**New York Supreme Court, Columbia County**

The People of New York

 Coram Ipso Rege:[[1]](#footnote-1)

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MAGISTRATE\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

New York Unified Common Law Grand Jury

Coram Nobis:[[2]](#footnote-2)

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STATE OF NEW YORK SUPREME COURT

Jonathan Lippman, Fern A. Fisher, Lawrence K. Marks, **Memorandum Of Law**

Barry Kamins, Ronald Younkins,

 Wrongdoers:[[3]](#footnote-3)

**the kings bench**

The purpose of this memorandum is to clarify that the King’s Bench is the authority of the court and that a court of record is a court that proceeds according to the common law under the authority of the People:

The 5th Amendment “demands” a traditional Common Law Grand jury.

“*The Court of Appeals' rule would neither preserve nor enhance the traditional functioning of the grand jury that the "common law" of the Fifth Amendment demands*.” UNITED STATES v. WILLIAMS; 112 S.Ct. 1735; 504 U.S. 36; 118 L.Ed.2d 352;

Every court is “bound” to obey the common law.

**SUPREMACY CLAUSE** – “*This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding*.” Article VI

“… *Thus, the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument*.” after more than 200 years this decision still stands [**Marbury v. Madison 5 U.S. 137 (1803)**]

“*If any statement, within any law, which is passed, is unconstitutional, the whole law is unconstitutional.*” Marbury v. Madison: 5 US 137 (1803):

“… *that statutes which would deprive a citizen of the rights of person or property without a regular trial, according to the course and usage of common law, would not be the law of the land*.” Hoke vs. Henderson,15, N.C.15,25 AM Dec 677].

"*Where rights secured by the Constitution are involved, there can be no rule making or legislation which would abrogate them*" Miranda v. Arizona, 384 U.S. 436, 491

A court of record proceeds according to common law who’s tribunal, We the People functioning independently of the magistrate:

"*A Court of Record is a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, and proceeding according to the course of common law, its acts and proceedings being enrolled for a perpetual memorial*". Jones v. Jones, 188 Mo.App. 220, 175 S.W. 227, 229; Ex parte Gladhill, 8 Metc. Mass., 171, per Shaw, C.J. See, also, Ledwith v. Rosalsky, 244 N.Y. 406, 155 N.E. 688, 689.

The New York Supreme Court is a “court of record.”

New York Constitution Article VI.§1.b. “*The court of appeals, the supreme court including the appellate divisions thereof, the court of claims, the county court, the surrogate's court, the family court, the courts or court of civil and criminal jurisdiction of the city of New York, and such other courts as the legislature may determine shall be courts of record*.”

Only court’s of record can fine and incarcerate.

*“Courts of Record and Courts not of Record* *the former being those whose acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony, and which have power to fine or imprison for contempt. Error lies to their judgments, and they generally possess a seal. Courts not of record are those of inferior dignity, which have no power to fine or imprison, and in which the proceedings are not enrolled or recorded*". 3 Bl. Comm. 24; 3 Steph. Comm. 383; The Thomas Fletcher, C.C.Ga., 24 F. 481; Ex parte Thistleton, 52

NO criminal trial can proceed without the will of the People (Common Law Grand Jury) deceiving one of the People to make a plead does not give a judge authority to claim jurisdiction.

“*No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, … nor be deprived of life, liberty, or property, without due process of law*;…” 5th Amendment:

NO criminal trial can proceed without the will of the People (Common Law Trial Jury) a judge does not have the authority to make a judgment.

“*In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury … and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; … and to have the Assistance of Counsel[[4]](#footnote-4)* [not attorney] *for his defense*.” 6th Amendment

No judge has the authority to second guess or overturn a decision by the People (Jury) and trial is to according to common law.

“*…the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law*.” 7th Amendment

Judges are magistrates and not the tribunal they possess no power to make a ruling (judgment):

“*Judges are magistrates*” N.Y. CRC. LAW § 30 : NY Code - Section 30:

“*Judges as Magistrates*” New York Family Court - Part 5 - § 151

"*Acts and judicial proceedings are enrolled, or recorded, for a perpetual memory and testimony; proceeds according to the course of common law; has power to fine or imprison for contempt; possesses a seal; it’s judicial tribunal has attributes and exercising functions independently of the person of the magistrate designated generally to hold it*." Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

The judicial executive branch have turned the New York State Supreme Court into a nisi prius court not of record thereby becoming a hybrid, combining a statutory and chancery court, both without the approval of the king, whereas justice can never be served.

