous. Code 1940, Tit. 7, § 767. Foshee v. Mims, 279 Ala. 414, 186 So. 2d 129 (1966).

The signature of the solicitor or state attorney to an indictment is proper, but not necessary. Hughes v. State, 213 Ala. 555, 105 So. 664 (1925).

Where original court reporter has died and original court reporter notes and/or tape recordings are transcribed by another official court reporter, certificate of transcribing reporter that transcription is true and correct to the best of my ability is sufficient to ensure accuracy. Edwards v. State, 628 So. 2d 1021 (Ala. Crim. App. 1993).

Traffic tickets which charged defendant with driving under the influence and driving with a suspended license but failed to cite statute or ordinance allegedly violated or to designate whether violations were under statute or ordinance nevertheless fairly informed the defendant of the offenses and were not void for failure to charge an offense. City of Dothan v. Holloway, 501 So. 2d 1175 (Ala. Crim. App. 1986).

Statutory requirement that circuit clerk sign the indictment is merely directory. Code 1975, § 15-8-70. Phillips v. State, 447 So. 2d 1312 (Ala. Crim. App. 1984).

Where certificate of court reporter shows his stenographic notes to have been transcribed into transcript form by someone else, albeit under his supervision and control, the Court of Criminal Appeals and appellant are entitled to unqualified affirmation that transcript is full, true and complete record of testimony; although there is no statutory form for such certificate, where citizen life or liberty depends upon appellate court review of record, due process requires that appellate court has accurate record to review and burden is not upon indigent appellant to see to this but rather upon State. Code of Ala., Tit. 7, § 827(1); Tit. 15, § 380(14) et seq. Pope v. State, 345 So. 2d 1382 (Ala. Crim. App. 1976).

By certifying that certain pages of transcript were correct procedures clerk of circuit court did not certify that those pages were a complete and correct transcript of all proceedings in criminal case. Supreme Court Rules, rule 24; Code 1940, Tit. 7, § 767. James v. State, 42 Ala. App. 665, 177 So. 2d 922 (1965).

When a final judgment is rendered and a bench note made of it, but it is not extended on the minutes, it is not then an authentic record of the judgment. Jones v. Muse, 40 Ala. App. 480, 115 So. 2d 272 (1959).

Statutes concerning an agreed case certified to Court of Appeals and the certification of questions of law to Court of Appeals must be strictly construed. Code 1940, Tit. 7, §§ 744, 745. Heath v. Hall, 39 Ala. App. 623, 106 So. 2d 38 (1958).

The signature of solicitor, though permissible, is not an essential requisite to an indictment, since only required authentication is signature of foreman of grand jury which finds indictment and returns it into court. Williams v. State, 27 Ala. App. 540, 176 So. 312 (1937).

Indorsing indictment a true bill and filing indictment in open court in presence of the grand jury held sufficient compliance with statute requiring presentment of all indictments to court by foreman of grand jury in presence of at least eleven other jurors and indorsement of indictment as filed. Code 1923, § 4547. Worrell v. State, 26 Ala. App. 577, 163 So. 901 (1935).

Indictment need not be signed by solicitor or any one acting for him. Griffin v. State, 22 Ala. App. 369, 115 So. 769 (1928).

Conviction under indictment, not shown to have been regularly returned, indorsed true bill, or signed by grand jury foreman, must be reversed. Code 1923, § 8682. Williams v. State, 22 Ala. App. 262, 114 So. 567 (1927).

A minute entry, even though incorporating an order, lacks a legal effect of formal judgment, decree or order, since it is not

signed by a judge. Burch & Cracchiolo, P.A. v. Pugliani, 144 Ariz. 281, 697 P.2d 674 (1985).

A minute entry, even though incorporating an order, lacks legal effect of a formal judgment, decree or order, since it is not signed by the court. A.R.S. §§ 12”1571, subd. A, par. 2, 12”1631, subd. A, 12”2455. Lamb v. Superior Court In and For Maricopa County, 127 Ariz. 400, 621 P.2d 906 (1980).

Used as the basis of a warrant of arrest, complaint must be sworn to, but used after arrest to give jurisdiction to traffic court or justice of the peace, and to give defendant an explanation of the charges against him, there is no Fourth Amendment requirement that complaint be sworn to. U.S.C.A.Const. Amend. 4. State ex rel. Purcell v. Superior Court In and For Maricopa County, 109 Ariz. 460, 511 P.2d 642 (1973).

Where not only return of indictment to presiding judge but also a complete stenographic report of the evidence and proceedings showed that foreman announced that the grand jury had unanimously found a true bill in accused case, and there was no evidence, nor claim, of prejudice to accused by virtue of fact that indictment did not contain words a true bill, indictment was not fatally defective because it did not contain words a true bill. A.R.S. § 21”414, subsec. A. Quintana v. Myers, 108 Ariz. 95, 492 P.2d 1202 (1972).

In all instances specified as appealable by statute, no order of Superior Court is effective until action taken complies with court rule governing the signing and entry of judgment. 16 A.R.S. Rules of Civil Procedure, rule 58(a); A.R.S. §§ 12”2101, 28”451. State v. Birmingham, 96 Ariz. 109, 392 P.2d 775 (1964).

Information charging receipt of stolen goods knowing them to have been stolen was not fatally defective by reason that deputy county attorney signed information without prefixing his name with that of the county attorney, though in the body of the information the accusation was made in the name of the county attorney. A.R.S. § 13”621. State v. Kuhnley, 74 Ariz. 10, 242 P.2d 843 (1952).

The failure of party, in whose favor court decides, to file formal written judgment within five days after decision, as required by court rule, does not deprive court of jurisdiction to render or sign judgment after such period, but merely requires such party to go back and comply with rule. Uniform Rules for the Superior Court, rule 7. Cahn v. Schmitz, 56 Ariz. 469, 108 P.2d 1006 (1941).

A transcript of evidence not properly signed and approved by the trial judge could not be considered by Supreme Court on appeal. Wilburn v. Reitman, 54 Ariz. 31, 91 P.2d 865 (1939).

An appeal will not be dismissed because of lack of former authentication of record by clerk of lower court, where procedure outlined in Civ.Code 1913, par. 1258, is followed. Smart v. Staunton, 29 Ariz. 1, 239 P. 514 (1925).

Trial court had subject matter jurisdiction in capital murder prosecution, despite defendant claim that state fourth amended information was invalid and should have been quashed on ground that deputy prosecutor had previously signed first amended information in name of prosecutor without prosecutor consent; record reflected properly signed amended information giving trial court jurisdiction and, moreover, aside from jurisdictional argument, defendant gave no citations of authority or sound argument why state first amended information should taint the subsequent amendments properly filed in case. Const.Amend. No. 21. Hall v. State, 326 Ark. 318, 326 Ark. 823, 933 S.W.2d 363 (1996).

A docket notation is not an entry of judgment or decree upon records of court and cannot be used to supply deficiency in the record of court. Jones v. Hardesty, 261 Ark. 716, 551 S.W.2d 543 (1977).

Information in name of prosecuting attorney and manually signed on his behalf by deputy prosecuting attorney was properly signed. Arnold v. State, 233 Ark. 3, 342 S.W.2d 291 (1961).

Where record was not signed by the attorneys, by trial judge, or clerk of trial court, but notice of appeal and designation of record had been given, and clerk had certified to correctness of record and had filed a complete transcript of record with clerk of Supreme Court, appeal was in substantial compliance with old rule for appeal and was properly taken. Acts 1953, Act 555; Rules of Supreme Court, rule 9. Collie v. Coleman, 223 Ark. 206, 265 S.W.2d 515 (1954).

A vacation decree does not become effective until it is signed and entered of record and until so entered, no appeal will lie therefrom, and therefore the time allowed for taking an appeal runs from date of entry. Pope Dig. § 2817. Jelks v. Jelks, 207 Ark. 475, 181 S.W.2d 235 (1944).

Irrespective of agreements by attorneys that transcript and exhibits constitute a bill of exceptions, such transcript will not suffice unless subsequently approved as to accuracy by the attorneys, despite certificate of correctness by official court reporter. Yelvington v. Hobson, 193 Ark. 1180, 102 S.W.2d 848 (1937).

Foreman of grand jury not required to sign indictment. Taylor v. State, 169 Ark. 589, 276 S.W. 577 (1925).

Minute order entries of clerk are not orders themselves, but are merely synopses of orders made by court, and do not determine the extent of the judicial power of the court when a formal order has been signed and filed. Chula v. Superior Court In and For Orange County, 57 Cal. 2d 199, 18 Cal. Rptr. 507, 368 P.2d 107, 97 A.L.R.2d 421 (1962).

Where no objection of defendant to reporter transcript came to attention of trial judge, and there was no showing judge certified reporter transcripts prior to time a third volume was delivered to defendant, trial judge certification of reporter transcript was proper even though volumes one and two of transcript were filed with clerk on November 24, 1958, and volume three was not delivered to clerk until January 9, 1959. People v. Sylvia, 54 Cal. 2d 115, 4 Cal. Rptr. 509, 351 P.2d 781 (1960).

Every direction of court or judge is an order, whether it be merely made in writing or entered in minutes; and, unless required by statute, an order becomes legally effective at time it is signed and filed, regardless of whether it is entered in minutes by clerk. West Ann.Code Civ.Proc. § 1003. Badella v. Miller, 44 Cal. 2d 81, 279 P.2d 729 (1955).

In absence of record, documents and evidence used on hearing on application for order must be authenticated by bill of exceptions. Code Civ.Proc. § 953a (repealed 1945). O'Connell v. O'Connell, 203 Cal. 541, 264 P. 1095 (1928).

Superior court policy of treating clerk of court notice of ruling as equivalent to notice of entry required by rule to commence time period for filing appeal was inconsistent with rule, and thus policy was invalid. Cal.Rules of Court, Rule 122(a); West Ann.Cal.Gov.Code § 68070. 20th Century Ins. Co. v. Superior Court, 28 Cal. App. 4th 666, 33 Cal. Rptr. 2d 674 (2d Dist. 1994).

In order for clerk to provide legally sufficient notice of entry of judgment, court must order clerk to provide notice and, at least in counties maintaining judgment book, judgment must indicate its date of entry. West Ann.Cal.C.C.P. §§ 664.5, 668. Younesi v. Lane, 228 Cal. App. 3d 967, 279 Cal. Rptr. 89 (2d Dist. 1991).

Judgment entered without findings, where findings are required, is nullity, and findings signed and filed after entry of such judgment cannot resurrect it. In re Marriage of Davis, 141 Cal. App. 3d 71, 190 Cal. Rptr. 104 (1st Dist. 1983).

Where findings were not required, judgment was rendered when orally announced and entered in minutes. Sande v. Sande, 276 Cal. App. 2d 324, 80 Cal. Rptr. 826 (2d Dist. 1969).

In making of permanent record of order it is essential that written minute order be prepared, that there be recordation of date and substance of order in a permanent record, and that there be delivery of order to custodian of records. West Ann.Code Civ.Proc. § 660; West Ann.Gov.Code, §§ 69841, 69842, 69844. Desherow v. Rhodes, 1 Cal. App. 3d 733, 82 Cal. Rptr. 138 (2d Dist. 1969).

Typed name of Attorney General, preceding his designation as attorney general, and signatures of five of his deputies below verification of complaint charging violations of Cartwright Act constituted subscriptions of natural persons within statute requiring accusatory pleading to be made and subscribed by natural person, in view of other statutes. West Ann.Pen.Code, § 959; West Ann.Bus. & Prof.Code, §§ 16700 et seq., 16754. Rocklite Products v. Municipal Court of Los Angeles Judicial Dist., 217 Cal. App. 2d 638, 32 Cal. Rptr. 183 (2d Dist. 1963).

Complaint was not defective because not sworn to before magistrate, where oath was administered by deputy district attorney. West Ann.Pen.Code, § 806. People v. Balthazar, 197 Cal. App. 2d 227, 17 Cal. Rptr. 58 (1st Dist. 1961).

Where demurrers were sustained to complaint and ten-day leave granted in which to amend and upon expiration of such ten-day period court, upon motion of defendants, ordered dismissal and formal order was presented to court, which signed the same, under statute providing that all dismissals ordered by court should be entered upon the minutes thereof and when so entered constitute judgments and be effective for all purposes, upon entry of order it became a judgment effective for all purposes, notwithstanding existence of statute requiring clerk of superior court to keep a book in which all judgments must be entered. West Ann.Code Civ.Proc. §§ 581d, 668. White v. Ostly, 173 Cal. App. 2d 636, 343 P.2d 937 (1st Dist. 1959).

All orders of the court of record must be recorded in writing and an order is ineffective unless it is either filed with the clerk or entered in the minutes. Application of Gilreath, 167 Cal. App. 2d 655, 335 P.2d 203 (2d Dist. 1959).

On appeal on settled statement, reviewing court must obtain facts from the duly authenticated statement. McMullen v. Saunders, 138 Cal. App. 2d 554, 292 P.2d 282 (1st Dist. 1956).

Law pertaining to judgments generally recognizes the propriety of an oral pronouncement which is carried into the court minutes, and the judge signature to a written judgment is not essential. In re Steiner, 134 Cal. App. 2d 391, 285 P.2d 972 (2d Dist. 1955).

Any oral judgment must be entered in the clerk minutes to be effective. Engleman v. Green, 125 Cal. App. 2d 882, 125 Cal. App. 2d Supp. 882, 270 P.2d 127 (App. Dep't Super. Ct. 1954).

A county clerk is authorized to certify to, and authenticate as record on appeal, only the judgment roll, order appealed from, and notice of appeal, and trial judge signature is necessary to authenticate record. Code Civ.Proc. §§ 951, 953a (repealed 1945). Bartholomew v. Cross, 42 Cal. App. 2d 28, 108 P.2d 49 (4th Dist. 1940).

Where, on husband appeal from order vacating decree annulling marriage, the only certificate attached to the record was that of county clerk who certified that copies in record were true copies of originals in his office, and there was no certificate by trial judge, appellate court could not consider appeal, and appeal was dismissed. Dong Fay Kwon v. Kwon, 39 Cal. App. 2d 232, 102 P.2d 808 (4th Dist. 1940).

If documents constituted an attempt to present a record of objections and rulings made in connection with settlement of bill of exceptions, they could not be considered on appeal where there was no certificate by trial judge. Clark v. Janss, 39 Cal. App. 2d 198, 102 P.2d 768 (4th Dist. 1940).

Where purported minutes of trial were certified by clerk but not by trial judge, minutes were not properly before District Court of Appeal, and hence minutes could not be looked to for purpose of contradicting recital of waiver of findings in the judgment. Code Civ.Proc. §§ 632, 670. Watson v. Borcovich, 34 Cal. App. 2d 585, 94 P.2d 76 (1st Dist. 1939).

Order granting defendantsmotion to set aside default judgment would not be affirmed on grounds that transcript on appeal was not printed as required by court rules, and that bill of exceptions was not properly certified by trial judge and did not contain all papers used on hearing of motion, where prior to hearing of motion plaintiffs complied with court rules by filing printed transcript, record disclosed that bill of exceptions in transcript were in due form, and parties stipulated as to correctness of transcript and that said appeal may be heard and determined thereon. Shively v. Kochman, 20 Cal. App. 2d 688, 68 P.2d 255 (1st Dist. 1937).

Decrees in equity should be signed by judge. Wheeler v. Superior Court of City and County of San Francisco, 82 Cal. App. 202, 255 P. 275 (1st Dist. 1927).

Trial court certificate to transcript must comply substantially with Code Civ.Proc. § 953a (repealed 1945), requiring judge to certify to truth and correctness thereof, and certificate reciting that transcript is hereby settled, allowed, and approved in accordance with the provisions of the statute was insufficient to be considered on appeal. Bognuda v. Pearson, 71 Cal. App. 105, 234 P. 857 (3d Dist. 1925).

Signature of judge gives no additional validity to judgment, being merely to afford clerk a sure means of correctly entering what court has adjudged which is not necessary, where judgment as pronounced and spread upon minutes is in itself a sufficient guide to enable clerk to enter correctly in judgment book. Brown v. Superior Court of California in and for Los Angeles County, 70 Cal. App. 732, 234 P. 409 (2d Dist. 1925).

Judgment creditor, which requested transcript of judgment after tendering the required fee, was entitled to receive transcript though a 30-day stay of execution had been issued. C.R.S. 3, 13”32”104(1)(g), 13”52”102; Rules of Civil Procedure, rule 62. Rocky Mountain Ass’n of Credit Management v. District Court of City and County of Denver, in Second Judicial Dist., 193 Colo. 344, 565 P.2d 1345 (1977).

There was no requirement that money judgment be recorded in judgment record to be final, but, upon entry in register of actions, judgment became final. Rules of Civil Procedure, rules 58(a)(3), 79(a)(4), (d). Hebron v. District Court In and For San Miguel County, 192 Colo. 346, 558 P.2d 997 (1977).

Verification of an information is required by statute but right to challenge verification is waived if timely objection is not interposed. Colo.R.Crim.P. rule 7(b) (3); C.R.S. 3, 39”4”2. Scott v. People, 176 Colo. 289, 490 P.2d 1295 (1971).

Court orders are a matter of record and record as made must be certified to reviewing court, and court order which forms basis of assignment of error is not properly before reviewing court when presented in form of affidavit of some person who claims to have heard order made. Thompson v. People, 156 Colo. 416, 399 P.2d 776 (1965).

Trial court could rule on summary judgment motion that corporate director approval of business opportunity transfer was invalid due to failure to comply with formalities, and after trial evidence was in reverse itself and find that corporation was in habit of proceeding informally much of time, even though opposing party benefiting from summary judgment ruling claimed it was prejudiced in confronting the informal approval evidence because it believed issue was out of case; summary judgment ruling was not final, as other issues remained to be resolved, and court thus had power to modify ruling, and opposing party had relied upon informal corporate activity in support of some of its claims. C.R.S. 7”5”108(3) (1992); Rules Civ.Proc., Rules 54(b), 56(d). Forbes v. Goldenhersh, 899 P.2d 246 (Colo. Ct. App. 1994).

Orders or judgments required to be signed and in writing under rule, providing that effective date of entry of judgment shall be actual date of written judgment, must be signed and in writing when issued by magistrate. Rules Civ.Proc., Rule 58(a); Magistrates Rules 5(b), 6(e)(2). In re Marriage of Spector, 867 P.2d 181 (Colo. Ct. App. 1993).

Once defendant presents some credible evidence of an affirmative defense, it becomes a jury question, and the burden of proof is on the prosecution to establish defendant guilt as to that issue beyond a reasonable doubt. C.R.S. 18”1”407. People v. Turner, 680 P.2d 1290 (Colo. Ct. App. 1983).

Ruling not entered in register of actions as required by rule of civil procedure was not final judgment. Rules Civ.Proc., Rule 58(a). Pasbrig v. Walton, 651 P.2d 459 (Colo. Ct. App. 1982).

