

<sup>22</sup>Although the publisher Robert Bell had his offices in Philadelphia, nine booksellers of Pennsylvania ordered sets. Among these were: John Creigh of Carlisle, 45 sets; Joseph Cruikshank, Philadelphia, 14 sets; John Dunlap, Philadelphia, 23 sets; John Hall, Wilmington, 4 sets; John Murdoch, Carlisle, 3 sets; William Woodhouse, Philadelphia, 3 sets. Miers Fisher, attorney at law of Philadelphia, ordered 28 sets, and Jabez Maud Fisher, merchant of Philadelphia, took 14 sets. Thirty of the Pennsylvania subscribers were lawyers.

<sup>23</sup>Eleven of these were lawyers. The Williamsburgh booksellers, Purdie and Dixon, and William Rind, took 24 and 12 sets, respectively. The merchant, John Schaw of Norfolk, ordered 30 sets, while "John Magill, Esq., Attorney at Law, Winchester," subscribed for 31 sets. Possibly Magill rode the circuit, and expected to resell to country practitioners.

<sup>24</sup>None of the subscribers from South Carolina are listed as lawyers or members of the bench.

<sup>25</sup>The Portsmouth booksellers, William Appleton and John Sparhawk, each took 14 sets.

<sup>26</sup>This becomes all the more evident when it is remembered that in 1771 the population of the Province of New York was much smaller than that of either Massachusetts, Pennsylvania and Virginia.

<sup>27</sup>David McAdam, *History of the Bench and Bar of New York*, I, 92. (Article by Amasa Redfield.)

<sup>28</sup>Charles Warren, *op. cit.*, 178.

<sup>29</sup>This was a manual and a principal guide for a beginner. Originally it was written in French (1613), and later in English (1627).

<sup>30</sup>This work, first published in 1722, went through ten editions, the last of which Blackstone claimed amounted to little more than Finch's *Discourse* modernized. It was usually published in two volumes.

<sup>31</sup>Published 1736-9 in two volumes.

<sup>32</sup>Published in 1708. The author of this work, William Bohun, was the author of *The Practicing Attorney; or Lawyer's Office: containing the business of an Attorney in all its branches* (2nd ed. 1726), and other law books. Upon the death of Sampson S. Broughton, Bohun petitioned the Commissioners of Trade and Plantations, July 6, 1705, to be appointed Attorney-General of New York. He was not selected. *Journal of the Commissioners for Trade and Plantations, 1704/1708/9*, p. 153.

<sup>33</sup>After John Jay decided to study law, the first law book of a serious nature he purchased was Giles Jacob's *New Law Dictionary*, for which he paid fifty shillings. His father remarked, "It's paying very dear for them," and suggested that he use some of the books in the library of the college, or borrow books from his uncle, John Chambers. Frank Monaghan, *John Jay . . .*, 29.

<sup>34</sup>First published in 1729.

<sup>35</sup>This is stated to have constituted the main reliance of all students. Although complete familiarity with its contents was deemed indispensable, probably every generation of lawyers inveighed against the obscurity of its passages and the complexity of its arrangement.

In 1777 [Armand Gaston] Camus (1740-1804) at Paris published *Lettres sur la profession d'avocat, sur les études relatives à cette profession, & sur la maniere de l'exercer; avec un catalogue raisonné des livres de droit qu'il est le plus utile d'acquérir & de connoître [sic]. . .*" (2 Vols. in 1.) Part 2 has the title: *Bibliothèque choisie des livres de droit; un Catalogue raisonné des livres de droit qu'il est le plus utile d'acquérir & de connoître [sic]*. This volume was known and used in America. For instance, James Kent's copy containing his manuscript notes may be found on the files of the Law Library of Columbia University. For James Kent's statement of the course of study he followed and the books read while serving his clerkship in Poughkeepsie (1781-1784) in the office of Egbert Benson, Attorney-General of New York, see William Kent, *op. cit.*, 18-28, especially 19. He wrote: "I read, the following winter, Grotius and Puffendorf, in huge folios, and made copious extracts. My fellow students, who were more gay and gallant, thought me very odd and dull in my taste, but out of five of them, four died in middle life, drunkards. I was free from all dissipations; I had never danced, played cards, or sported with a gun, or drunk anything but water. In 1782 I read Smollett's *History of England*, and procured at a farmer's house where I boarded, Rapin's *History* (a huge folio) and read it through; and I found during the course of the last summer, among my papers, my Ms. abridgement of Rapin's dissertation on the laws and customs of the Anglo-Saxons. I abridged Hale's 'History of the Common Laws,' and the old Books of Practice, and read parts of Blackstone again and again. The same year I procured Hume's *History*, and his profound reflections and admirable eloquence struck most deeply on my youthful mind. I extracted the most admired parts, and made several volumes of MSS."

<sup>36</sup>Charles Warren, *op. cit.*, 172.

<sup>37</sup>David McAdam, *op. cit.*, 92 n.

<sup>38</sup>A few volumes intended primarily for the use of minor governmental officials had been printed in America. These included the Laws of New York, and the Session Laws (for instance, those of 1694, 1752-62, 1772-3) as well as those of the several colonial assemblies. In addition, reports of a few outstanding trials had appeared. Among the most important of these in New York were the prosecutions of Nicholas Bayard (1702) for high treason, and of John Peter Zenger (1735) for libel. Also there were printed certain *Opinions and Arguments* advanced during the controversy over the judicial establishment of the colony, 1729-35. Otherwise, there was complete reliance upon England for books. This reliance is not to be wondered at when it is remembered how close was the contact between the homeland and New York, how limited must have been the demand for such publications, and with what respect the decisions and reports of the English courts were regarded generally in New York.