“*This maxim is applied by Lord Coke to courts, and, terms of law; minoritas being understood in the sense of difference, inferiority, or qualification. Thus, the style of the king's bench is coram rege, and the style of the court of chancery is coram domino rege in cancellaria; the addition showing the difference*.” 4 Inst. 80. 2 Bl.Comm. 106; Litt. §1.

Statutory courts (officers of the court) cannot second guess the judgment of a court of record and are subject to collateral attack by the court of record (sovereigns of the court).

“*The decisions of a superior court may only be challenged in a court of appeal. The decisions of an inferior court are subject to collateral attack. In other words, in a superior court one may sue an inferior court directly, rather than resort to appeal to an appellate court. Decision of a court of record may not be appealed. It is binding on ALL other courts. However, no statutory or constitutional court (whether it be an appellate or supreme court) can second guess the judgment of a court of record. The judgment of a court of record whose jurisdiction is final, is as conclusive on all the world as the judgment of this court would be. It is as conclusive on this court as it is on other courts. It puts an end to inquiry concerning the fact, by deciding it*." Ex parte Watkins, 3 Pet., at 202-203. [cited by SCHNECKLOTH v. BUSTAMONTE, 412 U.S. 218, 255 (1973).

The People are the king and the king’s bench is the Jury, grand or trial, only the sovereign people can be the tribunal.

**CORAM IPSO REGE**. “*Before the king himself the old name of the court of king's bench, which was originally held before the king in person*.” 3 Bl.Comm. 41. “*The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative*”. Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7.

**KING'S BENCH.** [Blacks Law] “*The supreme court of common law in England, being so called because the king used formerly to sit there in person, the style of the court being coram ipso rege."* See 3 Bl.Comm. 41-43.

**CORAM NOBIS.** [Blacks Law] Before us ourselves, (the king, i. *e.,* in the king's or queen's bench.) Applied to writs of error directed to another branch of the same court, *e. g.,* from the full bench to the court at *nisi prius.* 1 Archb. Pr. K. B. 234. See Writ of Error.

**TRIBUNAL.** The seat of a judge; the place where he administers justice; but by this term is more usually understood the whole body of judges [jury] who compose a jurisdiction sometimes it is taken for the jurisdiction which they exercise.

**ONLY THE KING (PEOPLE) IS SOVEREIGN –** the state is a clipped sovereignty

**NEW YORK CODE - N.Y. CVR. LAW § 2 : NY Code - Section 2:** “*Supreme sovereignty in the people - No authority can, on any pretence whatsoever, be exercised over the citizens of this state, but such as is or shall be derived from and granted by the people of this state*.”

“*A consequence of this prerogative is the legal ubiquity of the king. His majesty in the eye of the law is always present in all his courts, though he cannot personally distribute justice*. *His judges are the mirror by which the king's image is reflected”*. **(Fortesc.c.8. 2Inst.186)** **[1 Blackstone's Commentaries, 270, Chapter 7, Section 379]**

“*Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agencies of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts And the law is the definition and limitation of power*…” **[Yick Wo v. Hopkins, 118 US 356, 370 Quotiens dubia interpretatio libertatis est, secundum libertatem respondendum erit]**

"*The very meaning of 'sovereignty' is that the decree of the sovereign makes law*." [**American Banana Co. v. United Fruit Co., 29 S.Ct. 511, 513, 213 U.S. 347, 53 L.Ed. 826, 19 Ann.Cas. 1047].**

“*In United States, sovereignty resides in people. The Congress cannot invoke the sovereign power of the People to override their will as thus declared*.” **[Perry v. US, 294 U.S330]**

“*It is the public policy of this state that public agencies exist to aid in the conduct of the people's business.... The people of this state do not yield their sovereignty to the agencies which serve them. ...at the Revolution, the sovereignty devolved on the people; and they are truly the sovereigns of the country, but they are sovereigns without subjects...with none to govern but themselves*...” CHISHOLM v. GEORGIA (US) 2 Dall 419, 454, 1 L Ed 440, 455 @DALL (1793) pp471-472.

**EXTRAORDINARY WRITS** are the King’s (Sovereign’s) Remedy

**EXTRAORDINARY REMEDIES**. The writs of mandamus (*We Command*), quo warranto (*Kings inquiry of usurpers*), habeas corpus (*release from unlawful imprisonment*), and some others are sometimes called "extraordinary remedies," in contradistinction to the ordinary remedy by action. Receivership is also said to be an. "extraordinary remedy." **Prudential Securities Co. v. Three Forks, H. & M. V. R. Co., 49 Mont. 567, 144 P. 158, 159.**

**An extraordinary writ, issued by a superior court** to an inferior court to prevent the latter from exceeding its jurisdiction, either by prohibiting it from assuming jurisdiction in a matter over which it has no control, or from going beyond its legitimate powers in a matter of which it has jurisdiction. State v. Medler, 19 N.M. 252, 142 P. 376, 377.