Where there was nothing in the record to indicate that Entry of Judgment was prepared or approved by the court, the document could not serve as the written form of the judgment required by rule requiring the clerk to enter the written form upon the register of actions. Rules of Civil Procedure, rule 58(a). Joslin Dry Goods Co. v. Villa Italia, Ltd., 35 Colo. App. 252, 539 P.2d 137 (1975).

County court orders need not be signed in order to be valid. Rules of Civil Procedure, rules 301”411. Spar Consolidated Mining & Development Co. v. Aasgaard, 33 Colo. App. 35, 516 P.2d 127 (1973).

Evidence printed in appeal record, but not certified either by stenographer or judge as required by rules of practice, will not be considered by Supreme Court of Errors. Walden v. Siebert, 102 Conn. 353, 128 A. 702 (1925).

Primary purpose of signature requirement for indictment or information is authentication. Blakeney v. Commissioner of Correction, 47 Conn. App. 568, 706 A.2d 989 (1998).

Filing of original information by state attorney is done pursuant to his oath of office, and no other oath is required. State v. Smith, 27 Conn. Supp. 429, 241 A.2d 870 (Super. Ct. 1968).

Memorandum of decision cannot be considered a record judgment and judgment file is only formal written statement which expresses decision rendered. Czelzewicz v. Turansky, 5 Conn. Cir. Ct. 567, 258 A.2d 555 (App. Div. 1969).

Where original transcript on file as part of record was properly certified, copy of transcript furnished to defendant was not shown to be incorrect, and it was not shown that defendant was prejudiced by fact that copy furnished to him was not signed by court stenographer, failure to certify transcript furnished to defendant was not prejudicial error. Draper v. State, 53 Del. 157, 166 A.2d 717 (1961).

Trial judge error in failing to reduce jury instructions to writing was harmless beyond reasonable doubt; failure to put instructions in writing and to file them did not affect outcome of jury verdict. West F.S.A. RCrP Rules 3.390(b), 3.400(c). Chaky v. State, 651 So. 2d 1169 (Fla. 1995).

Where defendant made no attack on information before or during trial, failure of county solicitor to attach an oath to an information was not fatal to conviction after a plea of not guilty and a trial on the merits. F.S.A.Const. Declaration of Rights, § 10; art. 5, § 9(5). Champlin v. Cochran, 125 So. 2d 565 (Fla. 1960).

The essential feature of a bill of exceptions is the trial judge appropriate authentication of it as being a correct statement of the matters contained therein. Comp.Gen.Laws 1927, § 4634; F.S.A. § 59.32; Common Law Rules for the Government of Trial Courts, amended Rule 88. Schutt v. Lester, 141 Fla. 40, 192 So. 461 (1939).

A state attorney assigned by executive order to another judicial circuit is prosecuting attorney of court wherein information is filed, within constitutional provision permitting trial of felony on information under oath filed by prosecuting attorney of court wherein information is filed. F.S.A. § 27.14; F.S.A.Const.Declaration of Rights, § 10, as amended. Hall v. State, 136 Fla. 644, 187 So. 392 (1939).

A state attorney oath supporting information charging a noncapital felony before clerk of circuit court for county within judicial circuit wherein such attorney had official authority was properly authenticated for filing in circuit court for another county in same circuit. F.S.A. Const.Declaration of Rights, § 10, as amended in 1934. Poole v. State, 129 Fla. 841, 177 So. 195 (1937).

Informations charging felonies, one signed by assistant state attorney and other in state attorney name by assistant, held void, since state attorney alone was authorized to file such informations. F.S.A.Declaration of Rights, § 10, as amended in 1934; F.S.A.Const. art. 5, §§ 11 ”15, 27. State ex rel. Ricks v. Davidson, 121 Fla. 196, 163 So. 588 (1935).

Embezzlement indictment signed by acting state attorney under executive order authorized by statute empowering Governor to assign state attorneys to other circuits held not objectionable because not signed by state attorney of circuit within which county was located. F.S.A. § 27.14. Skipper v. State, 114 Fla. 312, 153 So. 853 (1934).

Indorsement on indictment H.B.K.A. True Bill. Foreman of the Grand Jury, is sufficient, where record shows that H.B.K. was foreman of grand jury. Burnes v. State, 89 Fla. 494, 104 So. 783 (1925).

Trial court committed reversible error in prosecution for trafficking in cocaine by submitting single written jury instruction on trafficking without giving jury all instructions in writing. West F.S.A. RCrP Rule 3.400(c). Carmenates v. State, 654 So. 2d 601 (Fla. Dist. Ct. App. 3d Dist. 1995).

Court Minutes/Order stating judge finding of violation of probation did not confer jurisdiction on District Court of Appeal, where it was signed by court clerk, not judge. Harrison v. State, 573 So. 2d 60 (Fla. Dist. Ct. App. 5th Dist. 1990).

Informations which recited that prosecution was being brought by state attorney, and which contained the full name and title of the state attorney underneath signature line at the end, but which were actually signed by various assistant state attorneys

without their designation as assistants, were defective as a matter of form and legally insufficient. State v. Tamvakis, 459 So. 2d 371 (Fla. Dist. Ct. App. 5th Dist. 1984).

In 1970, an original judgment signed by judge and filed with clerk was directly recordable for lien purposes in forum county official records in lieu of certification and recording of a copy of minute book entry. West F.S.A. §§ 28.211, 28.29, 55.10. Meadows Development Co. v. Ihle, 345 So. 2d 769 (Fla. Dist. Ct. App. 1st Dist. 1977).

Order or judgment whose effect is dependent upon findings of fact and conclusions to be drawn from those facts should be signed by judge before whom facts are adduced and by whom findings are made. Callaghan v. Callaghan, 337 So. 2d 986 (Fla. Dist. Ct. App. 4th Dist. 1976).

Fact that information was signed by a state attorney assigned to another judicial circuit by executive order did not render the information insufficient. F.S.A. § 27.14. Giamo v. State, 245 So. 2d 116 (Fla. Dist. Ct. App. 3d Dist. 1971).

Recording of judgment in minute book or docket of court is evidence of the judgment and until judgment is entered of record there is no competent evidence of its rendition. Dade Federal Sav. & Loan Ass'n v. Miami Title & Abstract Division of American Title Ins. Co., 217 So. 2d 873 (Fla. Dist. Ct. App. 3d Dist. 1969).

Preponderance of the evidence implies that the evidence must satisfy the mind of the jury such as to lead a reasonably cautious man to the conclusion in question, produce a reasonable belief, and convince as of its truth. Saporito v. Bone, 195 So. 2d 244 (Fla. Dist. Ct. App. 2d Dist. 1967).

Even if facsimile signature of justice of the peace was affixed to warrant for defendant arrest by chief clerk, warrant was valid where signature was made with justice authorization and at least in his constructive presence. State v. Hickman, 189 So. 2d 254 (Fla. Dist. Ct. App. 2d Dist. 1966).

Final decree was not rendered for purposes of computing time to appeal, until order denying motion for rehearing was entered. 31 F.S.A. Florida Appellate Rules, rules 1.3, 3.2(b). Pilgrim v. Melvin, 141 So. 2d 296 (Fla. Dist. Ct. App. 1st Dist. 1962).

An order is reduced to writing and filed for the purpose of providing a predicate for appeal, and order becomes a part of the record only when delivered to clerk. Seiferth v. Seiferth, 121 So. 2d 689 (Fla. Dist. Ct. App. 3d Dist. 1960).

No judgment is effective until it is signed by judge and filed with clerk, and there can be no appeal from an oral announcement that judgment will be rendered. Code, §§ 50"127(9), 81A"158. Crowell v. State, 234 Ga. 313, 215 S.E.2d 685 (1975).

Certificate of court reporter stating that foregoing pages constituted true and correct transcript of guilty plea hearing together with certificate of clerk of court stating that foregoing pages were true and correct transcript of guilty plea hearing and true and correct photostatic copy of case complied with law even though there was no seal by court reporter or any detail as to location and length of record, by reference to number of pages, minute book, case number, and similar details. Code, § 38"601. McIntyre v. Balkcom, 229 Ga. 81, 189 S.E.2d 445 (1972).

Superior court is court of record, and what superior court orally declares is no judgment until same has been reduced to writing and entered as such. Tyree v. Jackson, 226 Ga. 690, 177 S.E.2d 160 (1970).

Supreme Court cannot consider as brief of evidence document appearing as such in record or bill of exceptions unless record or bill of exceptions affirmatively shows that document has been approved as correct by trial judge. Code, §§ 6-801, 6-802. Whitney v. Birdsong, 216 Ga. 756, 119 S.E.2d 569 (1961).

Certificate of trial judge denying truth of some portions of bill of exceptions when such portions could not be determined or separated from portions not denied was not in conformity with statute, and fact that trial judge signed bill did not constitute sufficient verification to make it conform. Code, § 6"806. Peacock v. Peacock, 212 Ga. 401, 93 S.E.2d 575 (1956).

Where neither record nor judge certificate showed any reason for delay of trial judge in signing bill of exceptions, motion to dismiss bill would be sustained. Amick v. Poteet, 208 Ga. 674, 68 S.E.2d 903 (1952).

An acknowledgment on a bill of exceptions in compliance with new rules of practice and procedure, does not dispense with service of bill of exceptions as required by statute and without service or acknowledgment of service of bill of exceptions Supreme Court has no jurisdiction and writ of error would be dismissed. Ga.Code Ann. §§ 6-908.1, 6-911. Newton v. Bailey, 208 Ga. 415, 67 S.E.2d 239 (1951).

Where trial judge held bill of exceptions for 82 days before certifying it and, during that period, plaintiff in error failed to apply for writ of mandamus to compel trial judge to act, non-action by plaintiff in error was inexcusable and would result in dismissal of writ. Ga.Code Ann. § 6”312. Clay v. Floyd, 208 Ga. 374, 66 S.E.2d 916 (1951).

Trial judge certificate to bill of exceptions must ratify the truthfulness of the recitals in the bill of exceptions in order that appellate court may have jurisdiction. Ga.Code Ann. §§ 6”806, 6”807, 6”808. Beasley v. Georgia Power Co., 207 Ga. 188, 60 S.E.2d 363 (1950).

The fact that affidavit for arrest of a person was signed below the jurat would not prevent it from being a valid affidavit. Hardin v. State, 203 Ga. 641, 47 S.E.2d 745 (1948).

Bill of exceptions would not be dismissed on ground that certificate of judge thereto was not dated, where it was stated in certified bill that it was presented within 30 days from rendition of judgment and order denying new trial. Code 1933, § 6”1312. Baker v. Moore, 182 Ga. 131, 184 S.E. 729 (1936).

Judgment duly entered on docket is valid, although not signed by magistrate. Bettie v. Daniel Bros. Co., 175 Ga. 349, 165 S.E. 265 (1932).

Evidence did not establish that indictment had not been returned in open court; on its face, indictment bore signature of the grand jury foreperson, handwritten entry of word “true” in space before word “bill,” and handwritten case number, minutes of criminal court docket showed that indictment was filed, and so even though indictment did not have date or clerk of court’s signature on its face, other indicia contributed to its stamp of authenticity. Polk v. State, 620 S.E.2d 857 (Ga. Ct. App. 2005).

Defendant was not prejudiced by trial judge alleged failure to file defendant requested jury charges with clerk, where defendant himself filed such requested charges. O.C.G.A. § 5”5”24(b). Adams v. State, 231 Ga. App. 279, 499 S.E.2d 105 (1998).

Until order is signed by judge it is ineffective for any purpose. Roman v. Terrell, 195 Ga. App. 219, 393 S.E.2d 83 (1990).

Indictment is not subject to attack by accused on grounds that indictment is not signed by district attorney. O.C.G.A. § 45”15”10. Brown v. State, 177 Ga. App. 284, 339 S.E.2d 332 (1985).

Where defendant had been arrested for driving under the influence and driving while license suspended, his prosecution for those offenses by accusation framed and signed by prosecuting attorney, without supporting affidavit, was proper. O.C.G.A. § 17”7”71(a). Evans v. State, 168 Ga. App. 716, 310 S.E.2d 3 (1983).

In action by landlord for dispossession of tenant, trial court sitting without jury was required to make written findings of fact and conclusions of law absent evidence of waiver. Broussard v. Williams, 164 Ga. App. 545, 298 S.E.2d 269 (1982).

Evidence, including deputy sheriff affidavit in respect to service of summons in connection with writ of possession, warranted court in finding that service was proper despite mistake or inadvertence on part of deputy sheriff in failing to sign return and also warranted court in allowing defect to be cured; hence, court did not lack jurisdiction to issue writ by reason of deputy sheriff neglect to sign return. Code, § 67”703. Spencer v. Taylor, 144 Ga. App. 641, 242 S.E.2d 308 (1978).

It is not essential to the validity of a judgment that it be entered on the docket sheet. Code, § 81A”158(b). Krasner v. Verner Auto Supply, Inc., 130 Ga. App. 892, 204 S.E.2d 770 (1974).

What judge orally declares does not constitute judgment until it has been put in writing and entered as such. Dunagan v. Sims, 119 Ga. App. 765, 168 S.E.2d 914 (1969).

Even if transcript of evidence had not been certified by court reporter until after filing with clerk of court, it was an amendable defect and did not compel dismissal of appeal. Code, §§ 6”805(e), 6”806. Shield Ins. Co. v. Kemp, 117 Ga. App. 538, 160 S.E.2d 915 (1968).

Failure of reporter to certify as to correctness of transcript when it was filed with clerk of trial court was amendable defect and was not error and either party might have moved to have deficiency supplied or have corrected any errors that might appear. Code, §§ 6”806, 6”807. Harper v. Green, 113 Ga. App. 557, 149 S.E.2d 163 (1966).

Dismissal of a writ of error because of form of certificate will not be had for any cause other than for failure of judge to certify the bill of exceptions as true. Code, §§ 6”806, 6”808. Ingle v. Rubenstein, 112 Ga. App. 767, 146 S.E.2d 367 (1965).

Motion to dismiss writ of error because of failure of successor judge to certify to bill of exceptions in form prescribed by statute would be denied where successor judge unqualifiedly certified that bill of exceptions was true. Code, § 6”906. Grier v. Travelers Ins. Co., 112 Ga. App. 159, 144 S.E.2d 196 (1965).

Recitation in trial judge certificate that bill of exceptions consisted of five pages where bill actually consisted of five full pages plus a sixth page containing five lines and the signature would be considered typographical or clerical error and would not void the bill. Reserve Life Ins. Co. v. Ayers, 103 Ga. App. 576, 120 S.E.2d 165 (1961).

An accusation in criminal case is void unless oath is properly administered. Sikes v. Charlton County, 103 Ga. App. 251, 119 S.E.2d 59 (1961).

Unqualified certificate to bill of exceptions was rendered a qualified certification by addition of note below judge signature to effect that attorney for defendant in error notified attorneys for plaintiff in error that he would object to allowance of brief in evidence contending that the same came too late, such note should not have been added to certificate and mandamus absolute would issue requiring signature of unqualified certificate to bill of exceptions omitting the note. Seaboard Air Line R. Co. v. Drake, 101 Ga. App. 242, 113 S.E.2d 227 (1960).

Plaintiff in error must tender his bill of exceptions to the trial judge within ten days of the rendition of the final judgment excepted to, and unless such affirmatively appears on the record, presumption is that the bill was tendered on the date the certificate of the trial judge was signed. Willingham Finance Co. v. Walden, 95 Ga. App. 770, 98 S.E.2d 605 (1957).

Even though succeeded by another as judge after trial of case and overruling of motion for new trial, judge whose ruling it was sought to review must certify bill of exceptions alleging error in overruling of new trial motion, and reviewing court is without jurisdiction to pass upon errors alleged to have been committed when his successor, rather than judge who denied motion, certifies bill. Day v. Harper, 95 Ga. App. 600, 98 S.E.2d 140 (1957).

To confer jurisdiction on Court of Appeals to pass on writ of error, bill of exceptions, trial judge certificate thereto, or transcript of record must show that bill was tendered to trial judge within time prescribed by law. Tingle v. Kelly, 90 Ga. App. 496, 83 S.E.2d 212 (1954).

When judge of Superior Court signed and certified bill of exceptions, as signing error on denial by Superior Court of defendant extraordinary motion for new trial, Court of Appeals became vested with jurisdiction of case. Ga.Code Ann. §§ 6”1001, 6”1005, 27”901. Allen v. Pratt, 87 Ga. App. 704, 75 S.E.2d 329 (1953).

Recitals of fact in a bill of exceptions, not approved by trial judge, will not be considered. Moore v. Green, 86 Ga. App. 70, 70 S.E.2d 782 (1952).

Where trial judge certified in bill of exceptions that defendants in error agreed that allegations of fact in bill were true, but judge failed to certify that he himself found bill to be true, Court of Appeals was without jurisdiction to pass on merits of

exceptions. Ga.Code Ann. §§ 6”806, 6”908.1. First Nat. Bank of Commerce v. Brown, 85 Ga. App. 370, 69 S.E.2d 624 (1952).

Statute requiring notice to opposite party of presentation of bill of exceptions does not require that plaintiff in error be present at time judge passes on sufficiency and does not authorize judge to require that attorney for plaintiff in error be present, and therefore failure of attorney, who had filed bill of exceptions, to appear at hearing upon bill, as orally directed by trial judge, was not contempt. Ga.Code Ann. §§ 6”908.1, 6”909. Sellers v. Whaley, 84 Ga. App. 715, 67 S.E.2d 241 (1951).

Where grand jury returned a true bill signed by the foreman of grand jury, it was not ground for dismissal that the same was not signed by the solicitor general. Ellison v. State, 82 Ga. App. 760, 62 S.E.2d 407 (1950).

Petition in trover action brought in civil court of Fulton county and involving more than $300, to which plaintiff name was signed by an agent, was signed by plaintiff within statutory requirement that suit be signed by plaintiff or his counsel. Ga.Code Ann. § 81”101; Laws 1933, p. 297. Lanier v. Lanier, 79 Ga. App. 131, 53 S.E.2d 131 (1949).

An execution is not legally issued when what purports to be the signature of the clerk thereto is not affixed by him or by his authority. Georgia Securities Co. v. Sanders, 74 Ga. App. 295, 39 S.E.2d 570 (1946).

Where presiding judge of appellate division of the civil court of Fulton county was absent on account of illness, certificate to bill of exceptions was sufficient when signed by one of the judges who presided at the hearing. Laws 1933, p. 294. West v. Myers-Dickson Furniture Co., 70 Ga. App. 775, 29 S.E.2d 440 (1944).

It is essential to the validity of a suit that there be a signed original process which is served on the defendant only by leaving with him a copy thereof, and failure to sign the original process is not cured by the service of a signed copy of the process on the defendant, since the signed copy is not a copy of the unsigned original. Kimsey v. Hall, 68 Ga. App. 409, 23 S.E.2d 196 (1942).