An example of books sold in the colonies may be seen from the following advertisement: "There is to be sold by Jacob Decow at his House, in Mans [sic] in the County of Burlington, an *Institute of the Laws of England*, by Thomas Wood. In folio, the 3d Edition, neatly printed, and well bound. . ."

(*The Pennsylvania Gazette*, The 8th of the 3d Month, 1729.) Another example of a book published in America which would be useful to an attorney is seen in the following advertisement: "Just Published. The Vade Mecum for America: or a Companion for Traders and Travellers: Containing I. An exact and useful Table, shewing the value of an Quantity of any Commodity, ready Cost up from One yard or Pound to Ten Thousand. II. A Table of Simple and Compound Interest. III. The Names of the Towns and Counties in the several Provinces & Colonies of New England, New York, and the Jersies; as also the several Counties in Pennsylvania, Maryland and Virginia: Together with the Time of the Setting of their Courts. Collected & Composed with great Care and Accuracy. Sold by D. Henschman & T. Hancock, Booksellers in Boston." (*The Boston Weekly News-Letter*, April 20-27, 1732. Numb. 1444.) See also the following: "This is to give notice, that the Body of Laws of the Province of New-Jersey are now compleated and ready to be delivered to the Subscribers at Fifteen Shillings a Book, by Andrew Bradford in Philadelphia." (*The American Weekly Mercury*, May 4-11, 1732.) In October of 1749 James Parker published an edition of *Conductor Generalis*, copies being sold in both New York and New Jersey. See Cadwallader Colden, *Additional Letters and Papers*, 41, 61. New York Historical Society Collections for the year 1935.

## CHAPTER V

## LIBRARY FACILITIES

Historians agree that in colonial days printed materials of a legal nature available to students were scanty. Adequate law libraries apparently were not gathered until the nineteenth century. And yet it must be affirmed that during the entire English Colonial Period students in New York were fortunate in having access to a substantial number of the standard law books in print at the time. That this assertion is essentially true will appear evident from a description of the more important sources for such materials and of the more ample private law libraries known to have been in existence in the colony.

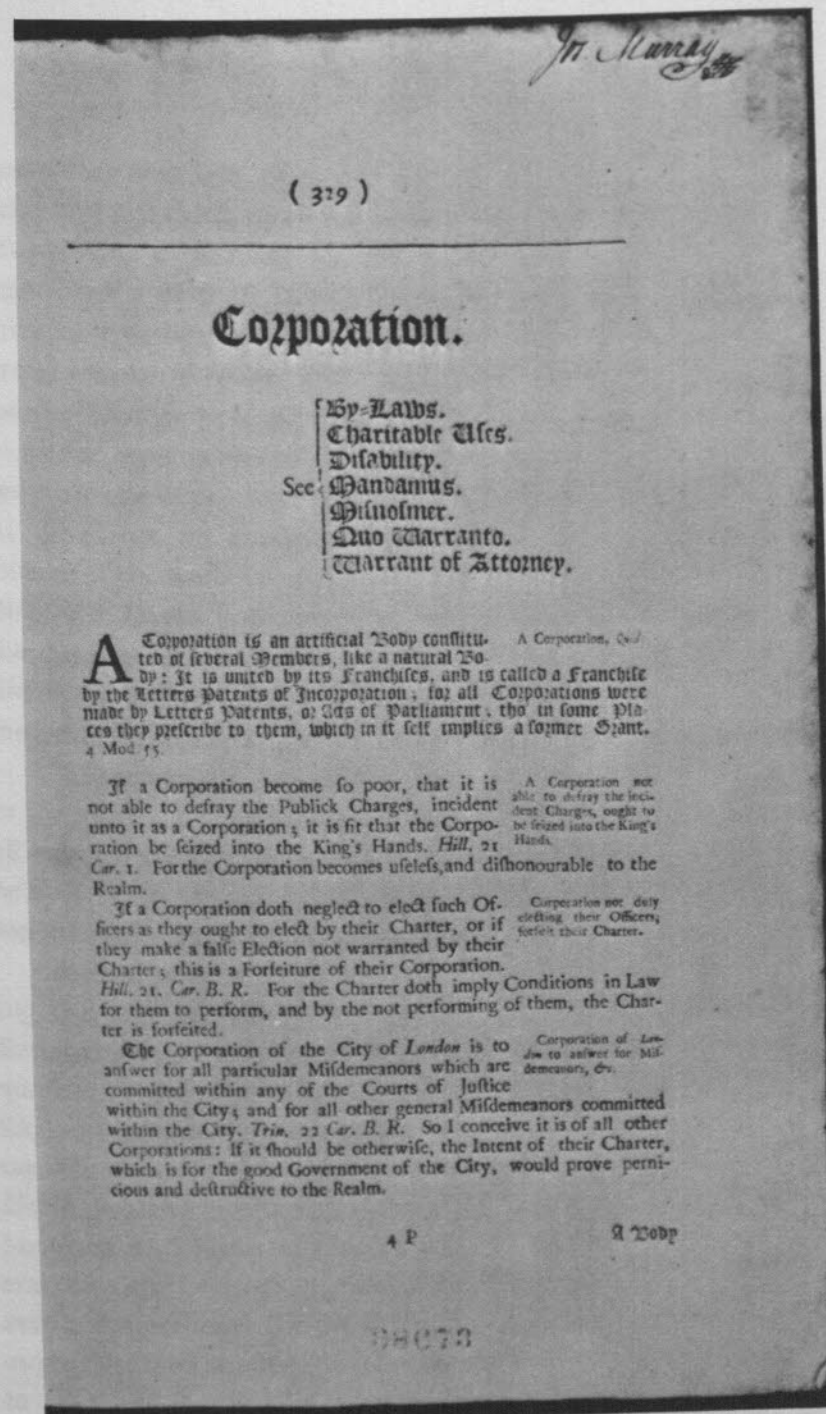
Serious-minded students of the law were living in New Amsterdam, in the towns along the Hudson River, and on the far end of Long Island as early as the middle of the seventeenth century. One of these scholars was the Notary Public,<sup>1</sup> Salomon La Chair. A record book in his handwriting, now in the office of the City Clerk of New York City, shows that this officer and scholar from The Netherlands owned a collection of law books for reference.<sup>2</sup> Somewhat later (1653) Dirck Van Schelluyne, LL.D., a graduate of the University of Leyden, arrived from Holland to assist the administrators of New Amstersdam. Eventually he determined to establish himself and to practice his profession in the New World. It seems probable that he brought a law library with him or that at a subsequent date he caused one to be shipped across the Atlantic.<sup>3</sup>