**An extraordinary judicial writ issuing out of a court** of superior jurisdiction, directed to an inferior court or tribunal exercising judicial powers, for the purpose of **preventing the inferior tribunal from usurping a jurisdiction with which it is not lawfully vested**, (State v. Stanfield, 11 Okl.Cr. 147, 143 P. 519, 522); from assuming or exercising jurisdiction over matters beyond its cognizance, (Jackson v. Calhoun, 156 Ga. 756, 120 S.E. 114, 115); or from exceeding its jurisdiction in matters of which it has cognizance. (Jackson v. Calhoun, 156 Ga. 756, 120 S.E. 114, 115).

**QUO WARRANTO.** In old English practice. A writ, in the nature of a **writ of right for the king, against him who claimed or usurped any office, franchise, or liberty, to inquire by what authority he supported his claim, in order to determine the right**. It lay also in case of non-user, or long neglect of a franchise, or misuser or abuse of it; being a writ commanding the defendant to show by what warrant he exercises such a franchise, having never had any grant of it, or having forfeited it by neglect or abuse. 3 Bl.Comm. 262.; An extraordinary proceeding, prerogative in nature, addressed to preventing a continued exercise of authority unlawfully asserted. Johnson v. Manhattan Ry. Co., N.Y., 53 S.Ct. 721, 289 U.S. 479, 77 L.Ed. 1331.; It is intended to prevent exercise of powers that are not conferred by law, and is not ordinarily available to regulate the manner of exercising such powers. State ex rel. Johnson v. Conservative Savings & Loan Ass'n, 143 Neb. 805, 11 N.W.2d 89, 92, 93.

**Conclusion**

The Kings bench is the seat of the tribunal (judge) for the supreme court of common law (court of record) made up of one or more sovereigns, with the power to fine or imprison for contempt and functions independently of the person of the magistrate. Therefore the kings bench can only be the Jury (grand or the petite) or the sovereign of the court. Whenever the Kings Bench is impaneled "by the people" a Court of Record is open whether it is in its investigative role (Grand Jury) or in its pre-trial mode (Petite Jury) its authority, power, judgments, and jurisdiction is final and cannot be challenged or overturned. All courts not of record (without the kings bench) are inferior courts whose jurisdiction is limited and special and whose proceedings are not according to the course of the common law. Criminal courts proceed according to statutory law. Jurisdiction and procedure is defined by statute. Likewise, civil courts and admiralty courts proceed according to statutory law. Any court proceeding according to statutory law is not a court of record (which only proceeds according to common law); it is an inferior court.

Extraordinary writs emanate from the Kings Bench, and although the tribunal is usually a body of judges, twelve or twenty-five, it can also be executed by the King (people) himself, and can only be refuted by the sworn affidavit of another King (people). These extraordinary writs are extraordinary “REMEDIES”.

The Kings Bench is the Jury, grand or trial, and the magistrate is bound to obey the wish (will) of the King.

1. Before the king himself the old name of the court of king's bench, which was originally held before the king in person. 3 Bl.Comm. 41. “The people of this State, as the successors of its former sovereign, are entitled to all the rights which formerly belonged to the King by his prerogative”. Lansing v. Smith, 4 Wend. 9 (N.Y.) (1829), 21 Am. Dec. 89 10C Const. Law Sec. 298; 18 C Em.Dom. Sec. 3, 228; 37 C Nav.Wat. Sec. 219; Nuls Sec. 167; 48 C Wharves Sec. 3, 7. [tribunal during trial] [↑](#footnote-ref-1)
2. [Blacks Law] Before us ourselves, (the king, i. e., in the king's or queen's bench.) [tribunal pre-trial] **CORAM NOBIS.** [Blacks Law] Before us ourselves, (the king, i. *e.,* in the king's or queen's bench.) Applied to writs of error directed to another branch of the same court, *e. g.,* from the full bench to the court at *nisi prius.* 1 Archb. Pr. K. B. 234. See Writ of Error. [↑](#footnote-ref-2)
3. **WRONGDOER**. “One who commits an injury; a tort-feasor. The term ordinarily imports an invasion of right to the damage of the party who suffers such invasion”. Merrill v. Comstock, 154 Wis. 434, 143 N.W. 313, 317. [↑](#footnote-ref-3)
4. COUNSEL. Blacks 4th In practice. An advocate, counsellor, or pleader. 3 Bl. Comm. 20 ; 1 Kent, Corum. 307. One who assists his client with advice, and pleads for him in open court. [↑](#footnote-ref-4)