Where, by reason of omission in bill of exceptions, the recitals of the bill were not certified to be true, the Court of Appeals was without jurisdiction to pass upon the merits of the exceptions. Borden v. Atlantic Coast Line R. Co., 60 Ga. App. 206, 3 S.E.2d 469 (1939).

Process and copy not signed by any one held no process. Hall v. Young L. G. Harris College, 38 Ga. App. 662, 145 S.E. 96 (1928).

Clerk of superior court cannot be removed for misconduct as ex officio clerk of city court. Wallace v. State, 34 Ga. App. 281, 129 S.E. 299 (1925).

Entry of order signifies something more formal than mere oral rendition of order or ruling of court, and contemplates a final written order. Scott v. Liu, 46 Haw. 221, 377 P.2d 696 (1962).

A memorandum decision is not effective as order until signed by trial judge or entered in the minutes, and oral conversations over telephone or on street between judge and counsel are not orders. I.C.A. § 12”401. Cuoio v. Koseris, 68 Idaho 483, 200 P.2d 359 (1948).

Appeal must be dismissed where only appellantsattorney signed certificate attached to transcript on appeal from orders denying motion to vacate sheriff sale following mortgage foreclosure and granting motion for writ of assistance (Code 1932, § 11 “216; Supreme Court Rules 23, 30). Eichner v. Meyer, 56 Idaho 751, 58 P.2d 845 (1936).

Where defendant was charged with sexual intercourse with a minor child, deviate sexual conduct with child and rape and each count was typed on a single page, printed form, and top of each page was typed Count I, Count II, and Count III, respectively, three pages constituted three counts of a single information and State attorney signature and verification following third count was a signature and verification of the single three-count information. S.H.A. ch. 38, § 111 “3(b). People v. Cox, 53 Ill. 2d 101, 291 N.E.2d 1 (1972).

Indictment which bore signature of grand jury foreman was valid notwithstanding that foreman signed at foot of page one of indictment instead of page two and that the words a true bill appearing on page two were after the signature instead of before it. S.H.A. ch. 38, § 111 "3(b). People ex rel. Kelley v. Frye, 41 Ill. 2d 287, 242 N.E.2d 261 (1968).

While judgments at law are operative when pronounced, a decree in chancery is final and effective only when it is reduced to writing approved by the chancellor and filed for the record. Anastaplo v. Radford, 14 Ill. 2d 526, 153 N.E.2d 37 (1958).

The minutes, memoranda, or docket entries made by judge, even though made upon his own docket, do not form any part of the official records of the court, and consequently judge memoranda or entries need not be executed in formal terms necessary to judgment of record, or need not in first instance be made. People v. Kamrowski, 412 Ill. 383, 107 N.E.2d 725 (1952).

Where purported transcript of testimony in rape prosecution which was attached to record was not certified and made part of record its contents were not before Supreme Court on review of conviction. People v. Ball, 412 Ill. 37, 104 N.E.2d 774 (1952).

The state attorney amendment of information, charging attempt extortion in maliciously threatening to accuse informant of crime of perversion, by striking out word perversion and substituting words crime against nature, did not constitute abandonment of original information, so as to require reverification of rearraignment on, and replea to, amended information, as new information, since amendment did not alter substance of original language nor prejudice defendant. S.H.A. ch. 38, § 240. People v. Clarke, 407 Ill. 353, 95 N.E.2d 425 (1950).

Where record did not recite the modification of any instruction, explanatory note in abstract that in the following instructions the words in italics were lined out and those in parentheses were inserted by the trial court was not in the record and consequently the modifications were not certified to by trial judge. People v. Tabet, 402 Ill. 93, 83 N.E.2d 329 (1948).

Where murder trial, in which death penalty was imposed, ended May 25, motion for new trial was argued June 28, and sentence was imposed on that date fixing time of execution at September 12, which was five days after convening of next succeeding term of Supreme Court, report of proceedings was authenticated and filed as required by statute and would be considered by Supreme Court. Smith-Hurd Stats. c. 38, §§ 749, 769. People v. Wilson, 400 Ill. 461, 81 N.E.2d 211 (1948).

Where rights of parties in equity suit had been determined by the chancellor during session of court in Will county and noted on the record on September 24, 1945, decree dated September 24, although signed on September 28, 1945, in a different county, was properly signed. S.H.A. ch. 37, § 72.24. Jackman v. North, 398 Ill. 90, 75 N.E.2d 324, 175 A.L.R. 868 (1947).

Purported transcript of proceedings heard on a petition in nature of a writ of error coram nobis and motion to vacate order denying probation was not properly certified or authenticated to be considered in error proceeding. People v. Kessler, 394 Ill. 26, 67 N.E.2d 197 (1946).

The insufficiency of verification of information did not affect jurisdiction of trial court. People v. Billow, 377 Ill. 236, 36 N.E.2d 339 (1941).

A certification of a divorce decree of another state, pursuant to state statute authorizing proof by copy certified by clerk and court seal, or by the judge if there be no clerk, is sufficient without also conforming with federal statute requiring attestation of clerk, seal and certificate of the judge. Smith-Hurd Stats. c. 51, §§ 13, 55. Gradler v. Johnson, 372 Ill. 137, 22 N.E.2d 946, 159 A.L.R. 1123 (1939).

A summons not signed by clerk of court issuing it is no summons. Ohio Millers Mut. Ins. Co. v. Inter-Insurance Exchange of Illinois Automobile Club, 367 Ill. 44, 10 N.E.2d 393 (1937).

Purported bill of exceptions, not certified as part of record by clerk, not considered. City of Chicago v. Wohlbach, 316 Ill. 203, 147 N.E. 121 (1925).

Written judgment or notation of record is judgment of court, and not oral pronouncement. In Interest of K.S., 250 Ill. App. 3d

862, 189 Ill. Dec. 530, 620 N.E.2d 498 (4th Dist. 1993).

Reviewing court is not bound by reasons given by trial court for its judgment, and lower court judgment may be sustained upon any ground warranted in record regardless of whether it was relied on by trial court. In re Marriage of McFarlane, 160 Ill. App. 3d 721, 112 Ill. Dec. 537, 513 N.E.2d 1146 (2d Dist. 1987).

Court conclusion that plaintiffsclaim was denied in its entirety at plaintiffscost was final judgment, despite omission of words order, adjudged, or decreed, and insertion of judge initials rather than his signature. S.H.A. ch. 110A, ¶¶ 272, 303, 304. Robertson v. Robertson, 123 Ill. App. 3d 323, 78 Ill. Dec. 593, 462 N.E.2d 712 (5th Dist. 1984).

Although trial judge had orally announced her findings and decision in case and as expanded in a letter and had directed defense attorney to reduce it to writing, it did not become a final order until actually reduced to writing, signed and filed and it did not preclude trial court from denying plaintiffsposttrial motion. Cities Service Oil Co. v. Village of Oak Brook, 84 Ill. App. 3d 381, 39 Ill. Dec. 626, 405 N.E.2d 379 (2d Dist. 1980).

Failure of an appellant to present report of proceedings to trial court for certification is not jurisdictional and where no prejudice is alleged concerning inaccuracies or omissions in verbatim report of proceedings, Appellate Court, pursuant to applicable rule, may amend record and treat it as having been properly certified. Supreme Court Rules, rule 329, S.H.A. ch. 110A, § 329. People v. Cassidy, 67 Ill. App. 3d 43, 23 Ill. Dec. 805, 384 N.E.2d 599 (3d Dist. 1978).

An assistant state attorney is clothed with all the powers and privileges of the state attorney so that acts done by him in that capacity are regarded as done by the state attorney himself, and thus assistant state attorney has power and authority to sign an information. S.H.A. ch. 38, § 102 “12. People v. Audi, 61 Ill. App. 3d 483, 18 Ill. Dec. 761, 378 N.E.2d 225 (5th Dist. 1978).

Until some written order or entry of record is made, court announcement of final judgment is not enforceable. Supreme Court Rules, rules 271, 272, S.H.A. ch. 110A, §§ 271, 272. People ex rel. Person v. Miller, 56 Ill. App. 3d 450, 13 Ill. Dec. 920, 371 N.E.2d 1012 (1st Dist. 1977).

Information must be verified on knowledge of state attorney or another. S.H.A. ch. 38, § 111 “3(b). People v. Troutt, 51 Ill. App. 3d 656, 9 Ill. Dec. 113, 366 N.E.2d 370 (5th Dist. 1977).

Court order is entered as part of record in case either when written document is placed in file or when order is placed in court clerk docket book, and until such order is entered, limitation period for filing objections thereto does not begin to run. City of Darien v. Dublinski, 16 Ill. App. 3d 140, 304 N.E.2d 769 (2d Dist. 1973).

Signature of foreman on indictment is required only as matter of direction to clerk and for information of court, and its absence does not invalidate indictment nor materially affect substantial right of defendant, since it neither assures him nor prevents him from having a fair trial. S.H.A. ch. 38, § 111 “3. People ex rel. Byrd v. Twomey, 2 Ill. App. 3d 774, 277 N.E.2d 358 (3d Dist. 1972).

Defendant can waive right to verification of information by pleading guilty or by going to trial without raising question. People v. Childress, 2 Ill. App. 3d 319, 276 N.E.2d 360 (1st Dist. 1971).

Indictment which was signed at conclusion of charging portion by state attorney and which was signed on the back under the words a true bill by the foreman of the grand jury was not fatally defective. S.H.A. ch. 38, § 111 “3(b). People v. Thompson, 81 Ill. App. 2d 263, 226 N.E.2d 80 (5th Dist. 1967).

Signature of grand jury foreman on reverse side of indictment over words, A True Bill was sufficient to comply with statutes providing for foreman signature on indictment. S.H.A. ch. 38, §§ 111 “3(b), 112 “4(c); ch. 78, § 17. People v. Vlcek, 68 Ill. App. 2d 178, 215 N.E.2d 673 (2d Dist. 1966).

Endorsement of indictment as a true bill, with signature of grand jury foreman on reverse side, was sufficient, although signature of state attorney, rather than that of foreman, appeared on face of indictment. S.H.A. ch. 38, § 111 “3(b); ch. 78, §

17. People v. Faciano, 66 Ill. App. 2d 431, 213 N.E.2d 587 (2d Dist. 1966).

Where one person appeared as complainant, another signed, and there was no verification, document was devitalized as an information, defects were not waived upon failure to object and conviction was required to be reversed. S.H.A. ch. 37, § 382. People v. McCall, 42 Ill. App. 2d 295, 192 N.E.2d 257 (1st Dist. 1963).

Where all instructions given and refused at trial were included in report of proceedings and correctness thereof was certified to by trial judge, error with respect to instructions was properly preserved for reviewing court consideration. White v. Prenzler, 19 Ill. App. 2d 231, 153 N.E.2d 477 (3d Dist. 1958).

Where record was authenticated by trial judge and accompanied by certificate of court reporter, authentication was sufficient. Wade v. Mathis, 7 Ill. App. 2d 113, 128 N.E.2d 927 (3d Dist. 1955).

Presiding judge of circuit court is not required to sign decree which he directs clerk to enter. People v. Smith, 350 Ill. App. 127, 111 N.E.2d 841 (2d Dist. 1953).

A master report and testimony taken by him need not be preserved by report of proceedings in order to become part of record on appeal from decree recommended by master, so that appeal will not be dismissed because record, containing no such report, was not certified by trial court. Maren v. Wolmer, 343 Ill. App. 353, 99 N.E.2d 213 (1st Dist. 1951).

A decree in equity cannot become final until it is submitted to and approved by the chancellor and entered of record. Richmond v. Richmond, 326 Ill. App. 234, 61 N.E.2d 573 (1st Dist. 1945).

A document written and signed by judge, though not recorded by clerk, is binding between the parties to proceedings. Prange v. City of Marion, 319 Ill. App. 136, 48 N.E.2d 980 (4th Dist. 1943).

An information charging accused with carrying a concealed weapon on his person was not fatally defective on ground that it was not properly verified because verification was not in affidavit form where clerk of court by his jurat certified that information was sworn to before him by a police officer and language contained in information was susceptible of only one reasonable construction, that facts were positively set forth therein, and before leave was granted to file the information, judge stated that he was satisfied that there was probable cause for filing it. People v. Ross, 312 Ill. App. 186, 37 N.E.2d 930 (1st Dist. 1941).

Under statute requiring transcript of proceedings to be authenticated as to completeness and correctness by judge presiding at trial, no precise or technical form of certification is required, in view of court rule providing that claim that trial court record is not properly authenticated can be raised only by motion, supported by affidavit, and test should always be whether transcript has, in fact, been certified by trial judge, irrespective of form of such certificate. S.H.A. ch. 110, §§ 4, 74, 101.36. Second Nat. Bank of Robinson v. Jones, 309 Ill. App. 358, 33 N.E.2d 732 (4th Dist. 1941).

Transcript of proceedings must be authenticated as to completeness and correctness by signature of judge presiding at trial, and, unless such is done, reviewing court must dismiss appeal. S.H.A. ch. 110, § 74. Suttles v. Zimmerman, 287 Ill. App. 316, 5 N.E.2d 94 (4th Dist. 1936).

Judge signature to bill is necessary to make it bill of exceptions. People v. Rice, 238 Ill. App. 460, 1925 WL 4551 (3d Dist. 1925).

Although a court speaks by its record, which is its order book, and the order book entries are not dependent for their stability or validity on outside memoranda; and for many purposes, a judgment, until entered, is not complete, perfect and effective until that is done; the judgment, nevertheless, is effective between the parties from the time of rendition. State v. Bridenhager, 257 Ind. 544, 276 N.E.2d 843 (1971).

Failure of grand jury indictment to have words a true bill written in handwriting of foreman did not render indictment defective where words were printed with line for signature of foreman below them. BurnsAnn.St. §§ 9 “901, 9”902. State v. Schell, 248 Ind. 183, 224 N.E.2d 49 (1967).

Affidavit charging rape was not objectionable because jurat was signed in name of clerk by deputy clerk as deputy, rather than in name of deputy clerk herself. BurnsAnn.St. §§ 49 "501, 49"502, 49"601, 49"2708. Craig v. State, 232 Ind. 293, 112 N.E.2d 296 (1953).

Where state, or any state official, department, board or commission, which Attorney General was authorized by statute to represent, was not party to proceedings on petition for writ of habeas corpus brought by petitioner who alleged he was illegally held in custody by sheriff under alleged warrant of arrest issued by Governor as result of demand by sister state for extradition of petitioner, Attorney General could not appeal from judgment therein entered and could not in his official capacity act as attorney for sheriff in appeal. Davis v. Pelley, 230 Ind. 248, 102 N.E.2d 910 (1952).

Judgments were valid from time trial judge signed entries containing findings and judgments in two cases in his chambers after announcement of findings in open court two days previously, and order book entries could even be signed at a subsequent term. BurnsAnn.St. § 4 "324. State ex rel. Harp v. Vanderburgh Circuit Court, 227 Ind. 353, 85 N.E.2d 254, 11 A.L.R.2d 1108 (1949).

Portions of purported transcript which were not certified to by clerk of criminal court or any one else were not a part of record before Supreme Court. Harris v. State, 225 Ind. 115, 73 N.E.2d 51 (1947).

The trial judge signature to reporter typewritten transcript, stating that it contained all the evidence with objections thereto, rulings on objections, and exceptions to rulings, made the transcript a bill of exceptions, and fact that circuit court clerk in his certificate called it the reporter longhand manuscript did not destroy its status. BurnsAnn.St. § 2 "3111. Keeshin Motor Express Co. v. Glassman, 219 Ind. 538, 38 N.E.2d 847 (1942).

The court speaks by its record, which is the order book. Cook v. State, 219 Ind. 234, 37 N.E.2d 63 (1941).

The purpose of the requirement that an affidavit which is the basis of a criminal prosecution must be approved by the prosecuting attorney is to protect citizens against criminal actions unless the charges are investigated, and the prosecution approved by the officer who is by law vested with the jurisdiction to act for the state. BurnsAnn.St. § 9 "1126. State ex rel. Freed v. Circuit Court of Martin County, 214 Ind. 152, 14 N.E.2d 910 (1938).

Defect in affidavit charging arson, not indorsed by prosecuting attorney before filing with words Approved by me, would have been fatal on motion to quash. BurnsAnn.St. § 9 "909. Knapp v. State, 203 Ind. 610, 181 N.E. 517 (1932).

Indictment found by grand jury, and signed G.R.S., Prosecuting Attorney, held sufficient, though judicial circuit was not designated. BurnsAnn.St. § 9 "901. Johnson v. State, 201 Ind. 264, 167 N.E. 531 (1929).

Indorsement by deputy prosecuting attorney on affidavit, on which accused was convicted of transporting liquor, held sufficient. BurnsAnn.St. §§ 9-909, 49-501. Hamer v. State, 200 Ind. 403, 163 N.E. 91 (1928).

Judgment entered without presence of indispensable parties is void. In re Paternity of V.M.E., 668 N.E.2d 715 (Ind. Ct. App. 1996).

A trial court does not abuse discretion when it corrects a judgment to make that judgment conform to the intent of the trial court in entering the judgment in the first instance. Rule TR. 60. Lankenau v. Lankenau, 174 Ind. App. 45, 365 N.E.2d 1241 (2d Dist. 1977).

Certificate of judge is necessary to make bill of exceptions a complete bill. Forschner v. Garrison, 142 Ind. App. 638, 236 N.E.2d 835 (Div. 1 1968).

Under statute providing that clerk of court shall certify all papers or copies thereof required by the praecipe, where clerk certificate was general and did not specifically name appellantsbill of exceptions containing the evidence as being part of the record, but merely stated that the above and foregoing bill of exceptions, which actually appeared after the certificate, had been filed with the clerk, bill of exceptions was not properly before Appellate Court, and that court was prohibited from

considering any matters pertaining to evidence adduced in the cause. BurnsAnn.St. § 2 "3112. Diane Co. v. Beebe, 131 Ind. App. 161, 169 N.E.2d 542 (Div. 1 1960).

Where judge certificate to the bill of exceptions containing the evidence immediately preceded the bill rather than immediately following it, the judge certificate was not insufficient as authenticating only that part of bill which preceded it, so as to preclude a consideration of the evidence on ground that it was not in the record. Fisher v. Driskell, 129 Ind. App. 29, 144 N.E.2d 161 (1957).

That certificate of the trial judge merely showed that a bill of exceptions was presented and signed and that the judge certificate did not indicate that he was certifying to the preceding transcript but merely to a transcript of the evidence was immaterial where there was no doubt that the bill contained in the transcript was the one signed by the judge. Gescheidler v. National Cas. Co., 120 Ind. App. 673, 96 N.E.2d 123 (1951).