Attached to Governor Richard Nicolls' expedition of 1664 were at least three trained lawyers—Matthias Nicolls, John Rider, and John Sharpe.<sup>4</sup> Each of these men had practiced law in England, and on this side of the Atlantic each



continued his professional interests for a number of years. Matthias Nicolls, a former London barrister of wide experience, during a quarter-century of active duty presided over two of the highest courts of the province, and held several other important public offices before he died in 1693.<sup>5</sup> He drew up the well-known *Nicolls' Code*, a body of law under which the colonists lived for many years, basing its various sections upon the laws of England as well as upon those in force in the colonies—especially those of New England.<sup>6</sup> Without legal treatises of some sort these lawyers could not have performed such services, nor adequately represented their clients. Moreover, trained barristers, attorneys, and solicitors continued to arrive in the province during each decade after 1664.<sup>7</sup> They came either as judges, attorneys general, or to practice their profession. Assuredly they would have brought with them copies of books then in use in England, or have ordered them sent out later. Indeed, a few of them are known to have possessed small libraries, and it is reasonable to assume that others did also.<sup>8</sup> At all events, the court records and legal papers still in existence show that from a date as early as 1674/5 practitioners referred to law books.<sup>9</sup>

The first law library specifically mentioned in the records after the year 1700 belonged to Sampson Shelton Broughton, attorney general of the province from 1701-1705. He had resigned his position as librarian of Middle Temple to accept his post in the New World. Certainly the titles of this barrister's library of law books—which is said to have contained thirty-five volumes<sup>10</sup>—would be of especial interest were they known.<sup>11</sup> Records show the existence of libraries belonging to other lawyers in practice during the early years of the eighteenth century. For instance, May Bickley states that he purchased "the study of



**A** Corporation is an artificial Body constituted of several Members, like a natural Body: It is united by its Franchises, and is called a Franchise by the Letters Patents of Incorporation: for all Corporations were made by Letters Patents, or Acts of Parliament: tho' in some Places they prescribe to them, which in it self implies a former Grant.  
4 Mod. 15.

If a Corporation become so poor, that it is not able to defray the Publick Charges, incident unto it as a Corporation; it is fit that the Corporation be seized into the King's Hands. *Hill, 21 Car. 1.* For the Corporation becomes useless, and dishonourable to the Realm.

If a Corporation doth neglect to elect such Officers as they ought to elect by their Charter, or if they make a false Election not warranted by their Charter; this is a Forfeiture of their Corporation. *Hill, 21. Car. B. R.* For the Charter doth imply Conditions in Law for them to perform, and by the not performing of them, the Charter is forfeited.

The Corporation of the City of London is to answer for all particular Misdemeanors which are committed within any of the Courts of Justice within the City; and for all other general Misdemeanors committed within the City. *Trin. 22 Car. B. R.* So I conceive it is of all other Corporations: If it should be otherwise, the Intent of their Charter, which is for the good Government of the City, would prove pernicious and destructive to the Realm.

During the Revolutionary War the library which Joseph Murray, New York counsellor at law, had given King's College was widely scattered. Over fourscore of Murray's law books have been recovered, and are now in the Joseph Murray Collection, Library of the School of Law, Columbia University. The above is the title page of Murray's copy of *Lilly's Practical Register*, Vol. I, pt. 2. Courtesy of Columbia University, New York City.

books that was late of Chief Justice Mompesson." How many volumes made up this collection is unknown, but since Mompesson, a barrister at law of Lincoln's Inn, had for years been a man of consequence in England<sup>12</sup> before he came to America to preside as chief justice over the supreme courts of New York and New Jersey, it may be assumed that he brought with him a fairly large number of books on legal subjects. Under the circumstances, his was probably one of the best libraries the colony then afforded.<sup>13</sup> At all events, its contents were placed in the library of "manuscripts and Law books," already owned by May Bickley.<sup>14</sup> David Jamison, after an extensive and remunerative practice of forty years (1697-1739), handed down the library he had collected to his son, William. Concerning it, the latter in his Will (1748) provided:

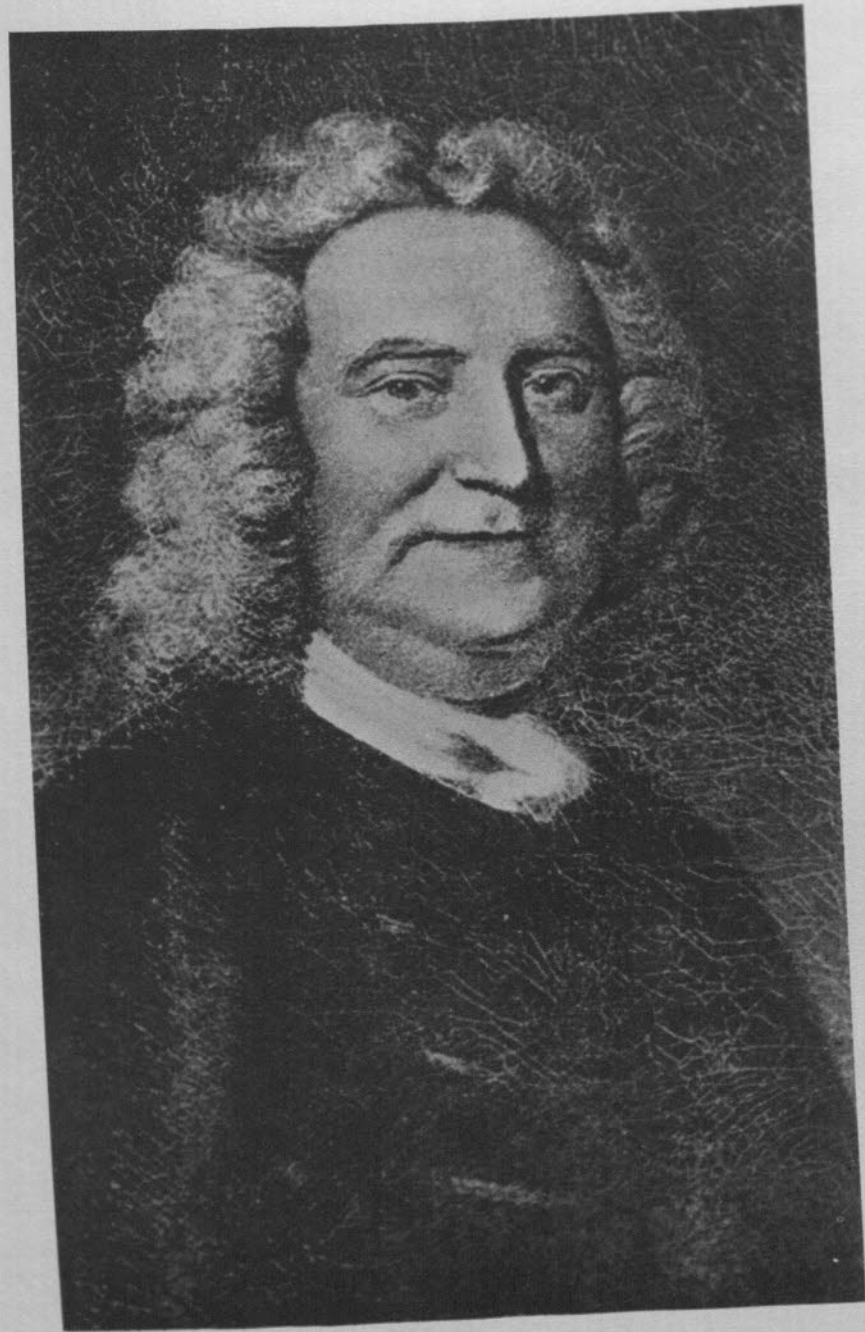
"I leave to my son, David Jamison (if he shall incline to the study or be educated in the profession of the Law), all my law books, manuscripts, and precedents; But if he be inclined to any other profession, then to Jamison Johnson, son of Mrs. Elizabeth Johnson, Widow."<sup>15</sup>

Several other trained lawyers arrived in the colony during the first decade of the eighteenth century. Governor Bellomont had complained so bitterly of the lack of properly qualified legal officers and attorneys that the authorities in England endeavored especially to provide New York with capable men. In this they were successful, and to the expeditions which transported Governors Cornbury, John, Lord Lovelace, and Hunter, respectively, across the Atlantic, several barristers, attorneys, and sollicitors were persuaded to attach themselves. Unfortunately, a few of the more thoroughly trained among them soon died, and some returned to England.<sup>16</sup> But a number—including May Bickley, Thomas George, Jacob Regnier, Henry Wileman, and Henry



Vernon—for many years continued to live in the province. Each, it is believed, possessed a collection of books. Certainly, references to the libraries belonging to three of these men occur in the records,<sup>17</sup> and from the practices of the other two it may be inferred that they also owned a fair number of legal volumes. Consequently, prior to the appearance of a new bar in the 1720's, the legal profession in New York, being continuously augmented from abroad, had access, it is fair to infer, to libraries reasonably well-stocked with the treatises on law then in print.<sup>18</sup>

The arrival in 1715 of James Alexander, scion of an influential Scottish family, immeasurably increased the library facilities available to the residents of New York. This future leader of the bar first made his home in Perth Amboy, New Jersey, but soon he had a large practice across the Bay, and by 1723 definitely considered New York City his residence.<sup>19</sup> With him he brought the largest law library definitely known to have been gathered in the colony prior to 1760.<sup>20</sup> In 1721, when he recorded this collection in his so-called, "Diary,"<sup>21</sup> he owned a total of more than two hundred books of which 152 volumes, covering at least 130 distinct treatises, concerned law. Their titles, ranging from *Reports* of one sort or another to *The Womans Lawyer*, included practically all the worth-while law books then in print.<sup>22</sup> There were volumes on the different fields of Common Law and Equity; a large number of Reports and Entries; works on Admiralty and Maritime Law; a variety of writings on pleading, practice, and office work; books on Administrative, Corporation, Canon, and Crown Law, as well as on the Law Merchant. Included also were copies of the Laws of Jamaica, New York, Massachusetts Bay, and New Jersey. That its owner used this library extensively is indicated by his professional career; that others borrowed



James Alexander, 1687-1756. Legal scholar and scientist; owner of the largest library known to exist in New York within the first quarter of the eighteenth century; leader of the New York bar; promoter of public schools, libraries, and educational institutions of higher learning; life-long public servant of New York and New Jersey; member for many years of the Executive Council of New York. Courtesy of the New York Public Library, New York City.





