



**Howards Practice Reports, Containing Cases  
Under the Code of Civil Procedure and the  
General Practice of the State of New York,  
Selected from Decisions of All the Courts, with  
Notes Volume 3**

*New York. Courts*

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# Howards Practice Reports, Containing Cases Under the Code of Civil Procedure and the General Practice of the State of New York, Selected from Decisions of All the Courts, with Notes Volume 3

*New York. Courts*

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This historic book may have numerous typos and missing text. Purchasers can usually download a free scanned copy of the original book (without typos) from the publisher. Not indexed. Not illustrated. 1886 edition. Excerpt: ...said sheriff to levy upon the joint property of all the defendants and upon the separate property of the defendants served with summons, and that the said sheriff has duly returned the said execution wholly unsatisfied to the New York county clerk's office where the judgment roll in this action is filed; that such return was made within ten years; that the said judgment remains wholly unpaid and unsatisfied; that no previous application has been made for the order asked hereon. WILLIAM TOWNSEND. Subscribed and sworn to before me,; this 16th day of January, 1886. J AMES A. LONG, Notary Public, Oneida County, IV. K The grounds upon which motion is made to vacate is as follows: First. That the affidavit does not sufficiently describe the judgment, in that it does not show in what court the judgment was recovered. i Second. That the affidavit does not show that a transcript of the judgment was filed before the execution was issued and that it is not sufficient for them to state that the execution was issued the same day the transcript was filed. Third. That the affidavit does not show that the execution was issued out of a court of record. ' Fourth. It appears that the execution was issued on the 15th of January, 1886, and the order herein granted January 16th, and it does not appear that any sufficient effort was made to collect the debt by execution Fifth. That ' the order does not show before what judge further proceedings are to be had. Six-th. The affidavit does not show in what county the judgment was recovered. William A. Matteson, for motion. William Townsend, opposed. MERWIN, J.--It is claimed that the affidavit does not show in what court the judgment was recovered, or that a transcript was filed in Oneida....

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