A rubber stamp signature of trial judge to bill of exceptions is sufficient if the judge so stamped the bill with the intention of signing it. Pursley v. Hisch, 119 Ind. App. 232, 85 N.E.2d 270 (1949).

Instructions, made part of record on appeal by bill of exceptions, are properly in record, though not signed by trial judge, as required to make them part of record under statutory methods in order to make their identification sure. Home Ins. Co. v. Mathis, 109 Ind. App. 25, 32 N.E.2d 108 (1941).

Transcript of record of trial court was not before Appellate Court for any purpose where certificate attached thereto was signed by clerk of court but did not bear court seal. BurnsAnn.St. § 2 "3222. Lindley v. Seward, 103 Ind. App. 600, 5 N.E.2d 998 (1937).

Alleged errors in admission and exclusion of evidence held not reviewable, where document which purported to be original bill of exceptions containing evidence was inserted in transcript after clerk certificate and was not certified by clerk, and hence was not part of record. Pahmeier v. Rogers, 102 Ind. App. 480, 1 N.E.2d 287 (1936).

Bill of exceptions containing evidence, but not certified to nor identified by clerk, held not part of record. Manufacturers' Discount Co. v. American Sec. Co., 87 Ind. App. 446, 161 N.E. 660 (1928).

Although judgment bore the date November 18, 1975, it appeared that the trial court regarded the written judgment filed November 25 as the judgment, and therefore such a written judgment was the judgment. McCubbin Seed Farm, Inc. v. Tri-Mor Sales, Inc., 257 N.W.2d 55, 22 U.C.C. Rep. Serv. 599 (Iowa 1977).

Statute requiring court record to be signed by trial judge is directory only. I.C.A. § 604.38. State v. Hammer, 246 Iowa 392, 66 N.W.2d 490 (1954).

The signing of county attorney name to informations by attorney appointed by county board of supervisors to prosecute cases did not deprive district court of jurisdiction to accept defendantspleas of guilty. Code 1935, §§ 13655, 13674. Burry v. Haynes, 232 Iowa 1209, 7 N.W.2d 914 (1943).

The Code provision for signing the record by the judge is directory only and the failure to sign does not affect the validity of the judgment. Code 1939, § 10798. State v. Hiatt, 231 Iowa 643, 1 N.W.2d 736 (1942).

A substantial compliance with rule relating contents of brief of appellant which fulfills the purposes of the rule will be sufficient. Rules of the Supreme Court, rule 30. Smith v. Middle States Utilities Co. of Delaware, 224 Iowa 151, 275 N.W. 158 (1937).

In context of a civil action, the entry of judgment takes place when a journal entry or judgment form is signed by the trial judge and filed with the clerk of the court. Rules Civ.Proc., K.S.A. 60"258. Atkinson v. Board of Educ., Unified School Dist. No. 383, 235 Kan. 793, 684 P.2d 424, 18 Ed. Law Rep. 1061 (1984).

A journal entry is required to be signed by the judge and filed in the action after certification of a judgment as final. Rules of

Civil Procedure, rule 54(b), K.S.A. 60”254(b). Dennis v. Southeastern Kansas Gas Co., Inc., 227 Kan. 872, 610 P.2d 627 (1980).

Counsel and court, in preparation of journal entries, should follow procedure prescribed by Supreme Court rule. Gen.St.1935, 60”3827, rule 49. Busch v. Busch, 165 Kan. 132, 193 P.2d 171 (1948).

A judgment is rendered and becomes effective when it is ordered and pronounced by court, even though journal entry of judgment is not filed until long time after judgment is rendered. Rules of Supreme Court, rules 49, 50. Gates v. Gates, 160 Kan. 428, 163 P.2d 395 (1945).

Information charging crime in Saline County and signed by Geary County attorney, who was not appointed as special prosecutor for Saline County, was not jurisdictionally defective since Geary County attorney, as assistant or deputy to Saline County attorney, was lawfully authorized to sign information. State v. Rollins, 24 Kan. App. 2d 15, 941 P.2d 411 (1997).

No judgment is effective unless and until journal entry or judgment form is signed by trial judge and filed with clerk of court. Rules Civ.Proc., K.S.A. 60”258. Matter of Marriage of Wilson, 13 Kan. App. 2d 291, 768 P.2d 835 (1989).

Notation of judgment or order in docket by clerk is entry of document, regardless of when judgment or order is rendered, and document is not effective until after it has been entered by being noted in docket. Rules Civ.Proc., Rule 58(1). Staton v. Poly Weave Bag Co., Incorporated/Poly Weave Packaging, Inc., 930 S.W.2d 397 (Ky. 1996).

Placing of photostatic reproduction of signed paper judgment in judgment book did not make judgment effective from date of signing, as judgment entered in judgment book contained only facsimile signature of judge, and therefore judgment book was never signed and no appeal could be taken from it. M. S. S. Enterprises, Inc. v. Louisville Gas & Elec. Co., 445 S.W.2d 425 (Ky. 1969).

Rule requiring clerk of court to keep a book in which shall be copied every judgment and order of the court contemplates that judgments and orders shall be signed by judge on separate paper and delivered to clerk, who then copies such orders on the book. CR 79.02. Tankersley v. Gilkey, 414 S.W.2d 589 (Ky. 1967).

Appeals were untimely where not taken within 30 days from date county judge signed order book, and fact no date of signing was shown on the face of the order book did not affect time for taking of appeal, but was merely a clerical mistake subject to correction by the court under applicable rule. KRS 177.087; CR 60.01. Com., Dept. of Highways v. Daly, 374 S.W.2d 497 (Ky. 1964).

Where, pending petition for rehearing on appeal, party sought to correct original judgment of trial court by insertion of statement of amount in controversy, motion did not seek relief from operation of judgment but merely the supplying of a jurisdictional requirement for appeal purposes, and circumstances were not so extraordinary or unusual as to justify invoking of rule authorizing modification of judgment for reason of extraordinary nature justifying relief from operation of judgment. CR 60.02(6). Maslow Cooperage Corp. v. Jones, 316 S.W.2d 860 (Ky. 1958).

A judgment which had not been officially signed by trial judge, though affirmed on appeal, was void and of no effect and defendant could not be held in contempt of court for failure to comply with such judgment. Davis v. City of Bowling Green, 289 S.W.2d 506 (Ky. 1955).

Signature of order book, in which circuit court judgment was entered, by both judge who rendered judgment and his successor after creation of new judicial district including county of such court, neither added to nor detracted from validity of judgment, but was merely surplusage, in view of successor statutory authority to sign orders left unsigned by previous judge when district was changed and he ceased to be judge of such court. KRS 23.050(39), 23.190. Marcum v. Moore, 263 S.W.2d 89 (Ky. 1953).

Bystander bill of exceptions which consisted of an affidavit filed by plaintiff counsel as to what occurred at trial of motion including evidence introduced, but which was not signed by trial judge or filed by any order of court would not be considered as a correct bill of exceptions prepared and filed as required by statute, and motion of defendant counsel to strike bill from

record would be sustained. Civ.Code Prac. § 333 et seq. Gaffeney v. Gaffeney, 311 Ky. 126, 223 S.W.2d 583 (1949).

Where trial court entered judgment but by oversight failed to sign judgment in order book, judgment could be signed nunc pro tunc. Langstaff v. Meyer, 305 Ky. 116, 203 S.W.2d 49 (1947).

A purported judgment entered on order book but never signed by presiding judge is not a judgment. Second Nat. Bank of Paintsville v. Blair, 299 Ky. 650, 186 S.W.2d 796 (1945).

A special judge who directed the entry of a judgment and signed the order book in a county outside the district in which the cause was pending, has the authority to direct entry of judgment nunc pro tunc, or to ratify the unauthorized entry by the clerk and sign the order book in the county in which the cause was pending, or elsewhere in the district. Civ.Code Prac. § 390; KRS 23.150. Gross' Adm'x v. Couch, 292 Ky. 304, 166 S.W.2d 879 (1942).

An unsigned judgment may be afterwards signed by judge and, when so signed, as between parties, judgment and subsequent proceedings are valid. Cunningham v. Grey, 271 Ky. 84, 111 S.W.2d 579 (1937).

Signing of order book by judge is essential to validity of a judgment. Hazelip v. Doyel, 260 Ky. 313, 85 S.W.2d 685 (1935).

To be valid, judgment must be signed by presiding judge or justice. Clark v. Mason, 264 Ky. 683, 95 S.W.2d 292 (1934).

To be valid, judgment must be entered on order book and signed by presiding judge or successor. Koontz v. Butler, 238 Ky. 406, 38 S.W.2d 204 (1931).

Failure of clerk to indorse indictment as presented to court held waived. Cr.Code Prac. § 121. Smith v. Com., 217 Ky. 8, 288 S.W. 1059 (1926).

Statute requiring signing of true bill by foreman of grand jury mandatory. Cochran v. Com., 210 Ky. 332, 275 S.W. 810 (1925).

Where grand jury foreman was not present when indictment was returned, signature of assistant foreman was substantial compliance with statutory requirements. LSA"C.Cr.P. art. 383. State v. Dominick, 354 So. 2d 1316 (La. 1978).

Indorsement of grand jury foreman setting out charge for which true bill was found is as much part of indictment as remainder of document. LSA-R.S. 15:3. State v. Cooper, 249 La. 654, 190 So. 2d 86 (1966).

An indictment must be endorsed a true bill and endorsement signed by foreman of grand jury and failure to do so renders it fatally defective. LSA-R.S. 15:3. State v. Ferguson, 240 La. 593, 124 So. 2d 558 (1960).

A judgment is not final and definitive until signed. Clark v. Cottage Builders, Inc., 237 La. 157, 110 So. 2d 562 (1959).

The signature of judge is essential to all final judgments except those entered by an appellate court, and no appeal lies from an unsigned judgment. Code Prac. art. 546. Viator v. Heintz, 201 La. 884, 10 So. 2d 690 (1942).

An indictment which is not properly endorsed and signed by foreman of grand jury is no indictment and all proceedings thereunder are fatally defective. Code Cr.Proc. art. 3. State v. Stoma, 199 La. 529, 6 So. 2d 650 (1941).

Where corrected transcript was duly certified by a person occupying office of clerk of district court on May 31, 1940, clerk right to the office could not be collaterally attacked by ex parte affidavit filed by claimant of office in support of appellee motion to dismiss the appeal on ground that claimant was duly qualified clerk of district court on the fourth day of June, 1940, and that since that time party signing the transcript had no official connection with the office. LSA"Const.1921, art. 7, § 27. Wilson v. Lee, 196 La. 271, 199 So. 117 (1940).

Statute providing for signing of judgments within three days from date of rendition held to contemplate that judgments should not become effective until the three days had expired, or until application for new trial filed within the three days had

been denied; hence seizure issued day following that upon which judgment was rendered was premature. LSA"R.S. 13:4212 to 13:4214. Haas v. Buck, 182 La. 566, 162 So. 181 (1935).

Judgment dismissing suit on ground that petition discloses no cause of action is final judgment, which under Code Prac. art. 546, must be signed. River & Rails Terminals v. Louisiana Ry. & Nav. Co., 157 La. 1085, 103 So. 331 (1925).

Fact that final judgment was not signed by judge who heard case and took it under advisement but by another judge was not informality, irregularity or misstatement which could be corrected by trial court but was instead a fatal defect. LSA-C.C.P. art. 2088(4). Employers Nat. Ins. Co. v. Workers' Compensation Second Injury Bd., 672 So. 2d 309 (La. Ct. App. 1st Cir. 1996).

Arrest warrant issued by a justice of the peace, which contained printed title Magistrate or Judge of the Eighteenth Judicial District Court of Louisiana, did not strictly comply with form requirement that a warrant be signed by the magistrate with the title of his office, however, the error did not affect substantial rights of defendant in light of finding that the warrantless arrest of defendant was based upon probable cause and valid thereby. LSA-C.Cr.P. art. 203. State v. Allen, 450 So. 2d 1378 (La. Ct. App. 1st Cir. 1984).

There is no requirement that grand jury foreman signature on indictment be legible. State v. Becnel, 441 So. 2d 339 (La. Ct. App. 5th Cir. 1983).

Judgment which was rendered after new trial had been granted but which had not been reduced to writing and signed by judge was not final and thus was not appealable. Ready v. Sun Oil Co., 315 So. 2d 840 (La. Ct. App. 1st Cir. 1975).

A minute entry of the court decision does not meet statutory requirements that a final judgment be read and signed in open court. LSA"C.C.P. art. 1911. Peoples' Enterprise, Inc. v. Landry, 288 So. 2d 701 (La. Ct. App. 3d Cir. 1974).

Where judgment was not one which was excepted from general requirement that judgment be signed in open court, judgment should have been read and signed in open court in parish in which case was tried by the judge ad hoc appointed for trial of case. LSA"C.C.P. arts. 194, 196, 1911, 1912; LSA"R.S. 13:4208. Dupre v. Hartford Life Ins. Co., 291 So. 2d 821 (La. Ct. App. 3d Cir. 1973).

Minute entry prevails when in conflict with an offhand statement by the judge that has been recorded by a stenographer and made part of the transcript. Lopez v. Southern Natural Gas Co., 287 So. 2d 211 (La. Ct. App. 4th Cir. 1973).

Judgment that failed to recite that it was read by judge in open court did not lack validity, after court minutes had been corrected to reflect that judgment had been read and signed by judge in open court, even though judgment still recited that it was signed and not read. LSA"C.C.P. art. 1911. Luquette v. Floyd, 228 So. 2d 177 (La. Ct. App. 3d Cir. 1969).

Judgment is inchoate until signed by trial judge in open court. LSA"C.C.P. art. 1911. Guidry v. Seacoast Products, Inc., 214 So. 2d 904 (La. Ct. App. 3d Cir. 1968).

A judgment is not final until it is signed. Young v. Geter, 187 So. 830 (La. Ct. App. 2d Cir. 1939).

Minutes, having been kept by clerk, became acts of court, and were entitled to same weight and credit as though written by judge. Code Prac. arts. 775-777. Calhoun v. Serio, 161 So. 772 (La. Ct. App. 2d Cir. 1935).

Entry of unsigned judgment on minutes of court does not supply deficiency of signed judgment, though minutes are signed by judge (Code Prac. art. 546). Isom v. Stevens, 148 So. 270 (La. Ct. App. 1st Cir. 1933).

A judgment is not complete, nor does it take effect, until actually signed. Succession of Meyers, 16 La. App. 675, 133 So. 897 (Orleans 1931).

That signature of surety on an appeal bond is dissimilar in some respects from signature written by him in court on a rule to test sufficiency of bond will not justify dismissal of appeal on ground that surety did not sign bond when he swears

repeatedly that he signed it. U.S. Fidelity & Guaranty Co. v. Villere & Bertucci, 1 La. App. 533, 1925 WL 3617 (Orleans 1925).

Unless a warrant bears a seal it is invalid and a seal is an essential requirement upon a warrant of arrest. R.S.1954, c. 146, § 13. State v. Haines, 153 Me. 465, 138 A.2d 460 (1958).

On exceptions to refusal of a presiding justice to grant a motion of defendant to direct a verdict for the defendant and on general motion, where evidence which was filed was authenticated by the certificate of the official court stenographer, such was a sufficient compliance with the rule and it was not necessary for the evidence to be signed by the presiding justice. Revised Rules of Supreme and Judicial Courts, rule 17; R.S.1954, c. 113, § 60. Palleria v. Farrin Bros. & Smith, 153 Me. 423, 140 A.2d 716 (1958).

Process issued without seal as required by statute is void. Miller v. Weisman, 125 Me. 4, 130 A. 504 (1925).

Equity decree is not effective until reduced to writing, approved by the chancellor and filed for record. Sellman v. Sellman, 238 Md. 615, 209 A.2d 61 (1965).

Testimony which was not properly certified under rule of Court of Appeals could not be considered. Code Pub.Gen.Laws 1924, art. 5, § 12, amended by Laws 1927, c. 224; Rules of Court of Appeals, rule 5. Wilkerson v. State, 171 Md. 287, 188 A. 813 (1937).

Use of signature stamps to affix judicial signatures is discouraged as not only questionable and inappropriate generally, but also as posing risk that stamp will be obtained by unauthorized persons. Wise-Jones v. Jones, 117 Md. App. 489, 700 A.2d 852 (1997).

Where no judgment has been entered by the court, a verdict directed by the court is no more a judgment than would be a verdict by the jury. Maryland Rules, Rule 552. Apper v. Eastgate Associates, 28 Md. App. 581, 347 A.2d 389 (1975).

Neither a citation, statement of charges or criminal information need be supported by oath or affirmation; application for arrest warrant or summons must be supported by oath or affirmation. M.D.R. 706 a, b, c 2 (a), c 2 (b), c 3, c 4; Code 1957, art. 66 1/2, §§ 16”105, 16”107. State v. Dodd, 17 Md. App. 693, 304 A.2d 846 (1973).

No clear abuse of discretion was shown in the denial of defendantsfirst motion to vacate default judgment on the ground of the alleged neglect of defendantsattorney to appear. Rules of Civil Procedure, rule 60(b)(1, 4). Schulz v. Black, 369 Mass. 958, 336 N.E.2d 853 (1975).

Judge should sign name, and not write initials. Volpe v. Sensatini, 249 Mass. 132, 144 N.E. 104 (1924).

Consent of parties is not essential element of rule 70 judgment divesting title from one party and vesting it with another. Rules Civ.Proc., Rule 70, 43B M.G.L.A. Eastern Sav. Bank v. City of Salem, 33 Mass. App. Ct. 140, 597 N.E.2d 55 (1992).

Judgment made orally by trial court is complete when it is pronounced and does not depend upon entry by the clerk. Norton Shores v. Carr, 59 Mich. App. 561, 229 N.W.2d 848 (1975).

Despite statutory provision that prosecuting attorney subscribe his name to information, lack of his and his assistant signatures did not deprive court of jurisdiction, such matters being considered ministerial. Comp.Laws Supp.1961, § 767.40. People v. Thomas, 1 Mich. App. 118, 134 N.W.2d 352 (1965).

The statute setting forth form of an information does not require that the blank line over the words county attorney be filled with written signature of the county attorney. M.S.A. § 628.33. State ex rel. McGregor v. Rigg, 260 Minn. 141, 109 N.W.2d 310 (1961).

Judgments may be entered on verdict, report, or decision without special application to the court or notice to opposite party. Atwood v. Atwood, 253 Minn. 185, 91 N.W.2d 728 (1958).

Indictment is held to be sufficient if it contains the seven factors enumerated in rule governing indictments: (1) name of the accused; (2) date on which the indictment was filed in each court; (3) statement that the prosecution is brought in the name and by the authority of the State of Mississippi; (4) county and judicial district in which the indictment is brought; (5) date, and if applicable the time, on which the offense was alleged to be committed; (6) signature of the foreman of the grand jury issuing it; and (7) words "against the peace and dignity of the state." Uniform Circuit and County Court Rule 7.06. Hodges v. State, 912 So. 2d 730 (Miss. 2005), reh'g denied, (June 9, 2005) and cert. denied, 2005 WL 3144215 (U.S. 2005).

