

Oswald v. New York.

Barnes, one of the defendants (a counsellor of the court), objected to the validity of the writ, that it had issued out of the wrong office: and after argument—

THE COURT were unanimously of opinion, that writs of error to remove causes to this court from inferior courts, can regularly issue only from the clerk's office of this court.

Motion refused.

VANSTOPHORST *et al.* v. STATE OF MARYLAND.

Commission.

A commission for the examination of witnesses will not be awarded, even by consent, until commissioners are named.

THE Attorney-General (*Randolph*) moved, on behalf of the plaintiffs, that a commission should issue to examine witnesses in Holland; to which the opposite counsel assented, although the commissioners were not named. But—

BY THE COURT.—We will not award the commission, until commissioners are named.

This being done, the motion was granted.

FEBRUARY TERM, 1792.

OSWALD, administrator, v. STATE OF NEW YORK.

SUMMONS. In this case, the marshal had returned the writ served; and now, *Sergeant* moved for a *distringas*, to compel an appearance on the part of the state.

*While, however, the court held the motion under advisement, it was voluntarily withdrawn, and the suit discontinued. (a) [*402

AUGUST TERM, 1792.

THE COURT being met, a commission, appointing THOMAS JOHNSON one of the justices, bearing date the 7th of November 1791, was read; and he was qualified according to law.

(a) But see s. c. *infra*, and *Grayson v. Virginia*, 8 Dall. 320.