frequently from it, the entries in his "Diary" demonstrate conclusively. By 1721 it was probably the largest collection of law books in any of the American colonies, and may be considered New York's first circulating library.<sup>23</sup> Apparently, administrative officials, judges, lawyers, and other prominent citizens in both New York and New Jersey made use of its resources. Among the names of borrowers entered in Alexander's "Diary" are the governors of New York and New Jersey, Colonel Morris, Captain Kennedy, William Eves [the schoolmaster], Andrew Hamilton of Pennsylvania and Maryland, Cadwallader Colden, Mr. Ogden, the Robert Livingstons (Senior and Junior), Henry Vernon, Philip Kearney, Phineas MacIntosh of Ulster County, Samuel Hudson of East Hampton, James Stevenson of Albany, Joseph Murray, Colonel Bass, Mr. Farquharson, Philip Schuyler, James Brown of Norwalk, Connecticut, Richard Bradley, William Smith, John McCrea, and Lewis Morris, Jr.<sup>24</sup> At least two borrowers lived as far apart as Pennsylvania and Connecticut. To some individuals, as, for instance, to Colonel Morris, the same or different volumes were lent repeatedly. Morris borrowed at various times, even prior to 1721, Cook's [Coke's] *4th Institutes*, Dalton's *Justice*, Pulton's *Abstract of the Penal Statutes*, Babington's *Advice to Grand Jurors*, Hanford's *Pleas of the Crown*, Dugdale's *Origines Juridicales*, and Alexander's *Algebra*.<sup>25</sup> The closing entries in the "Diary," made in 1740, show, however, that the number of borrowers was considerably less than during the preceding twenty years, a state of affairs which would probably indicate that practitioners were building up their own libraries.

The value of such a library as Alexander's to the residents of colonial New York between the years 1718 and 1740 can scarcely be overestimated. Unique in the service it rendered, its influence must have been widely felt, for, as

has been noted, others besides lawyers and judges used it. And when the able practitioners of the next generation who had studied under James Alexander, or who had come under his influence, are considered, its importance to colonial New York may be judged more accurately. His interest in books and learning may also have influenced New Yorkers early to think about public libraries, for many of the borrowers from this first circulating library supported every effort to establish in New York City a public library, a public school system, and ultimately a college.<sup>26</sup>

Guided by Alexander's example, and probably also appreciating the value of being able to cite court decisions and judicial precedent, other members of the legal profession appear soon to have acquired libraries of their own. Certain it is, four prominent lawyers—Chief Justices Lewis Morris and James DeLancey, and counsellors William Smith and Joseph Murray—who took part in the important judicial controversies which arose in the years 1725-1735, quoted exhaustively from books and legal writings. This they did, at times, upon very brief notice; a circumstance that would have been possible only if treatises containing such source material were immediately available. Moreover, since each of them often submitted separate opinions and opposing arguments, they could not possibly have consulted identical reprints. Assuredly, a Morris would never condescend to borrow a book from a DeLancey! Nor can it be imagined that William Smith would request of Joseph Murray the privilege of using his library when both were called on to present upon the same day opposing opinions before court or general assembly! It is probable, then, that each of these men as early as the year 1725 possessed a library, which, if the number of authorities that were cited in briefs during those critical times is any criterion, must have been fairly

well stocked with legal, historical, and philosophical treatises.<sup>27</sup>

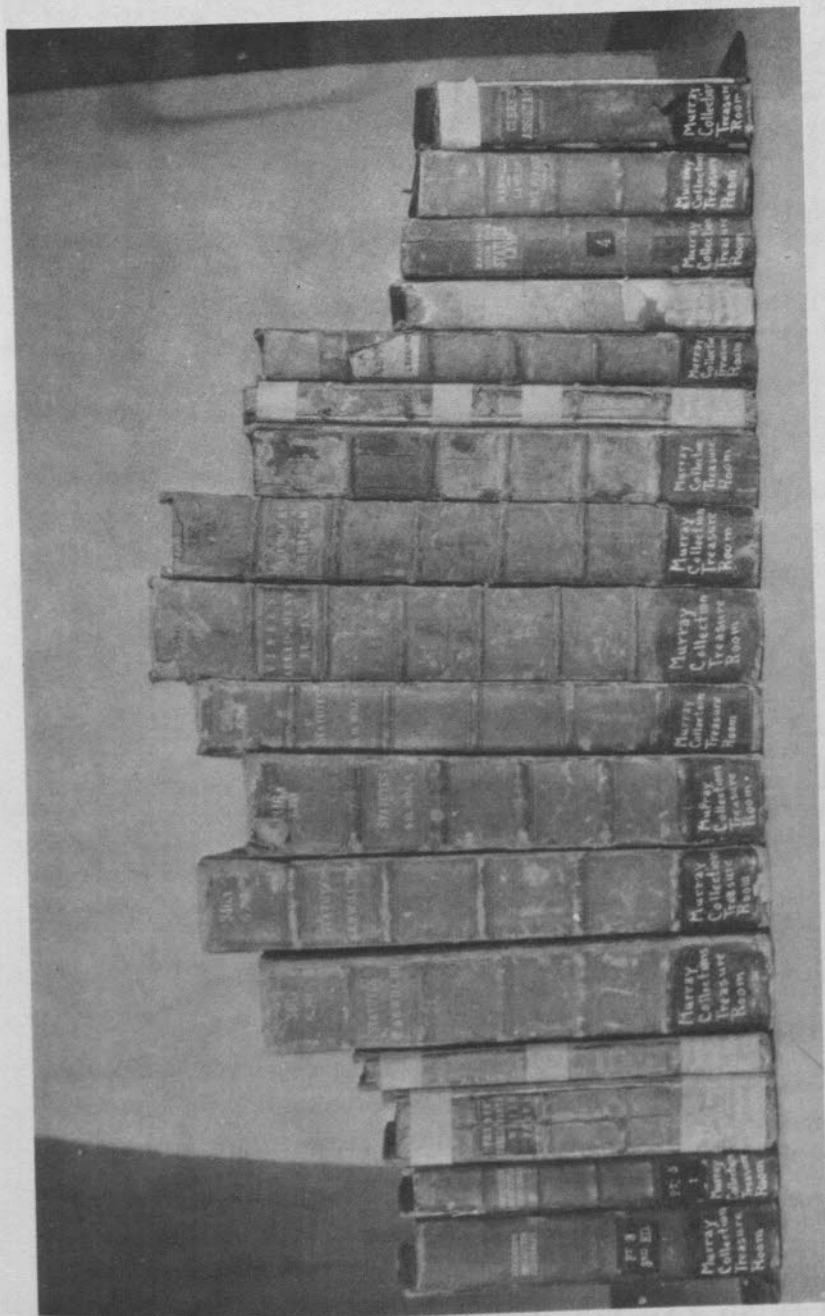
It must be admitted, however, that little is definitely known concerning such libraries, although from references to them several must have been considerable in size. An inventory of that owned by the Morrises, which was celebrated far and wide for its size, completeness, and diversity, unfortunately has not been preserved.<sup>28</sup> It was begun by the elder Lewis Morris, whose admission to the bar took place in 1696,<sup>29</sup> and it was enlarged throughout the years. Whoever owned the family estate, "Morrissania," possessed it. It was "an heirloom . . . a most Elegant, large, beautiful, and well collected library."<sup>30</sup> Making provision for its future in his Will, the younger Lewis Morris (1698-1762) stipulated that "agreeable with" his "father's design of passing it with the estate," it should be so disposed of. "But all such books as I have added to it," he continued, "are for my son Richard, and in the Catalogue are marked with the letter P [R] . . . . And of the remainder my son Richard is to have the joint use of them while he continues to practice the Law. But none of the Books are to be removed from Morrissania, and none of the books are to be loaned out of the Library to any person."<sup>31</sup>