Objection to indictment on grounds that clerk filing endorsement does not appear on indictment or that foreman of grand jury did not endorse indictment may not be raised for first time on appeal; such defects are procedural, rather than jurisdictional, and must be raised by special demurrer to indictment or are waived. Code 1972, § 99"7"9. Jones v. State, 356 So. 2d 1182 (Miss. 1978).

Although, where return of officer serving process was untrue in that it did not show true date that it was served and showed on its face that process was served prior to filing of suit, the better procedure would have been to have directed sheriff to perform ministerial act of amending return so as to correct date, such was not essential to validity of judgment entered thereafter. Willenbrock v. Brown, 239 So. 2d 922 (Miss. 1970).

Where presiding judge did not sign minutes either during or on last day of regular term and minutes were not signed until last day of second extension of term, final judgment shown on minute book to have been rendered during regular term was invalid and case remained on docket as a pending and untried case. Jackson v. Gordon, 194 Miss. 268, 11 So. 2d 901 (1943).

In action of replevin to recover possession of automobile by conditional seller against buyer who was in default, directed verdict and judgment for seller was not erroneous because instruction directing verdict was not marked filed by clerk, where it was copied in record, and, in addition, the record showed that seller moved court to grant such an instruction, which motion was sustained. North v. Delta Chevrolet Co., 188 Miss. 252, 194 So. 478 (1940).

Indictment need not be signed by district attorney. Smith v. State, 152 Miss. 114, 118 So. 710 (1928).

Statute as to indorsement of indictment by foreman of grand jury held satisfied though name not on dotted line (Hemingway Code, § 1174). Dawsey v. State, 144 Miss. 452, 110 So. 239 (1926).

The signature of the grand jury foreman on indictment is a requirement for a valid conviction. U.C.C.C.R. 2.05. Triplett v. State, 910 So. 2d 581 (Miss. Ct. App. 2005).

Verification of information charging escape by prosecutor upon information and belief rather than by affidavit of someone competent to testify did not make the information void. V.A.M.R. Crim.Rule 24.16; Section 545.240 RSMo 1959, V.A.M.S. State v. Pace, 402 S.W.2d 351 (Mo. 1966).

An indictment should not be held a nullity on the ground that it is signed by an assistant prosecuting attorney instead of prosecuting attorney. Sections 56.150, 56.180, 540.130, 540.140, 545.040, 545.250 RSMo 1959, V.A.M.S.; V.A.M.R. Crim.Rules 24.01, 24.02, 24.11, 24.16, 36.05; V.A.M.S.Const. art. 1, § 17. State v. Elgin, 391 S.W.2d 341 (Mo. 1965).

Generally an information must be signed, verified and filed by the prosecuting attorney of the county. V.A.M.R. Crim.Rules 24.01, 24.16. State v. Easley, 338 S.W.2d 884 (Mo. 1960).

When appeal has been taken to Supreme Court, trial court must approve any abbreviated transcript, and also any transcript upon which parties fail to agree as being correct. 42 V.A.M.S. Supreme Court Rules, rule 1.04; Section 512.110 and subd. 3 RSMo 1949, V.A.M.S. St. Louis Housing Authority v. Evans, 285 S.W.2d 550 (Mo. 1955).

Where appellant filed abbreviated transcript, which bore neither the partyswritten agreement nor the trial court approval, appeal would be dismissed. Rules of Supreme Court, rule 1.04; V.A.M.S. § 512.110. Brand v. Brand, 245 S.W.2d 94 (Mo. 1951).

Prosecutor affidavit attested by circuit clerk that facts stated in information were true according to his best information and belief is not a part of information and its purpose is merely to afford defendant a guarantee of good faith of prosecution. R.S.1939, § 4070 (V.A.M.S. § 546.070). State v. Bohannon, 361 Mo. 380, 234 S.W.2d 793 (1950).

Inadvertence of circuit clerk constituted no ground for disturbing ruling that appeal from conviction of feloniously disposing of mortgaged automobile must be dismissed in absence of certification of transcript by clerk of court in which trial was had. R.S.1939, §§ 4146, 4147, 4492 (V.A.M.S. §§ 547.110, 547.120, 561.570). State v. Crader, 225 S.W.2d 353 (Mo. 1949).

An information was not insufficient on ground that it did not appear that it was properly signed by prosecuting attorney, notwithstanding that one signing information was not described as prosecuting attorney in the jurat, where statement in information showed that it was in fact signed by prosecuting attorney. State v. Johnson, 349 Mo. 910, 163 S.W.2d 780 (1942).

Full transcript of proceedings in trial of criminal case is record of proceedings before reviewing court for purposes of review when lodged in reviewing court on appeal or writ of error and should be certified over signature of clerk of trial court with seal of court affixed or absence of official seal of court attested by such clerk. R.S.1929, §§ 1700, 1827, 1828, 3756, 3757, 11672, 11674 (V.A.M.S. §§ 51.100, 476.020, 476.030, 483.055, 483.065, 490.130, 547.110, 547.120). State v. Broyles, 340 Mo. 962, 104 S.W.2d 270 (1937).

In prosecution of prosecuting attorney, that information was signed by acting prosecuting attorney as assistant attorney general rather than as special prosecuting attorney held not to make information insufficient. R.S.1929, § 11273 (V.A.M.S. § 27.030). State v. Huett, 340 Mo. 934, 104 S.W.2d 252 (1937).

Appeal in criminal case held required to be dismissed in absence of certification of transcript by clerk of court in which trial was had, where time for appeal had expired so as to preclude filing of properly certified record. R.S.1929, §§ 3756, 3757, 3761 (V.A.M.S. §§ 547.090, 547.110, 547.120). State v. Nidiffer, 337 Mo. 1020, 87 S.W.2d 636 (1935).

An information is not invalidated by omission of the circuit court clerk seal of office in view of Rev.St.1919, § 3908 (V.A.M.S. § 545.030). State v. Branson, 262 S.W. 365 (Mo. 1924).

Giving or failing to give pattern jury instruction is deemed to constitute error, but prejudicial effect is matter to be determined on appeal. State v. Long, 955 S.W.2d 951 (Mo. Ct. App. S.D. 1997).

Lack of attestation of information was waived where no timely motion to quash was filed. State v. Souders, 703 S.W.2d 909 (Mo. Ct. App. E.D. 1985).

Information charging fraud in sale of security and offering unregistered security for sale was not subject to dismissal because it was signed by assistant attorney general on behalf of the Attorney General rather than by the county prosecuting attorney. V.A.M.S. §§ 27.020, subd. 1, 409.410(b); V.A.M.R. 19.05, 23.01(a). State v. Garrette, 699 S.W.2d 468, Blue Sky L. Rep. (CCH) P 72343 (Mo. Ct. App. S.D. 1985).

Where one or more claims or parties remain without final disposition by trial court, judgment as a whole, including portions otherwise final, is not yet final judgment and not subject to appeal. Payne v. Payne, 695 S.W.2d 494 (Mo. Ct. App. S.D. 1985).

Where assistant prosecuting attorney who signed two felony informations charging defendant with crimes had been orally appointed to new position by prosecutor, and performed duties of office and in return received salary paid him by county treasurer, and prior to commencement of defendant trial, nearly two years after oral appointment, prosecutor executed written document appointing party who had signed information to assistant prosecuting position, he was de facto assistant prosecuting attorney and his acts in signing information charging defendant were valid. V.A.M.S. §§ 56.240, 545.240; V.A.M.R. 23.01. State v. VanSickel, 675 S.W.2d 907 (Mo. Ct. App. W.D. 1984).

In view of the scratch marks in the space provided for prosecuting attorney signature, information was adequately signed. V.A.M.S. § 545.240; V.A.M.R. 23.01. State v. Alexander, 675 S.W.2d 431 (Mo. Ct. App. E.D. 1984).

Where defendant failed to raise objection to missing signature of either prosecuting attorney or assistant prosecuting attorney on amended information which charged him as persistent felony offender, objection was waived. V.A.M.R. 23.01. State v. Sincup, 674 S.W.2d 689 (Mo. Ct. App. E.D. 1984).

Once motion for new trial has been ruled, judgment becomes final and trial court no longer has authority to disturb judgment or its finality. In re Marriage of Wilfong, 658 S.W.2d 45 (Mo. Ct. App. W.D. 1983).

Where issues in case were clear, jury was not misled or defendant prejudiced by prosecutor good-faith modification of pattern jury instruction. State v. Flowers, 630 S.W.2d 585 (Mo. Ct. App. W.D. 1981).

Judgment is not made invalid for want of trial court signature. Schmidt v. Schmidt, 617 S.W.2d 601 (Mo. Ct. App. E.D. 1981).

Signature of a judge is not necessary to validity of a judgment. Gordon v. Gordon, 390 S.W.2d 583 (Mo. Ct. App. 1965).

Under the statute providing that warrants authorized by law to be issued in criminal cases may be under the hand of the magistrate and shall be valid as if sealed, the word hand denotes handwriting or written signature as witness my hand and seal or witness my hand if the instrument is not under seal. R.S.1939, § 4179 (V.A.M.S. § 544.030). State v. Fleming, 240 Mo. App. 1208, 227 S.W.2d 106 (1950).

Information held not subject to objection that it was not signed by prosecuting attorney. R.S.1929, §§ 3504”3506, 3508, 3540 (V.A.M.S. §§ 545.040, 545.240 ”545.290). State v. Van Patton, 230 Mo. App. 1199, 94 S.W.2d 1119 (1936).

In affidavit supporting information, State need only recite facts sufficient to indicate probability that named defendant committed charged offenses; State need not demonstrate prima facie case. MCA 46”11”201(2). State v. Mason, 283 Mont. 149, 941 P.2d 437 (1997).

Objections to verification of information are waived if not made before arraignment and plea. State v. Jones, 254 Neb. 212, 575 N.W.2d 156 (1998).

Orders which are not announced in open court are not formalized until they have been entered on journal of court. In re Interest of J.A., 244 Neb. 919, 510 N.W.2d 68 (1994).

No judgment is rendered until pronouncement thereof is entered on trial docket. R.R.S.1943, § 25”1301. Spanheimer Roofing & Supply Co. v. Thompson, 198 Neb. 710, 255 N.W.2d 265 (1977).

A bill of exceptions in a case tried in district court must be authenticated by certificate of clerk thereof and filed in office of clerk of district court before it may be considered in Supreme Court. R.R.S.1943, §§ 25-1140.06, 25-1922. Sawyer v. Kunkel, 166 Neb. 303, 88 N.W.2d 906 (1958).

Where an original bill of exceptions is used, as distinguished from a bill of exceptions copied in the transcript, a certification or authentication by the clerk of the trial court is necessary. Comp.St.1929, § 20-1922. Essex v. Brown, 139 Neb. 435, 297 N.W. 659 (1941).

Where one charged with grand larceny by information which was signed by acting county attorney, rather than by county attorney, failed to complain of the fact that the information was not signed by the county attorney at the trial, before plea to the merits, there was a waiver of the alleged error. State ex rel. Gossett v. O’Grady, 137 Neb. 824, 291 N.W. 497 (1940).

Where bill of exceptions lacked certificate of clerk of district court, Supreme Court was not required to consider it. In re Frazier’s Estate, 131 Neb. 61, 267 N.W. 181 (1936).

When court has jurisdiction of subject matter and parties, court may not dismiss application for relief on its own motion without hearing unless dismissal is authorized by statute. Eisenmann v. Eisenmann, 1 Neb. App. 138, 488 N.W.2d 587

(1992).

Bench warrant was valid on its face, although judge signature had been made by a rubber stamp, since there was no report indicating that a facsimile signature did not satisfy statutory requirements for an arrest warrant; thus, police officer could not be held liable for plaintiff arrest. N.R.S. 171.108. Nelson v. City of Las Vegas, 99 Nev. 548, 665 P.2d 1141 (1983).

A bill of exceptions is an important record, and the only mode by which it can be authenticated is the signature of the judge, and, when so authenticated, it receives a high degree of credit, and hence it should be complete in itself, with a formal beginning and ending, so that it may be known where it begins and where it ends. State v. Pansey, 61 Nev. 330, 121 P.2d 441 (1942).

All criminal complaints must be signed by complaining party and sworn to before municipal court justice, or some duly authorized person, and failure to do so deprives court of jurisdiction. RSA 592:8; Const. pt. 1, art. 19. State v. Thibodeau, 101 N.H. 136, 135 A.2d 715 (1957).

Where trial court certificate certified the record and proceedings mentioned in writ of error with all things touching the same, there was no authentication of the entire record of the proceedings had on the trial as contemplated by the statute dealing with the bringing up of the entire record of proceedings had on the trial of any criminal cause, and without such authentication, the review was only by strict writ of error. R.S.1937, 2:195-16. State v. Haimowicz, 125 N.J.L. 526, 17 A.2d 472 (N.J. Sup. Ct. 1941).

Where trial judge certificate showed that the return made to accused writ of error embraced a transcript of trial proceedings, accused were not confined to a review of bill of exceptions, but were entitled to a review of entire record, as against contention that where trial court certifies that plaintiffs in error are bringing up the entire record of the proceedings had upon the trial, there must be in addition a formal authentication of the proceedings themselves. R.S.1937, 2:195-8, 2:195-16. State v. Woodworth, 121 N.J.L. 78, 1 A.2d 254 (N.J. Sup. Ct. 1938).

Trial judges should hear and consider the basis upon which motions are made and place on the record the reasons for their decision. Atlas v. Silvan, 128 N.J. Super. 247, 319 A.2d 758 (App. Div. 1974).

Noncompliance by prosecution with court rule requiring verification of all complaints in municipal court was merely a defect in the record within rule to effect that appeal shall operate as waiver of all defects in record and was waived by defendant taking an appeal from his conviction to the County Court. R.R. 3:10”10(b). State v. Bigley Bros., Inc., 53 N.J. Super. 264, 147 A.2d 52 (App. Div. 1958).

The criminal procedure rule, requiring endorsement of indictment by grand jury foreman, does not require him to certify it as a true bill nor render indictment without such certification fatally defective. R.R. 3:4”3. State v. Lombardo, 18 N.J. Super. 511, 87 A.2d 375 (County Ct. 1952).

In action for injuries sustained by automobile occupant, where driver of automobile in which occupant rode, by pre-trial order waived issue of contributory negligence, and answer of the driver of automobile with which first automobile collided did not assert contributory negligence, counsel of occupant could proceed with trial upon belief that contributory negligence was not in issue, and testimony of occupant, even if it tended to establish contributory negligence, did not support contention that issue of contributory negligence was actually tried by consent within rule permitting appropriate amendment to conform pleading to proof. Rule 3:15”2. Binder v. Green, 8 N.J. Super. 88, 73 A.2d 357 (App. Div. 1950).

Summons held not void notwithstanding irregularities in omitting seal. 3 Comp.St.1910, pp. 4065, 4066, §§ 47, 48. Hirsch v. De Puy, 11 N.J. Misc. 500, 166 A. 720 (Sup. Ct. 1933).

Trial judge dying before signing exceptions and certification of record, stenographer will be ordered to certify record as entire record. State v. Dime, 5 N.J. Misc. 85, 135 A. 510 (Sup. Ct. 1927).

A document, though denominated a judgment, is not a judgment until it is filed. Quintana v. Vigil, 46 N.M. 200, 125 P.2d 711 (1942).

A judgment does not become complete and effective until a proper entry thereof is made in accordance with statutory provision that journal or record of court shall show all proceedings of court. Comp.St.1929, § 34-339. Animas Consol. Mines Co. v. Frazier, 41 N.M. 389, 69 P.2d 927 (1937).

Sixty-day time limit for submission of proposed judgments for signature contained in court rule governing proposed orders or judgments submitted for court signature does not apply to court decision containing no direction to submit or settle order. N.Y.Ct.Rules, § 202.48. Funk v. Barry, 89 N.Y.2d 364, 653 N.Y.S.2d 247, 675 N.E.2d 1199 (1996).

Notice of violation and complaint violation charging defendant with criminal violation of town zoning ordinance failed to satisfy requirements for criminal accusatory instruments where they were not verified. McKinney CPL §§ 100.15, 100.30. Shirley v. Schulman, 78 N.Y.2d 915, 573 N.Y.S.2d 456, 577 N.E.2d 1048 (1991).

Information used as a pleading must be verified. People v. Scott, 3 N.Y.2d 148, 164 N.Y.S.2d 707, 143 N.E.2d 901 (1957).

It is generally responsibility of the trial judge to certify accuracy of record, and stenographic minutes are merely aid to accomplishing this task; if transcript is unavailable or inaccurate, trial judge is final arbiter of what occurred before him or her. People v. Childs, 247 A.D.2d 319, 670 N.Y.S.2d 4 (1st Dep't 1998).

Litigant attorney established good cause for failure to submit proposed judgment for signature by the court more than two years after court memorandum decision, based on staff shortages, legal services strike, and dramatically increased workloads. N.Y. Comp. Codes R. & Regs. title 22, § 202.48(b). Smith v. City of New York, 213 A.D.2d 309, 624 N.Y.S.2d 166 (1st Dep't 1995).

Plaintiff claim that former counsel misled him by stating on several occasions that matter had been resolved in his favor, judgment had been entered and defendant time to appeal had expired set forth valid excuse for plaintiff failure to submit proposed order for signature within 60"day period prescribed by statute. N.Y.Ct.Rules, § 202.48. Parisi v. McElhatton, 209 A.D.2d 495, 619 N.Y.S.2d 92 (2d Dep't 1994).

Failure of the notice endorsed on summons, which set forth the object of the action as Negligence, Property Damage and set forth the relief as Damages, to state the maximum sum for which judgment would be taken in case of a default precluded entry of a default judgment against defendant. Mantell v. Servidone Const. Corp., 61 A.D.2d 1071, 403 N.Y.S.2d 141 (3d Dep't 1978).

If formal order has not been entered by Special Term so as to permit an appeal to be taken, any interested party may have it drawn and entered. George W. Collins, Inc. v. Olsker-McLain Industries, Inc., 22 A.D.2d 485, 257 N.Y.S.2d 201 (4th Dep't 1965).

Signing of notice of appeal by counsel for attorney of record instead of by attorney of record himself was an inadvertence which could be corrected under the statute. Civil Practice Act, §§ 105, 107. Broniszewski v. Newman, 16 A.D.2d 870, 228 N.Y.S.2d 313 (4th Dep't 1962).

Supreme court order, which was entered in minutes of supreme court, and which recited that indictment charging first degree robbery and first degree grand larceny was sent to county court for trial and further disposal, complied with provision of the Code of Criminal Procedure that supreme court has jurisdiction by an order, entered in its minutes, to send any indictment found therein for crime triable at county court to such court, and formalism of a signed order by the judge is not required. Code Cr.Proc. § 22, subd. 6. People ex rel. Sardo v. Jackson, 6 A.D.2d 938, 175 N.Y.S.2d 637 (3d Dep't 1958).

Indictments found in county court may be transferred for trial on motion either of the county court or of the Supreme Court. Code Cr.Proc. §§ 22, 41. People ex rel. Albanese v. Hunt, 266 A.D. 105, 41 N.Y.S.2d 646 (4th Dep't 1943).

Where complaining witness is alleged to suffer from any mental disease or defect which may otherwise affect his capacity to understand nature of oath, his or her capacity should be qualified by court under verification statute. McKinney CPL § 100.30, subd. 2. People v. McDermott, 158 Misc. 2d 823, 601 N.Y.S.2d 1017 (City Crim. Ct. 1993).

Failure to properly verify accusatory instrument is jurisdictionally fatal defect. CPL 100.20, 100.30; Code Cr.Proc. § 148. People v. Minuto, 71 Misc. 2d 800, 337 N.Y.S.2d 88 (City Ct. 1972).

Proof of service on which default judgment was entered failed to comply with requirements of rule concerning proof of service of summons where proof contained no jurat, was not affidavit and was not in form of certificate by officer. CPLR 306. W. T. Grant Co. v. Payne, 64 Misc. 2d 797, 315 N.Y.S.2d 910 (County Ct. 1970).

Fact that indictment charging defendant with violation of obscenity law was signed by assistant foreman of grand jury rather than by the foreman did not render the indictment insufficient in law. Code Crim.Proc. § 268. People v. Cohen, 22 Misc. 2d 722, 205 N.Y.S.2d 481 (County Ct. 1960).

Where judge died after writing and signing decision which reviewed the evidence, disposed of defendant counterclaim and stated that rights, shares and interests of parties in realty sought to be partitioned in action were as alleged in complaint, the decision was good although it did not direct the entry of judgment and was not filed. Rules of Civil Practice, rules 198, 247. Frederick v. Hunkins, 197 Misc. 299, 97 N.Y.S.2d 562 (County Ct. 1950).

An information having blank jurat was not a complete affidavit on which a warrant of arrest could be issued by police justice with whom information was filed. Restivo v. Degnan, 191 Misc. 642, 77 N.Y.S.2d 563 (Sup 1948).

So far as formal validity of indictment returned by the grand jury for Queens county was concerned, signature thereto of the attorney general was adequate, and the words in charge of Kings County investigation added to the signature of the assistant attorney general were disregarded as surplusage. People v. Dorsey, 176 Misc. 932, 29 N.Y.S.2d 637 (County Ct. 1941).

Although it would have been better practice for grand jury foreman entry upon bill of indictment, over his signature, to state expressly that 12 or more grand jurors concurred in handing down indictment, such statement was not necessary to validity of bill of indictment where foreman signature appeared beneath statement that bill was found to be a true bill. G.S. §§ 9 “27, 15A”621, 15A”623, 15A”644. State v. House, 295 N.C. 189, 244 S.E.2d 654 (1978).

An exception to a judgment rendered by trial court, without an exception to evidence of the court findings of fact, presents for appellate review sole question whether facts found support judgment. Hinson v. Jefferson, 287 N.C. 422, 215 S.E.2d 102 (1975).

Where solicitor had not signed information containing guilty plea to charge of felonious larceny by accused, who agreed to waive finding of a bill of indictment, pronouncement of judgment on such plea was error. G.S. § 15”140.1. State v. Glover, 283 N.C. 379, 196 S.E.2d 207 (1973).

It is not essential to validity of indictment that it be signed by prosecuting officer. State v. Sellers, 273 N.C. 641, 161 S.E.2d 15 (1968).

Absence of endorsement of foreman of grand jury that any person whose name appeared on back of indictment had been sworn and testified before grand jury was not sufficient to overcome presumption of validity of indictment arising from its return by the grand jury as a true bill. G.S. § 9 “27. State v. Mitchell, 260 N.C. 235, 132 S.E.2d 481 (1963).

Where a judgment has been actually rendered or a degree signed, but not entered upon the record because of accident, mistake or neglect of clerk, court has the power to order that the judgment be entered nunc pro tunc provided the fact of its rendition is satisfactorily established and no intervening rights are prejudiced. State Trust Co. v. Toms, 244 N.C. 645, 94 S.E.2d 806 (1956).

Fact that judgment of conviction in prosecution for mayhem was not signed by judge did not affect validity of judgment. State v. Atkins, 242 N.C. 294, 87 S.E.2d 507 (1955).

Solicitor signature is not essential to validity of true bill found by Grand Jury. State v. Doughtie, 238 N.C. 228, 77 S.E.2d 642 (1953).

Where summons is not signed by clerk, but it bears seal of clerk and there is evidence it actually emanated from clerk office, or jurat of clerk and his signature appears below cost bond, paper bears internal evidence of official character so that defect of lack of signature may be cured by amendment. G.S. §§ 1 “89, 1 “163. Boone v. Sparrow, 235 N.C. 396, 70 S.E.2d 204 (1952).

Where court ordered receiver to sell all realty of insolvent corporation, except lots which receiver was directed to abandon to city, and realty sold was duly advertised and sale was had pursuant to order of sale, and sale was so reported to court, and decree of confirmation so recited, receiver did not convey or attempt to convey to purchaser any of the excepted lots. Morehead v. Bennett, 219 N.C. 747, 14 S.E.2d 785 (1941).

Failure to state number of rule pursuant to which motion is brought is not necessarily fatal. Rules Civ.Proc., Rule 7(b)(1), G.S. § 1A”1. Home Health and Hospice Care, Inc. v. Meyer, 88 N.C. App. 257, 362 S.E.2d 870 (1987).

Record must be settled before certification, and appeal was subject to dismissal where record was certified before it was settled. Appellate Procedure Rules, rule 11(e). State v. Gilliam, 33 N.C. App. 490, 235 S.E.2d 421 (1977).

Judgment is not final until entered by the clerk upon the order of the court or the judge thereof and signed by the clerk in the judgment book, and the judgment is not effective before such entry. N.D.R.Civ.P., rule 58. Monson v. Nelson, 145 N.W.2d 892 (N.D. 1966).

Grand jury foreperson failure to sign indictment does not deprive trial court of jurisdiction or otherwise entitle criminal defendant convicted and sentenced on indictment to writ of habeas corpus. VanBuskirk v. Wingard, 80 Ohio St. 3d 659, 1998-Ohio-173, 687 N.E.2d 776 (1998).

Grand jury foreman failure to sign indictment does not deprive trial court of jurisdiction. State ex rel. Justice v. McMackin, 53 Ohio St. 3d 72, 558 N.E.2d 1183 (1990).

Bill of exceptions may be authenticated as true bill only (1) by signature of trial judge; (2) by agreement of parties individually or by their attorneys stipulating that it is a true bill; or (3) by certificate of official court reporter. R.C. § 2321.12. Knowlson v. Bellman, 160 Ohio St. 359, 52 Ohio Op. 232, 116 N.E.2d 430 (1953).

In absence of statute to the contrary a court of record renders a judgment only when a journal entry is prepared, approved by the court and filed with the clerk for journalization. Hower Corp. v. Vance, 144 Ohio St. 443, 30 Ohio Op. 38, 59 N.E.2d 377 (1945).

The court speaks only through its journals, and no finding, decision, or judgment is rendered until an entry is duly prepared and filed with the clerk for journalization, and a litigant is bound by the entries which are made upon the appearance docket or journal. Gen.Code, § 11604. Krasny v. Metropolitan Life Ins. Co., 143 Ohio St. 284, 28 Ohio Op. 199, 54 N.E.2d 952 (1944).

In event that court enters interim order, court must sign and have entered on journal permanent order when interim order expires, as statement that interim order somehow becomes permanent order after certain length of time passes is not adequate notice to any party that permanent order has been rendered, and does not comply with rule governing entry of judgments. Rules Civ.Proc., Rule 58. Barker v. Barker, 118 Ohio App. 3d 706, 693 N.E.2d 1164 (6th Dist. Lucas County 1997).

Court speaks through its journals, and entry is effective only when it has been journalized; to journalize a decision means that decision is reduced to writing, signed by judge and filed with clerk so that it may become part of permanent record of court. San Filipo v. San Filipo, 81 Ohio App. 3d 111, 610 N.E.2d 493 (9th Dist. Summit County 1991).

Plaintiff failed to show that partnership was served at its usual place of business, even if there was question of whether partnership actually received service, and, thus, trial court did not abuse its discretion by vacating default judgment entered against partnership. United Fairlawn, Inc. v. HPA Partners, 68 Ohio App. 3d 777, 589 N.E.2d 1344 (9th Dist. Summit County 1990).

Certificate of grand jury foreman is indispensable to validity of indictment. State ex rel. Roberts v. Maxwell, 90 Ohio L. Abs. 481, 189 N.E.2d 736 (Ct. App. 10th Dist. Franklin County 1962).

The pronouncement, written or oral, of a judge is not action of a court unless it is entered upon the journal. Boyle v. Public Adjustment & Const. Co., 87 Ohio App. 264, 42 Ohio Op. 478, 57 Ohio L. Abs. 129, 93 N.E.2d 795 (8th Dist. Cuyahoga County 1950).

The statute and rule of court requiring that journal entry of judgment shall be approved by court in writing and filed with clerk for journalization must be literally complied with, and judge cannot adopt as his signature a rubber stamp facsimile copy thereof. Gen.Code, § 11599. State ex rel. Drucker v. Reichle, 52 Ohio L. Abs. 94, 81 N.E.2d 735 (Ct. App. 8th Dist. Cuyahoga County 1948).

The rule that a court speaks through its journal is not met by a written minute or notation on docket or an oral pronouncement or written opinion by court, but preparation and filing of a journal entry are necessary. State ex rel. Merion v. Van Sickle, 42 Ohio L. Abs. 33, 59 N.E.2d 383 (Ct. App. 2d Dist. Franklin County 1944).

Entries in court records are not supposed to be signed but clerk of court is presumed to enter court judgment in proper record. In re Dimond, 37 Ohio L. Abs. 248, 46 N.E.2d 788 (Ct. App. 2d Dist. Clark County 1942).

Whether probate judge shall, as matter of administrative procedure, authenticate books or entries therein by his signature is for such judge determination. Gen.Code 1930, §§ 10591-10596, 11029-11031 (repealed 1932. See §§ 10506-4, 10506-17 to 10506-21, 10506-34 to 10506-39, 10506-55, 10506-56); Gen.Code, § 10501-15, subds. 5, 11; §§ 10501-22, 11604; Const. art. 4, § 8. Rowe v. AEtna Cas. & Sur. Co., 69 Ohio App. 291, 24 Ohio Op. 74, 36 Ohio L. Abs. 36, 42 N.E.2d 706 (2d Dist. Franklin County 1941).

Matters which are required by statute and which go to verity or authenticity of court or officer issuing writ, such as signature of court or seal of court, or go to matters of notice to defendant that he is sued and when he must appear or answer, are mandatory and, if process is defective, in such regard, it at least is subject to direct attack as for instance upon motion to quash. Baldine v. Klee, 10 Ohio Misc. 203, 39 Ohio Op. 2d 295, 224 N.E.2d 544 (C.P. 1965).

The signature of the foreman to the endorsement of the words a true bill on indictment is the certification by the grand jury that the indictment was lawfully found. R.C. §§ 2939.10, 2939.20. Kennedy v. Alvis, 76 Ohio L. Abs. 132, 145 N.E.2d 361 (C.P. 1957).

A judgment in civil or criminal case does not become effective in every sense until it is entered on the journal. Foglio v. Alvis, 75 Ohio L. Abs. 228, 143 N.E.2d 641 (C.P. 1957).

It is preferred practice that judge hearing case should sign order granting judgment. 12 Okl.St.Ann. §§ 696.2, subd. A, 696.3, subd. A, par. 3. Boyer v. Oklahoma Farm Bureau Mut. Ins. Co., 1995 OK CIV APP 102, 902 P.2d 83 (Ct. App. Div. 4 1995).

Generally, where the constitution requires a seal to be on process, process without the seal is void, but where the constitution makes no such requirement, and the seal is required only by statute, lack of seal does not render an execution void. 12 Okl.St.Ann. § 51. Miller v. Roberts, 1953 OK 43, 208 Okla. 549, 257 P.2d 1068 (1953).

The pronouncement of judgment and not the signature of trial judge on journal entry, is the judgment. Green v. Mee, 1945 OK 219, 197 Okla. 562, 173 P.2d 217 (1945).

Statutory requirement that summons shall be signed by clerk is met if clerk name appears thereon whether by true signature or rubber stamp, and is duly attested to by a legally appointed, qualified, and acting deputy court clerk. 12 Okl.St.Ann. §§ 71, 153. Allen v. Clover Valley Lumber Co., 1935 OK 293, 171 Okla. 238, 42 P.2d 850 (1935).

Validity of judgment does not depend upon formal signature of judge to journal entry. Smith v. First Nat. Bank, 1934 OK 478, 169 Okla. 90, 36 P.2d 27 (1934).

Case-made not showing attestation of clerk of district court to certificate and signature of trial judge settling same, nor seal affixed thereto, held nullity and presents nothing for review. 12 Okl.St.Ann. § 958. Mid-West Life Ass'n, Oklahoma City v. Rivers, 1932 OK 780, 160 Okla. 199, 16 P.2d 561 (1932).

Statute requiring county judge upon close of each term to sign minutes is directory. Comp.St.1921, § 1398, 58 Okl.St.Ann. § 701. Franks v. Franks, 1932 OK 99, 155 Okla. 91, 7 P.2d 866 (1932).

Where only part of record is certified by trial court as case-made, it is nullity, and presents nothing for Supreme Court to review. Beck v. Sweeney, 1926 OK 447, 114 Okla. 253, 246 P. 444 (1926).

Case-made cannot be corrected as to attestation of clerk to signature and certificate thereto after expiration of period for appealing, as provided by 12 Okl.St.Ann. § 972, so as to give Supreme Court jurisdiction. Campbell v. Williams, 1924 OK 1077, 104 Okla. 274, 231 P. 226 (1924).

Record entry of judgment may never be accomplished by clerk minute or by unsigned, initialed or incomplete abstract of proceedings placed on minute form later posted on appearance docket; rather, it is accomplished by filing of memorial which includes judge complete signature and clear indication of relief afforded. 12 Okl.St.Ann. § 24. Manning v. State ex rel. Dept. of Public Safety, 1994 OK 62, 876 P.2d 667 (Okla. 1994).

While any judgment or order is operative from moment it is announced, only legitimate evidence of adjudication legal existence, of its terms and of its legal effect is record entry bearing judge signature. Depuy v. Hoeme, 1989 OK 42, 775 P.2d 1339 (Okla. 1989).

Validity of judgment does not depend on formal signature of trial judge to journal entry, and a judgment in fact rendered but not formally entered on journal is valid from date of its pronouncement and a record memorial thereof may be supplied by an entry nunc pro tunc. Austin v. King, 1965 OK 117, 404 P.2d 1009 (Okla. 1965).

Second page of information did not need to be verified by oath of prosecuting attorney, complainant, or some other person; second page only needed endorsement, which meant district attorney or assistant district attorney signature. 22 Okl.St.Ann. § 303. Lynch v. State, 1995 OK CR 65, 909 P.2d 800 (Okla. Crim. App. 1995).

Fact that information was signed by use of rubber stamp bearing district attorney signature was not improper where trial was prosecuted by the same district attorney whose signature was affixed to the information, which was indicative of fact that the prosecution was conducted in good faith. 22 O.S.1971, § 303. Sam v. State, 1973 OK CR 264, 510 P.2d 978 (Okla. Crim. App. 1973).

Generally, a failure to sign information by the district attorney is jurisdictional as to the person, but if the district attorney amends the unsigned information by signing same prior to defendant arraignment and plea, that is sufficient to give the court jurisdiction. 22 O.S.1971, § 303. Coffer v. State, 1973 OK CR 188, 508 P.2d 1101 (Okla. Crim. App. 1973).

Where prosecution is for misdemeanor in municipal criminal court, a court of record, prosecutions must be instituted by the municipal or city attorney in conformity to requirements of Code of Criminal Procedure relating to county court trials with city attorney subscribing his name to the information or his name must be subscribed thereto by an assistant, or the information is void and confers no jurisdiction upon the court to try the accused. Okl.St.Ann.Const. art. 2, § 17; 11 Okl.St.Ann. §§ 781, 785, 792, 804; 22 Okl.St.Ann. § 303. Edwards v. State, 1957 OK CR 21, 307 P.2d 872 (Okla. Crim. App. 1957).

Preliminary complaint which was verified before clerk of justice of peace court, who had statutory authority to administer oaths, was sufficiently verified to confer jurisdiction upon justice of peace court. 39 Okl.St.Ann. §§ 21 "24. Vahlberg v. State, 96 Okla. Crim. 102, 249 P.2d 736 (1952).

Informations charging felonies in district court need not be verified, but are required by statute to be signed by county attorney. 22 Okl.St.Ann. § 303. Landon v. State, 82 Okla. Crim. 336, 166 P.2d 781 (1946).

Information which bore signature of county attorney by his assistant was sufficient under statute, since affixing of county attorney name with authority to information which is signed by legally appointed assistant is sufficient. 22 Okl.St.Ann. § 303, St.1931, § 2829. Ex parte West, 62 Okla. Crim. 260, 71 P.2d 129 (1937).

Affixing of county attorney name in print or typewriting to information signed by his duly appointed assistant sufficiently complied with statutory requirement. St.1931, § 2829, 22 Okl.St.Ann. § 303. State v. Jackson, 57 Okla. Crim. 277, 48 P.2d 861 (1935).

Affixing of county attorney name in print or typewriting to information signed by his duly appointed assistant sufficiently complied with statutory requirement. St.1931, § 2829, 22 Okl.St.Ann. § 303. Hardin v. State, 56 Okla. Crim. 440, 41 P.2d 922 (1935).

To be valid, information charging misdemeanor must be subscribed by county attorney, or his name must be signed by assistant county attorney. Comp.St.1921, § 2511, 22 Okl.St.Ann. § 303. Heintz v. State, 49 Okla. Crim. 148, 295 P. 402 (1930).

County attorney must subscribe name to information either in person or by some legally appointed assistant. Comp.St.1921, § 2511, 22 Okl.St.Ann. § 303. Tiller v. State, 35 Okla. Crim. 31, 247 P. 421 (1926).

Power to order an arrest for an offense committed in presence of a magistrate is necessary to judicial office, and this exception to general rule that no warrant shall issue without an oath or affirmation is grounded in historic necessity for preventing breaches of the peace. ORS 133.040. Utley v. City of Independence, 240 Or. 384, 402 P.2d 91 (1965).