Concerning the contents of two collections of books located in the City of New York—the Corporation Library and the Subscription Library—it is possible also to say but little. The former had been begun around the year 1729, and the latter toward the middle of the eighteenth century. Throughout the years they had been increased by gift and purchase, and together with the King's College Library they contained, it has been claimed, over 60,000 volumes.<sup>32</sup> Their contents—among which were to be found many legal treatises—were completely dispersed by the British soldiers



when they plundered the city in 1776. Another library which was destroyed in a similar manner was one that had been acquired between 1716 and 1757 by the prosperous counselor at law, Joseph Murray. Through his Will it came into the possession of the Governors of King's College, who, until a more suitable place could be secured, incorporated it with the College Library. But in 1776, while stored in the City Hall, it, too, was scattered far and wide after English officers had commandeered that building.<sup>33</sup>

The libraries owned by Judge William Smith and his lawyer sons, William, John and Thomas, were among the best in the colony. These practitioners, who were renowned for their skill as well as for their general culture and knowledge, became wealthy and lived well in the pursuit of their profession.<sup>34</sup> When Judge William Smith died in the Autumn of 1769, five of his fourteen children were living in Charleston, South Carolina.<sup>35</sup> Since his executors were unable to consult freely with all members of the family, they decided not to probate his Will immediately, but, in so far as possible, to carry out its provisions. Somewhat later, however, the devisees who were living in New York "having come to no Determination respecting the Disposition of the Testators Library, the same was then [May, 1770] removed partly to the House of . . . Thomas Smith but the greatest Part thereof to the House of . . . William Smith [the historian] with the Book Cases and a Number of Boxes containing the Testators Papers he having provided a convenient Room for the Reception of them."<sup>36</sup> There they were found when another lawyer son, John William Smith, in June of 1770, "caused a Catalogue to be taken . . . and an Apprazment to be made thereof by Garret Noel . . . of the City of New York Bookseller."<sup>37</sup> This unique appraisal<sup>38</sup> shows that Judge Smith possessed 1648 volumes under 1333 distinct titles, and



By his Will (1757) the New York counsellor at law, Joseph Murray, bequeathed his estate and library, valued at £8000, to the Trustees of King's College. (*Iconography of Manhattan Island*, 6:125). Murray's library became the foundation of the extensive, present-day Columbia University libraries. The books here shown are a portion of the legal treatises in the Murray Collection, Library of the School of Law, Columbia University. Courtesy of Columbia University, New York City.

1. Subscribers Catalogue	0 0 6	4	1. Lewis's book on the purchase of family bonds	0 8 0
2. House of Lords	1 1 9	4	2. Subscribers first week of the Session	0 3 2
3. House of Commons	0 0 3	1	3. Papers for every ad. year	0 0 5
4. Great Seal of Great Britain	0 0 3	2	4. Treatise on the Law of Evidence	0 4 0
5. Continence of Animals	0 1 3	4	5. Mills's Supplement to the 1st Ed.	0 4 0
6. Tables of the Law	0 0 3	4	6. Statutes of the Kingdom	0 4 0
7. Book of the Law	0 4 0	1	7. Dispensary of the Law	0 4 0
8. The Law of the Sea	0 4 0	4	8. Trinity of the Law	0 4 0
Moral Essays			9. Succession of the Law	0 4 0
Political Essays			10. Succession of the Law	0 4 0
Historical Essays			11. Succession of the Law	0 4 0
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Practical Essays			100. Succession of the Law	0 4 0