Order of circuit court settling transcript is intended to be conclusive as to all questions relating to accuracy and completeness of that document and is entitled to same absolute verity as certificate of judge to bill of exceptions under former practice. ORS 17.440, 17.505 to 17.515, 19.074, 19.078(1, 3, 4), 45.050. Fry v. Ashley, 228 Or. 61, 363 P.2d 555 (1961).

Order allowing extended time for filing of motion for new trial does not in itself suspend judgment, and, notwithstanding such order, it is duty of litigant against whom judgment has been taken either to cause motion for new trial to be filed and heard within 60 days or avail himself within that time of privilege of appeal. Oxman v. Baker County, 115 Or. 436, 234 P. 799 (1925).

Where form of indictment had printed upon it a true bill and was signed immediately thereafter by foreman of the grand jury, that fully complied with statutory requirement. ORS 132.400. State v. Cox, 12 Or. App. 215, 505 P.2d 360 (1973).

Item does not become part of certified record reviewable on appeal simply by copying it and including it in reproduced record. Com. v. Bracalielly, 540 Pa. 460, 658 A.2d 755 (1995).

Information charging bribery, obstructing administration of law, conspiracy, and solicitation, which was signed by deputy attorney general was defective on its face because it was signed by person who had no authority to prosecute case. 71 P.S. § 732”205(a)(1, 2); 18 Pa.C.S.A. §§ 902, 903, 4701, 5101. Com. v. Carsia, 341 Pa. Super. 232, 491 A.2d 237 (1985).

Failure of district attorney to sign a criminal information, in violation of rule of criminal procedure, renders information merely voidable, since this defect is susceptible of prompt cure by amendment if matter is raised by defendant in pretrial motion to quash. Rules Crim.Proc., Rules 225(b), 306, 42 Pa.C.S.A. Com. v. Slyman, 334 Pa. Super. 415, 483 A.2d 519 (1984).

Information charging defendant with statutory rape, indecent assault, indecent exposure, and corruption of a minor from July 23, 1979, and extending for a period of four to five weeks was sufficiently specific as to dates on which the alleged offenses took place and was not required to be quashed, even though it cited a section of the Crimes Code which had been repealed at time of the alleged offense, and even though it had been signed by an assistant district attorney before the district attorney had filed a written designation of authority. Rules Crim.Proc., Rule 225(b), 42 Pa.C.S.A.; 18 Pa.C.S.A. §§ 3122, 3126, 3127, 6301. Com. v. Shirey, 333 Pa. Super. 85, 481 A.2d 1314 (1984).

A rubber-stamped information has the same presumption of validity as a manually signed information. Com. v. Klinger, 323 Pa. Super. 181, 470 A.2d 540 (1983).

Criminal informations signed by assistant district attorney, acting for district attorney, were valid, and failure of defense counsel to file motion to dismiss on basis of faulty informations did not constitute ineffective assistance of counsel. 42 Pa.C.S.A. § 8931(i). Com. v. Nelson, 311 Pa. Super. 1, 456 A.2d 1383 (1983).

Where informations were stamped with facsimile signature of district attorney and initialed as approved and dated by hand of an assistant district attorney they were sufficient and defendant could not claim relief under cases invalidating those informations bearing no more than a rubber stamp. Rules Crim.Proc., Rule 225(b), 42 Pa.C.S.A.; 42 Pa.C.S.A. § 8931(i). Com. v. Devault, 309 Pa. Super. 497, 455 A.2d 720 (1983).

Criminal informations charging defendant should have been signed by district attorney rather than having a rubber stamp facsimile of the signature affixed on the informations, but since no pretrial motion to quash the informations was filed, defendant waived claim that the informations were defective. Rules Crim.Proc., Rule 225(b), 42 Pa.C.S.A. Com. v. Golden, 309 Pa. Super. 286, 455 A.2d 162 (1983).

The use of a rubber stamp facsimile of county district attorney signature on information did not satisfy rule of criminal procedure requiring that information be signed by attorney for the Commonwealth; however, the defect merely rendered the information voidable, and defendant failure to raise the defect in a pretrial motion constituted a waiver and precluded his discharge following conviction. Rules Crim.Proc., Rule 225(b), 42 Pa.C.S.A. Com. v. March, 308 Pa. Super. 343, 454 A.2d 567 (1982).

If a writing is to be considered a judgment, it must clearly evince that it is the final act in the proceeding and an adjudication of the issues involved. Rules Civ.Proc., Rule 58(a). Blazar v. Perkins, 463 A.2d 203 (R.I. 1983).

Oral judicial pronouncement will not be considered as entry of final judgment under rule concerning entry of judgments until it is set forth in writing on separate document signed by clerk. Rules of Civil Procedure, rule 58. Darcy v. Carreiro, 112 R.I. 470, 311 A.2d 841 (1973).

Where jacket entry in original decision awarding custody of children to wife read decision entered August 3, but stamp imprint of family court clerk read August 17, jacket entry controlled and was date of entry of judgment for purposes of further proceedings, and wife deeming date of entry as critical should have applied to family court to correct error rather than to court on appeal. Vieira v. Vieira, 98 R.I. 454, 204 A.2d 431 (1964).

Signature of judge imported verity to criminal complaint and compliance with statute requiring complainant to be examined under oath. Gen.Laws 1956, § 12 ”6 ”1. State v. Diggins, 92 R.I. 341, 168 A.2d 469 (1961).

While it is preferable for grand jury foreman to sign true bill, foreman signature is not essential to validity of indictment when indictment is in writing and published by clerk. Pringle v. State, 287 S.C. 409, 339 S.E.2d 127 (1986).

Where opponent to granting application for authorization to operate motor carrier service had had its day in court and an adverse decision had been rendered, signing judgment in absence of opponent counsel was not improper. SDCL 49 “14 “3. Application of Jones, 89 S.D. 191, 231 N.W.2d 844 (1975).

On appeal from order based entirely on testimony, record settled under statutory provisions held sufficiently authenticated for review in Supreme Court. Rev.Code 1919, §§ 2546-2553. In re Forming and Organizing Common School Dist. from Part of Territory Embraced in Independent School Dist. of Emery, 61 S.D. 79, 246 N.W. 245 (1932).

Party appealing from order based upon testimony must have record thereof transcribed and transcript thereof filed as part of proceeding and certified by trial judge. Rules of Trial Courts, rule 6; Rev.Code 1919, §§ 2546-2553. Schurman v. Schurman, 60 S.D. 489, 245 N.W. 39 (1932).

On appeal from order, fact findings, not designating upon what order was based, could not take place of trial judge certificate required by trial court rule. Rules of Trial Courts, rule 6; Rev.Code 1919, § 2089 et seq., and § 2489. In re Badger State Bank, 60 S.D. 484, 245 N.W. 41 (1932).

Contents of bill of exceptions cannot be considered for any purpose unless it affirmatively appears that it was authenticated by trial judge and filed with clerk within time allowed by law; this rule applies to entire bill, and in order to make exhibits part of bill, it must affirmatively appear that they were authenticated as such by trial judge and filed by clerk within prescribed period. Wilson v. Tranbarger, 218 Tenn. 208, 402 S.W.2d 449 (1965).

Rendition of judgment, and entry of judgment are separate and distinct acts; former being act of court, and latter being act of clerk. Carter v. Board of Zoning Appeals of City of Nashville, 214 Tenn. 42, 377 S.W.2d 914 (1964).

Gunsmith, by selling pistol to minor in violation of statute, did no commit negligence constituting proximate cause of death of another student resulting when buyer-student toyed with loaded pistol in dormitory room and pistol fired. T.C.A. § 39-4905. Ward v. University of South, 209 Tenn. 412, 354 S.W.2d 246 (1962).

All bills of exceptions must be filed in the trial court and be signed by the trial judge. State ex rel. Sandford v. Cate, 199 Tenn. 195, 285 S.W.2d 343 (1955).

Extraneous matter cannot become part of record on appeal from Chancellor decree unless authenticated by Chancellor. Code, § 10621. Freeman v. Freeman, 197 Tenn. 75, 270 S.W.2d 364 (1954).

Settlement of bill of exceptions is a high judicial function which can be performed only by judge who tried case, and every part of bill must be examined and authenticated by judge, and form of authentication must show that it covers all separate parts as well as whole of bill. Anderson v. Sharp, 195 Tenn. 274, 259 S.W.2d 521 (1953).

A court speaks only through its written judgments, duly entered upon its minutes; therefore, no oral pronouncement is of any effect unless and until made a part of a written judgment duly entered. Elmore v. Elmore, 173 S.W.3d 447 (Tenn. Ct. App. 2004), appeal denied, (June 20, 2005) and reh'g denied, (Aug. 19, 2005) and reh'g of denial of appeal denied, (Aug. 22, 2005).

Foreman of grand jury need not endorse each count of multicount indictment, but may endorse entire document as action of grand jury in returning to bill. T.C.A. § 40 "13 "105. State v. Arnold, 719 S.W.2d 543 (Tenn. Crim. App. 1986).

Function of foreman of grand jury in putting his signature on true bill is merely ministerial and withholding of that signature may be cured by resubmitting bill for signature of foreman. State v. Chambless, 682 S.W.2d 227 (Tenn. Crim. App. 1984).

Where foreman of grand jury endorses the second count of indictment to indicate that entire document is the action of grand jury in returning a true bill, provision of statute requiring endorsement of grand jury foreman is fulfilled. T.C.A. § 40 "1706. Janow v. State, 567 S.W.2d 483 (Tenn. Crim. App. 1978).

Warrant which charged defendant with operating automobile while under influence of intoxicant and which bore facsimile signature of city judge was not void where there was no proof that judge had not adopted facsimile as a signature nor that he did not himself stamp facsimile signature to warrant. O'Dell v. City of Knoxville, 54 Tenn. App. 59, 388 S.W.2d 150 (1964).

A bill of exceptions not duly authenticated by signature of trial judge cannot be treated as a part of the record even though the signature was omitted by inadvertence or oversight on part of judge. Norris v. Richards, 45 Tenn. App. 100, 320 S.W.2d 730 (1958).

Divorce decree entered in 1919 was not invalid because the chancellor failed to sign the minutes contained in such decree. T.C.A. § 16 "106. Cobb v. Brown, 42 Tenn. App. 595, 305 S.W.2d 241 (1956).

A bill of exceptions not authenticated by signature of circuit judge cannot be considered as part of record. T.C.A. § 27 "109. McAmis v. Carlisle, 42 Tenn. App. 195, 300 S.W.2d 59 (1956).

The question whether circuit court erred in overruling defendant plea in abatement to court jurisdiction is not reviewable in Court of Appeals, where stipulation of facts arising under plea was not entered on minutes and identified or authenticated by trial judge signature to bill of exceptions or otherwise. Life & Cas. Ins. Co. v. Gardner, 21 Tenn. App. 244, 108 S.W.2d 1100 (1937).

Typographical error in forwarding address typed by Secretary of State in attempting substituted service under Non-Profit Corporation Act is grounds to set aside default judgment based on substituted service. Vernon Ann.Texas Civ.St. arts. 1396"1.01 et seq., 1396"2.07, subd. B. Royal Surplus Lines Ins. Co. v. Samaria Baptist Church, 840 S.W.2d 382 (Tex. 1992).

Absence of grand jury foreman signature did not adversely affect validity of indictment. Vernon Ann.Texas C.C.P. arts. 21.02, subd. 9, 27.09. Tatmon v. State, 815 S.W.2d 588 (Tex. Crim. App. 1991).

Filing of supplemental statement of facts bearing no approval by trial court and containing no evidence of notice to either party did not comply with statutory requirement that record be approved by trial court. Vernon Ann.C.C.P. arts. 40.09, 40.09, subds. 1, 7, 9. McKinney v. State, 477 S.W.2d 295 (Tex. Crim. App. 1972).

Finality of judgment is not dissipated because district clerk has to compute costs to add to amount to judgment or to deduct a remittitur that is ordered. International Sec. Life Ins. Co. v. Spray, 468 S.W.2d 347 (Tex. 1971).

Written judgment signed by trial judge is not prerequisite to finality; entry of trial judgment is only a ministerial act. Dunn v. Dunn, 439 S.W.2d 830 (Tex. 1969).

Signature by foreman of grand jury is not essential to validity of indictment. Vernon Ann.C.C.P. arts. 21.02, § 9, 27.10. McCullough v. State, 425 S.W.2d 359 (Tex. Crim. App. 1968).

Instructions which appeared in transcript but which were not authenticated in any manner were not considered by Court of Criminal Appeals. Lott v. State, 379 S.W.2d 896 (Tex. Crim. App. 1964).

Failure of judge to sign minutes at close of term did not affect validity of minutes. Barber v. State, 374 S.W.2d 246 (Tex. Crim. App. 1963).

Where trial judge order extending time for filing statement of facts was not nunc pro tunc and judge did not sign statement, there was no applicable presumption of proper extension of time for filing and statement of facts was not properly before reviewing court. Vernon Ann.C.C.P. art. 759a, § 4. Hoskins v. State, 373 S.W.2d 248 (Tex. Crim. App. 1963).

Alleged sending of note into jury room in response to jury question would not be considered where purported question and answer appeared alone on page in transcript and they were not in any manner authenticated or presented in record in any form which would authorize their consideration. Bradford v. State, 372 S.W.2d 336 (Tex. Crim. App. 1963).

Signature of foreman of grand jury on indictment is not essential to its validity. Vernon Ann.C.C.P. art. 396, subd. 9. Ex parte Landers, 366 S.W.2d 567 (Tex. Crim. App. 1963).

Information was valid although assistant county attorney who presented it was not the assistant who signed information. Rameriz v. State, 171 Tex. Crim. 507, 352 S.W.2d 131 (1961).

Since Supreme Court jurisdiction is primarily appellate, correction of errors made in course of trial or other proceedings must, as a general rule, await entry of final judgment or concluding decree, but well-settled exception is rule which permits Supreme Court through an exercise of its original jurisdiction to order trial court to vacate a void order and expunge same from its records. State Bd. of Ins. v. Betts, 158 Tex. 612, 315 S.W.2d 279 (1958).

Where purported statement of facts was received by Court of Criminal Appeals more than 200 days after notice of appeal was given, and failed to show that it had been approved by trial judge or appellant and attorney representing state, or that it had been filed with clerk of trial court, Court of Criminal Appeals was not authorized to consider it. Vernon Ann.C.C.P. art. 759a.

Greer v. State, 165 Tex. Crim. 300, 306 S.W.2d 371 (1957).

Information for sale of beer in a dry area which was signed by named person, as Asst. Criminal District Atty., Smith County, Texas was sufficient to show upon its face that it purported to be presented by a proper officer. Lacy v. State, 160 Tex. Crim. 95, 267 S.W.2d 139 (1954).

Where record consisted merely of statement of facts and did not bear approval of trial judge or counsel, statement of facts could not be considered. Vernon Ann.C.C.P. art. 759a, §§ 1 et seq. 6. Braun v. State, 158 Tex. Crim. 394, 257 S.W.2d 708 (1953).

Where statement of facts bore neither approval of counsel for state and for appellant nor that of the trial court, and the court reporter, alone, certified to the correctness of the facts therein set forth, the Court of Criminal Appeals would not consider the statement of facts. Vernon Ann.C.C.P. art. 759a. Nelson v. State, 158 Tex. Crim. 514, 257 S.W.2d 306 (1952).

The omission of the grand jury foreman signature will not invalidate an indictment, and indictment may be amended under directions of court after its return by attaching the foreman signature. Vernon Ann.C.C.P. arts. 392, 396, 512. Ex parte King, 156 Tex. Crim. 231, 240 S.W.2d 777 (1951).

Where proceedings appeared regular, record was before Court of Criminal Appeals without bills of exception, and statement of facts found in record did not bear approval of trial judge and so could not be considered, and no error appeared, conviction was affirmed. Wellman v. State, 233 S.W.2d 147 (Tex. Crim. App. 1950).

A statement of facts not approved by trial judge, and not agreed to by state attorney or by defense attorney, would not be considered. Brown v. State, 153 Tex. Crim. 22, 216 S.W.2d 987 (1949).

Where defendant filed motion for new trial which was not sworn to, and motion was contested by state, and court heard evidence and overruled motion and statement of facts adduced upon hearing was not signed by any one or approved by trial court, Court of Criminal Appeals would not consider the statement. Lucas v. State, 153 Tex. Crim. 11, 216 S.W.2d 820 (1949).

Statement of facts not signed and approved by trial judge could not be considered. Cypert v. State, 215 S.W.2d 886 (Tex. Crim. App. 1948).

Appellant statement of facts must be signed and approved by trial judge to be considered by Court of Criminal Appeals. Vernon Ann.C.C.P. art. 760. Chambless v. State, 153 Tex. Crim. 5, 216 S.W.2d 203 (1948).

In the case of a special verdict, it is necessary for court to announce the judgment thereon before clerk is authorized to enter judgment. Vernon Ann.Civ.St. art. 1899. Bridgman v. Moore, 143 Tex. 250, 183 S.W.2d 705 (1944).

Purported statement of facts signed by state attorney and by appellant attorney, but without a certificate of approval of the presiding judge and statement of facts supposedly developed on a hearing of a motion for continuance, also without certificate of approval of the trial judge, could not be considered. Vernon Ann.C.C.P. art. 760, subd. 1. Land v. State, 145 Tex. Crim. 86, 165 S.W.2d 730 (1942).

A bill of exception would not be appraised where case was submitted without brief or oral argument or statement of facts. Neely v. State, 144 Tex. Crim. 92, 161 S.W.2d 294 (1942).

Where statement of facts apparently prepared and filed in case was not approved by county attorney or by district judge before whom case was tried, the Court of Criminal Appeals was unable to consider the statement of facts. Arbuckle v. State, 142 Tex. Crim. 549, 155 S.W.2d 609 (1941).

The purported statement of facts filed with transcript, which was not approved by trial judge, could not be considered by Court of Criminal Appeals. Vernon Ann.C.C.P. art. 760. Irving v. State, 142 Tex. Crim. 306, 152 S.W.2d 759 (1941).

A statement of facts which was adduced on hearing of motion for new trial and was not agreed to by attorneys or approved or signed by trial judge could not be considered by Court of Criminal Appeals. Vernon Ann.C.C.P. art. 760. Fernandez v. State, 142 Tex. Crim. 297, 152 S.W.2d 758 (1941).

Statement of facts heard on the trial and statement of facts heard on motion for new trial must be approved and signed by the judge trying the case, before they can be considered by the Court of Criminal Appeals. Vernon Ann.C.C.P. art. 760. Anderson v. State, 142 Tex. Crim. 291, 152 S.W.2d 765 (1941).

An information must be signed by county attorney presenting it. Vernon Ann.C.C.P. art. 414, subd. 9. Willhite v. State, 141 Tex. Crim. 555, 150 S.W.2d 251 (1941).