PAGE FROM THE INVENTORY OF JUDGE WILLIAM SMITH'S LIBRARY  
 William Smith, 1697-1769, Yale 1719, probably began to collect a library while still an undergraduate. Certainly by 1725 he could cite from a wide variety of books both legal and otherwise. When an inventory of his library was made in 1770 it showed that he had owned 1648 volumes of which nearly one-third were law books. The above picture shows a copy—made in 1789—of one page of the inventory. Reproduced from the Answer in the cause of Susannah Livingston against Thomas Smith, Chancery Room, Court of Appeals Hall, Albany, N. Y. Courtesy of the Clerk of the Court of Appeals of the State of New York, Albany, N. Y.

that their estimated second-hand value amounted to £331.12.7,<sup>39</sup> of which approximately one-half, £156.10.3, represented what it was thought the 453 legal treatises were worth.<sup>40</sup> Beyond question this constituted one of the more important collections of books in the colony,<sup>41</sup> and although other libraries—for instance those belonging to Judge Lewis Morris<sup>42</sup> of Morrisania, and to Judge George D. Ludlow on Long Island—were perhaps larger, no inventory of their contents is known to exist.

The subsequent history of Judge Smith's library is also instructive in that its fate was probably that which befell several other New York libraries at the outbreak of hostilities in 1776. In 1771 the several persons<sup>43</sup> interested in Judge Smith's estate having "conceived [it] to be disreputable to sell the Library which had been appraised by Mr. Noel according to the Catalogue he had formed it was agreed that the Executors should make their Choice of such Books as they pleased to take and that the rest should be sold and to remove all disadvantageous Imputations, they did agree to allow nine Pence Advance upon every Folio beyond Noel's Valuation, Six Pence upon every Quarto, and four pence upon every Octavo, and three Pence upon every Book of a smaller Size." In this manner the library suffered depletion, for all the signers of the agreement took advantage of its terms.<sup>44</sup> Then, somewhat later, "At the Commencement" of the Revolutionary War "in the Spring of the Year one Thousand Seven hundred and Seventy Six," the books in "Such Part of the Testators [William Smith, Sr.] Library" as had been removed to the New York City house of Thomas Smith were shipped to Haverstraw, Orange County, and "upon the Advance of the Enemy . . . were sent from Haverstraw to the Farm at Schonemuck [Orange County] where they remained in the Custody of" John W. Smith



"untill his death."<sup>45</sup> Following that event, they were reboxed and again sent to New York City to the house of Thomas Smith, where for several years they remained in storage. As for that portion which had been placed in the custody of William Smith, Jr., in New York City, it together "with his own Library" was removed in 1776 "for Safety to the upper Part of Orange or the lower part of Ulster Counties . . . and some time before the Family of the said William removed to Canada a Number of Boxes containing the Books of the William Smith deceased were sent to" Thomas Smith in New York City. There sometime in 1789 another inventory of all the remaining volumes was made, and the most valuable were "sent to Frederick Jay to be sold at public Auction,"<sup>46</sup> while those still undisposed of were left in the possession of Thomas Smith. Thus a library begun at Yale College in 1719 was, seventy years later, scattered from Charleston, South Carolina, to Canada. Today in public depositories a few of its volumes may still be found.

An idea of the comprehensiveness of the library belonging to William Smith, Jr., may be gained from references to it in the records, from the extent of his practice, and from the curriculum for law students which he outlined in 1756. In this course of study, as has been shown, he recommended that no less than twenty-four of the accepted legal treatises of the day should be mastered, and that students must understand the contents of a number of Reports, Entries, and Abridgments as well as a whole series of books devoted to Languages, Mathematics, History, Logic, Divinity, Laws of Nature, Laws of Nations, and the Laws of England. These books, reaching several score in number, he recommended confidently and without condition as if they were at hand. At all events, even if not generally

available, it may be surmised that they were to be found in his own and his father's libraries.<sup>47</sup>

The unusually brilliant Benjamin Nicoll, Yale 1734, also had acquired by 1760 a fair fortune and a "Library of Books." Although the circumstances surrounding his youth probably precluded his ever having received many of the law books and manuscripts belonging to his paternal ancestors,<sup>48</sup> yet the nature and extent of his practice as revealed by the records would indicate that he must have owned a fairly well-stocked law library.<sup>49</sup> Leaving it to his son Edward, he stipulated that should his executors "think him [Edward] of sufficient capacity," they were to "bring him up to the Practice of the Law."<sup>50</sup>

The library of one other well-known lawyer, John Chambers, who for more than thirty years had one of the largest practices in the colony, should also be mentioned. In 1760, long after he had retired from active participation at the bar, and after his nephew, Augustus Van Cortlandt, who grew up in his home and to whom he turned over the most lucrative of his public offices, had established himself in practice, Chambers still owned 588 volumes,<sup>51</sup> over 170 of which related to law.<sup>52</sup>

From time to time throughout the colony, but chiefly in New York City, libraries containing law books were advertised for sale.<sup>53</sup> Although little if anything is known of the contents of most of these, that which had belonged to Governor John Montgomerie deserves special notice since from it over forty-five persons—chiefly lawyers and public officials—purchased more than one hundred treatises on legal subjects.<sup>54</sup> Never again in provincial New York was such a collection sold to the public.<sup>55</sup> Thus it may be asserted with some confidence that after the second quarter of the eighteenth century the members of the legal profession in colonial

New York possessed libraries fairly well-stocked with books. Particularly was this the case for those practicing in and near New York City.<sup>56</sup>

<sup>56</sup>The powers and duties of a notary public of Holland corresponded to those possessed by an attorney at law of England. See Preface to Vol. I in Berthold Fernow, *Minutes of the Orphanmasters Court*. . . .

See Bibliography herein for books, manuscripts, and papers mentioned in this study.

<sup>57</sup>*Iconography*, 1652-130:4.