Where statement of facts was not signed and approved by trial judge and did not appear to be agreed to by accused attorneys, the Court of Criminal Appeals could not consider the statement of facts, and hence could not review bills of exception relating to the court charge which could not be fully understood unless the court was properly informed concerning the facts. Vernon Ann.C.C.P. art. 760, subd. 2. Henry v. State, 141 Tex. Crim. 486, 149 S.W.2d 115 (1941).

A statement of facts which was not signed and approved by county judge who tried case could not be considered by Court of Criminal Appeals. Nunn v. State, 136 Tex. Crim. 121, 123 S.W.2d 669 (1938).

In prosecution for possession of intoxicating liquor for sale in dry area, complaint, upon which information was based, was defective for failure to contain a jurat showing that the oath to the complaint was sworn to before an authorized officer. Vernon Ann.C.C.P. art. 415. Stevens v. State, 134 Tex. Crim. 478, 116 S.W.2d 384 (1938).

It is enough for process to be signed by justice of peace without indicating his acting in capacity of magistrate. Vernon Ann.C.C.P. art. 33. White v. State, 106 Tex. Crim. 150, 291 S.W. 232 (1927).

Judgment or order is filed when it is placed in custody of the clerk of trial court for inclusion with papers in cause, and is entered when clerk places copy of judgment or order in official record of court, which is its minutes. In re Fuentes, 960 S.W.2d 261 (Tex. App. Corpus Christi 1997).

Fact that date stamp on citation return appeared slightly above preprinted line for date of service was not fatal defect requiring default judgment be set aside, where citation and return were in compliance with requirements of Rules of Civil Procedure in all other respects, return clearly indicated it was served on defendant on August 19, 1992 and filed for record in clerk office on August 20, 1992 and there was nothing to indicate that date stamp was not meant to show date and hour of receipt in compliance with rule requiring officer or authorized person to whom process is delivered to endorse day and hour on which he received it and execute and return same without delay. Vernon Ann.Texas Rules Civ.Proc., Rule 105. West Columbia Nat. Bank v. Griffith, 902 S.W.2d 201 (Tex. App. Houston 1st Dist. 1995).

Default judgment was void, where return of citation was not completed or signed by executing officer, and return receipt was not signed by defendant. Vernon Ann.Texas Rules Civ.Proc., Rules 106, 107, 124. Webb v. Oberkampf Supply of Lubbock, Inc., 831 S.W.2d 61 (Tex. App. Amarillo 1992).

Jurat on complaint describing assistant district attorney before whom complaint was sworn to and subscribed as Attorney For the State, Hays County, Texas, was inadequate, and it rendered complaint void, as it failed to properly reflect authority or official character of person before whom complaint was sworn to and subscribed. Vernon Ann.Texas C.C.P. art. 21.22; Vernon Ann.Texas Civ.St. art. 26; Vernon Ann.Texas Const. Art. 5, § 12(b). State v. Pierce, 816 S.W.2d 824 (Tex. App. Austin 1991).

Purpose of civil rule providing for notice of rendition of default judgment is to permit defendant to timely file motion for new trial; rule is designed as administrative convenience for parties, and failure to file certificate mentioned therein or to give required notice does not constitute reversible error. Vernon Ann.Texas Rules Civ.Proc., Rule 239a. Bloom v. Bloom, 767 S.W.2d 463 (Tex. App. San Antonio 1989).

Where judgment is prepared by an attorney for the successful party, and then signed by the trial court, it becomes the

judgment of the court. Seago v. Bell, 764 S.W.2d 362 (Tex. App. Beaumont 1989).

After court has rendered judgment by announcing its decision either orally in open court or by memorandum filed with clerk, subsequent reduction of pronouncement to writing signed by court is ministerial act of court pursuant to rule calling for all judgments, decisions and orders of any kind to be reduced to writing and signed by the trial judge with the date of signing stated therein. Vernon Ann.Texas Rules Civ.Proc., Rule 306a. Oak Creek Homes, Inc. v. Jones, 758 S.W.2d 288 (Tex. App. Waco 1988).

Arrest warrant based on complaint that accused violated promise to appear in justice court on particular day of unspecified year was invalid, where purported complaint was unsworn and bore rubber-stamped copy of officer signature, and there was no evidence that alleged failure to appear occurred in presence of justice who issued warrant. Kosanda v. State, 727 S.W.2d 783 (Tex. App. Dallas 1987).

Requirement that indictment be signed officially by foreman of grand jury was satisfied, where signature of foreman was made with facsimile stamp, instead of by personal signature, and using facsimile stamp did not render indictment fundamentally defective. Vernon Ann.Tex.C.C.P. art. 21.02, subd. 9. Stigers v. State, 702 S.W.2d 301 (Tex. App. Houston 1st Dist. 1985).

Once citation naming only automobile manufacturer as defendant was issued by clerk, serving officer could not amend instrument by interlining dealer name in manner so as to legally direct citation to dealer; therefore, because plaintiff automobile buyers did not attempt to have citation amended by trial court, either before or after its service, so to have citation legally directed to dealer as required by rule, defective citation destroyed default judgment against dealer. Vernon Ann.Texas Rules Civ.Proc., Rule 101. Plains Chevrolet, Inc. v. Thorne, 656 S.W.2d 631 (Tex. App. Waco 1983).

A written judgment is not a prerequisite to finality of a judgment; usually it is only a ministerial act reflecting court action. Liberty Mut. Ins. Co. v. Woody, 640 S.W.2d 718 (Tex. App. Houston 1st Dist. 1982).

Arrest warrant showing signature over printed words Magistrate of Harris County sufficiently named office to comply with statute. Vernon Ann.C.C.P. art. 15.02, subd. 3. McMahon v. State, 630 S.W.2d 730 (Tex. App. Houston 14th Dist. 1982).

Judgments and orders of courts of record to be effectual must be entered of record, and neither entries in judge docket nor affidavits can be accepted as substitute for such records; docket entries, affidavits, and other like evidence can neither change nor enlarge judgments or orders as entered in minutes of the court. Ranier v. Brown, 623 S.W.2d 682 (Tex. Civ. App. Houston 1st Dist. 1981).

Where question for decision on appeal is whether there was an abuse of trial court discretion, appellate court is not to substitute its judgment for that of trial court, but rather must decide whether trial court decision was arbitrary or unreasonable. Gibson v. Smith, 511 S.W.2d 327 (Tex. Civ. App. Tyler 1974).

Giving of required notice, under procedural rule, of default judgment to party against whom it is rendered did not validate a default judgment rendered upon a citation with a defective sheriff return. Rules of Civil Procedure, rules 107, 239a. Diamond Chemical Co. v. Sonoco Products Co., 437 S.W.2d 307 (Tex. Civ. App. Corpus Christi 1968).

Writing out of orally pronounced judgment in form of a judgment on file, to be recorded, is matter of clerical action, and same rule is applicable to an order purporting to set aside judgment. Leatherwood v. Holland, 375 S.W.2d 517 (Tex. Civ. App. Fort Worth 1964).

Where motion for mistrial was reported and was certified by official court reporter, but it was not embodied in a formal bill of exceptions approved by trial court and transcript of reporter notes was not approved by various attorneys of record as being correct, the motion, although properly before reviewing court, presented no error since facts set out in motion were not certified as correct or complete by the trial court and the point was not properly preserved. Rules of Civil Procedure, rule 372(e). Gehring v. Strakos, 345 S.W.2d 764 (Tex. Civ. App. Houston 1961).

Where judgment dismissing cause had never been entered of record, there was no effective judgment of dismissal,

notwithstanding that there was notation on docket sheet that cause had been dismissed. Flanigan v. Carswell, 315 S.W.2d 295 (Tex. Civ. App. Austin 1958).

District Court judgment was not void because it was not signed in District Court room in county, and it could not be collaterally attacked. Tracy v. Lion Oil Co., 312 S.W.2d 562 (Tex. Civ. App. Eastland 1958).

Transcript of the arguments, and of the trial court rulings in respect thereto, authenticated only by the certificate of the official court reporter, would not be entitled to consideration either as a bill of exception or as a part of the statement of facts, thereby preventing Court of Civil Appeals from passing upon such rulings as might thereby be reflected. Rules of Civil Procedure, rule 428. Wilson v. Texas Cresoting Co., 270 S.W.2d 230 (Tex. Civ. App. Beaumont 1954).

In the absence of a bill of exceptions, reviewing court will not pass on argument of counsel as constituting reversible error. Hartford Acc. & Indem. Co. v. Ethridge, 149 S.W.2d 1040 (Tex. Civ. App. Eastland 1941).

Judgment of a court is what the court pronounces. Corbett v. Rankin Independent School Dist., 100 S.W.2d 113 (Tex. Civ. App. El Paso 1936).

Failure of judge to sign minutes of court on last day of session does not invalidate judgment rendered during term. Rules of Civil Procedure, rule 20. Cook v. Davis, 22 S.W.2d 311 (Tex. Civ. App. Galveston 1929).

Statement of facts, not properly signed, not considered. Home Ben. Ass'n v. Dickerson, 275 S.W. 162 (Tex. Civ. App. Beaumont 1925).

Statement of facts, not signed by trial judge, not considered. Love v. Spencer, 273 S.W. 883 (Tex. Civ. App. Texarkana 1925).

Rev.St.1895, arts. 1379, 1380, Vernon Ann.Civ.St. arts. 2243, 2244, 2240, allow either party to make a statement of facts, and submit it to his adversary, and, if the parties do not agree on such statement, to the judge, who shall make out, sign, and file a correct statement of facts, which shall be a part of the record. Held, that a statement not approved and signed by the judge is not a part of the record. Magee v. Magee, 272 S.W. 252 (Tex. Civ. App. Waco 1925).

Deputy district attorney is authorized to file information, and his signing as district attorney is mere irregularity, not invalidating information (Comp. Laws 1917, §§ 5761, 5763, 5773, 5774, 8779, 8841, 8878). State v. Merritt, 67 Utah 325, 247 P. 497 (1926).

Even if there were deficiencies in complying with statutory bond requirements, both county attorney and his chief deputy were acting as de facto county attorneys and their official actions were valid and, thus, they had authority to sign information and to prosecute defendant and trial court had proper jurisdiction over matter. U.C.A.1953, 17"16"11. State v. Sawyers, 819 P.2d 806 (Utah Ct. App. 1991).

Write, within statute providing that grand jury foreman shall write words a true bill on bill of indictment, includes printing; it means no more than conveying ideas to others by letters or characters visible to the eye. 13 V.S.A. § 5601. State v. Rushford, 130 Vt. 504, 296 A.2d 472 (1972).

Denial of defendant motion, made after jury was empaneled, that question of alleged prejudicial error in portion of general charge given to jurors at opening term of court be passed to Supreme Court before its final judgment was not error. 12 V.S.A. § 2386. State v. Ovitt, 126 Vt. 320, 229 A.2d 237 (1967).

In Vermont, a seal is not required for the validity of process, but all writs must be signed by the authority designated by statute, and, without such signature, a writ is void and confers no jurisdiction. State v. Frotten, 114 Vt. 410, 46 A.2d 921 (1946).

Where complaint presented by state attorney was amended by his successor, failure of successor to sign or swear to amendment deprived court of jurisdiction thereof and rendered conviction thereon void, in view of provision of Declaration

of Rights which, in effect, forbids warrants without oath or affirmation, notwithstanding accused submitted to trial on merits before attacking the defect by motion to arrest judgment. Const. c. 1, art. 11. State v. Harre, 109 Vt. 217, 195 A. 244 (1937).

Process by which suit is instituted must bear official signature of some one authorized to issue it. Anderson v. Souliere, 103 Vt. 10, 151 A. 509 (1930).

Absence of grand jury foreman's signature from indictment charging defendant with murder and other offenses, although not specified as an insubstantial defect in form in statute setting forth ten express defects in an indictment that will not result in indictment being vitiated, was nonetheless a defect in form only and did not render the indictment "so defective as to be in violation of the Constitution," such as would warrant setting aside defendant's convictions. West's V.C.A. §§ 19.2–226, 19.2–227. Reed v. Com., 281 Va. 471, 706 S.E.2d 854 (2011).

Absence of the judge's signature does not invalidate the judgment rendered. Jefferson v. Com., 607 S.E.2d 107 (Va. 2005).

Where trial judge noted on transcript the date that it was tendered to him and date he signed it, and his signature appeared on transcript without more, it was his certification that counsel for appellees had required notice of tendering transcript and required opportunity to examine it. Supreme Court of Appeals Rules, rule 5:1, § 3(e, f). Bolin v. Laderberg, 207 Va. 795, 153 S.E.2d 251, 30 A.L.R.3d 990 (1967).

Failure of judge designate to affix his signature to memorandum of judgment and the order book on which it was spread at the term at which the judgment was rendered did not invalidate judgment, and the judge could affix his signature to the order after the term at which contempt of court order had been spread upon the order book, and this affixing of the signature did not deprive the contemner of the constitutional guarantee of due process of law. U.S.C.A.Const. Amend. 14. Rollins v. Bazile, 205 Va. 613, 139 S.E.2d 114 (1964).

Exhibits tendered in evidence and received and initialed by trial judge may not be considered by Supreme Court of Appeals on appeals from trial court decrees when other evidence and testimony is not made part of record. Rules of Supreme Court of Appeals, rule 5:1, § 3(d). Larchmont Properties v. Cooperman, 195 Va. 784, 80 S.E.2d 733 (1954).

Judgment was not entered within meaning of statute limiting the time for certification of transcript by trial judge until trial judge drew and endorsed order carrying into effect court prior oral pronouncement of judgment on the verdict, thereby resolving differences between counsel as to contents of order to be entered, though order was antedated and spread upon order book as of date of oral pronouncement of judgment. Rules of Supreme Court of Appeals, rule 5:1, § 3(e); Code 1950, §§ 8"338, 17"27. McDowell, by Gravatt v. Dye, 193 Va. 390, 69 S.E.2d 459 (1952).

A judgment is a determination by court of rights of parties as those rights presently exist upon matters submitted to it in action or proceeding, and written order or decree indorsed by judge is but evidence of what the court has decided, and entry or recordation of such instrument in order book is the ministerial act of clerk and does not constitute an integral part of the judgment, and judgments and decrees duly pronounced are entitled to record, and failure of judge to sign the record after their entry thereon is generally regarded as insufficient to impair their validity or effect. Haskins v. Haskins, 185 Va. 1001, 41 S.E.2d 25 (1947).

While the mere form of a bill or certificate of exception will not prevent its consideration by Supreme Court of Appeals, a bill or a certificate without signature of trial judge is fatally defective, because, unless it is signed, Supreme Court of Appeals has nothing before it except the process, the pleadings, the court order, the verdict, and the judgment. Code 1936, §§ 6252, 6253. Hensley v. Com., 178 Va. 392, 17 S.E.2d 425 (1941).

The failure of the foreman of the grand jury to write the word foreman after his name on the indictment, is a matter of no moment. The presentation of the indictment in open court by the grand jury and the entry of the order book showing the finding of the grand jury is sufficient evidence of that fact, and makes it immaterial whether the words a true bill were in fact endorsed on the indictment or not. Hall v. Com., 143 Va. 554, 130 S.E. 416 (1925).

Trial court should certify matters relied upon in ruling on motion for summary judgment. Millikan v. Board of Directors of Everett School Dist. No. 2, 92 Wash. 2d 213, 595 P.2d 533 (1979).

Trial court certification that statement of facts contained all material facts, matters and proceedings, which had occurred in the cause, and which were not already a part of the record, was binding on Supreme Court. Rules on Appeal, rule 37. Moses v. Department of Labor and Industries, 44 Wash. 2d 511, 268 P.2d 665 (1954).

A judgment is operative from the date of its entry and it is entered when it is signed by the court and delivered to the clerk for filing, and clerk failure to perform the ministerial act of entering the filing of the judgment on the appearance docket or spreading the judgment upon the journal would not affect the validity of the judgment or invalidate sale thereunder. Cinebar Coal & Coke Co. v. Robinson, 1 Wash. 2d 620, 97 P.2d 128 (1939).

Where proposed statement of facts filed within ninety-day period prescribed by statute with certificate as required showed on its face that it did not contain all facts, standing alone it could not be considered as sufficient on appeal. Rem.Rev.Stat. §§ 308 "7, 391. Schultz v. Anderson, 191 Wash. 326, 71 P.2d 365 (1937).

Fact that arresting officer signature on complaint was in typewritten letters rather than in handwriting did not render the complaint defective on theory that it was not signed as required. JTR T2.01(d)(1); RCWA 9.01.010(7). City of Seattle v. Sage, 11 Wash. App. 481, 523 P.2d 942 (Div. 1 1974).

Where clerk of court enters all orders for given day in order book, it is unnecessary for judge to sign each order as it is entered as long as he signs book at end of all orders for that day, and order so entered is valid. State ex rel. Chivers v. Boles, 149 W. Va. 339, 140 S.E.2d 805 (1965).

The statutory requirement that reverse side of indictment be signed by foreman of grand jury and attested by prosecuting attorney is intended to identify and authenticate indictment and prevent substitution or use of an indictment other than that actually returned by grand jury, and the requirement is mandatory. Code, 62"2"10, 62"9"1. State v. Huffman, 141 W. Va. 55, 87 S.E.2d 541 (1955).

Where each instruction, giving of which was assigned as error, had noted thereon the ruling of trial judge over his signature and the objections and exceptions of counsel, instructions were a part of the record, though not embraced in a bill of exceptions or certificate in lieu thereof. Code, 56"6"20. Crookshank v. Hall, 139 W. Va. 355, 80 S.E.2d 330 (1954).

The failure of indictment to carry prosecuting attorney attestation on its reverse side renders it fatally defective on motion to quash. Code 1931, 62"9"1. State v. De Board, 119 W. Va. 396, 194 S.E. 349 (1937).

Statutory provision for signature by prosecuting attorney on face of indictment is directory merely, and although prosecuting attorney should sign indictment on its face, failure to comply with statute in such respect will not vitiate indictment (Code 1931, 62"9"1). State v. Burnette, 118 W. Va. 501, 190 S.E. 905 (1937).

Verification is not a substantial part of a complaint, and absence of the verification is only a simple defect and does not render the complaint void or deprive the court of jurisdiction. Rules of Criminal Procedure, rule 3; W.S.1957, §§ 7"409, 7"410. Cisneros v. City of Casper, 479 P.2d 198 (Wyo. 1971).

Information signed and positively verified by county and prosecuting attorney could not be attacked on ground that county and prosecuting attorney in fact had no personal knowledge of matters verified. W.S.1957, § 7-122. Crouse v. State, 384 P.2d 321 (Wyo. 1963).

Certificate authenticating record on direct appeal held sufficient, though it did not state that record was true and correct. W.C.S.1945, § 3-5406. McClintock v. Ayers, 34 Wyo. 476, 245 P. 298 (1926).

[Top of Section]

[END OF SUPPLEMENT]

End of Document