<sup>58</sup>Mention should also be made of Adriaen Van der Donck, who, after having petitioned the West India Company, had been granted the right to practice as an advocate in New Netherlands, he "having received his degree of law from the University of Leyden and been admitted to the bar by the Court of Holland." (*Iconography*, 24 July, 1653.) He continued to reside in the province after the English had taken over the country. Following the capture of New Amsterdam in 1664, Dirck Van Schelluyne, together with a fellow notary public, Lodewyck Cobes, moved to the Albany District. There they continued to practice their professions. Another prominent lawyer (notary) of this period (1650-86) was Allard Anthony, one of the wealthiest and most prominent citizens under both the Dutch and the English. He was one of the commissioners selected to conduct the first lottery in the City (February 15, 1655), which consisted of a "certain quantity of Bibles, Testaments, and other books according to catalogue." As first sheriff under the English, he "lived in the grand manner" in a house "which was an ornament to the city." He had a large legal practice. For references to him, see his name in indexes to *Docs. Rel. Col. Hist. N. Y.*, and to *Iconography*. For an account of the legal profession during the period the Dutch were in New York, see James Sullivan, *History of New York State*, V. pp 1847-1890.

<sup>59</sup>John Sharpe formerly lived at the Sign of the Ramme, at the end of Ramme Alley, in Filleete Street and came over with me into these parts, in his Maties Service; he is at this present time alive and resident in this place!" (Governor Nicolls' Certificate, 25 February, 1667/8. *O'Callaghan Papers*: "Attorneys and Counsellors.") Sharpe transacted a large volume of legal business between 1665 and 1674.

<sup>60</sup>Matthias Nicolls was the ancestor of a long line of illustrious New Yorkers, a number of whom were lawyers. His son William practiced in the colony from 1678 to 1718.

<sup>61</sup>For a brief account of the origin of the "Duke's Law," see an essay by Julius Goebel in *Hist. State of N. Y.*, III, 13-18.

<sup>62</sup>For names of these lawyers, see Appendix II, pp. 135-155.

<sup>63</sup>For instance, "Samuel Leete, gentleman," attorney at law, died in December, 1679, leaving an estate of £23.10.0. A portion of this consisted of "38 books, great and small," valued at £5.16.0. *N. Y.: Absts. of Wills*, I, 63.

In 1678, in Newark, N. J., Abraham Pierson, Sr., died possessing an estate valued at £822. He left a library of 440 volumes, most of which, however, dealt with theological subjects. Edwin Oviatt, *Beginnings of Yale*, 211-12.

<sup>64</sup>For example, see File Papers (1684-) in the "wooden box" in Ulster County Clerk's Office, Kingston, N. Y.; File Papers in the office of the Clerk of the Court of Appeals, Albany, N. Y. (1684-1790); Documents of the (a) Leisler Trial (1691), (b) Bayard Trial (1702) (c) McKemie Trial (1708); File Papers, in the Hall of Records, Borough of Manhattan, New York City; Minute Books of the different courts of the province, 1665-1790, *passim*; and collections of papers of the period, 1664-1790, in various libraries in New York City, Washington, D. C., Trenton, N. J., and Albany, N. Y.

<sup>65</sup>*Iconography*, 1704.

<sup>66</sup>Upon the elder Broughton's death in 1705, his son Sampson, barrister at law, remained in the colony for several years, practicing his profession and holding public office. He probably inherited his father's library and legal manuscripts, and without doubt they were available to his professional friends.

<sup>67</sup>Mompesson had twice served in Parliament and had filled the office of Recorder of Southampton.

<sup>68</sup>*N. Y.: Absts. of Wills*, II, 45-6. Mompesson died in 1715. His "Abridgement of the Law," a large tome of 494 pages, 12" x 16" in size, closely written, annotated and indexed, is on the files of the library of the Law School of Columbia University.

<sup>69</sup>Mompesson's immediate predecessor had been John Bridges, LL.D., barrister at law, graduate of Cambridge University, who had come to New York to hold judicial office. That such a person would bring a law library with him appears probable. It is also reasonable to assume that John Guest, barrister at law, Oxford (1667) and Cambridge (1672-3) graduate, brought a law library to America. For nearly two years (1698-99) Guest was one of the Justices of the Supreme Court of New York, being responsible for the Judiciary Act of 1699. He then went to Philadelphia to become Chief Justice of Pennsylvania.

<sup>70</sup>*N. Y.: Absts. of Wills*, IV, 159-60. David Jamison came to New York in 1684 after having received a liberal education in Scotland. For several years he taught the school at Fort James. Later he became Deputy-Secretary of the Province, and, after studying law in the office of James Emott, was admitted to the bar in 1698.

<sup>71</sup>Those who died were: Sampson S. Broughton, Attorney General, 1701-1705; John Bridges, Chief Justice, 1704-1705; Robert Milwood, 1702-1704; and Roger Mompesson, Chief Justice, 1705-1715. Those who returned were: William Atwood, Chief Justice, 1701-1702; Leigh Atwood, 1701-1705; Barne Cosens, 1697-1706; John Rayner, Attorney General, 1708-1720; Sampson Broughton, 1701-1711.

<sup>72</sup>In his Will, dated 1716 and proved 1723, Bickley disposes of his law library. *N. Y.: Absts. of Wills* IV, 45-6. Vernon had a "Study" in New York City. O'Callaghan, *Calendar of Historical Manuscripts*, 63:134, 138. This man belonged to an influential English family of that day, and had an ex-



tensive practice. Wileman came to New York about 1708. In 1745 he died leaving his library to his son-in-law, Vincent Mathews. N. Y.: *Absts. of Wills*, IV, 42; New York: *Minutes and Orders in Chancery*, 1748-74, pp. 47-9, 60-1.

<sup>18</sup>James Emott, Latin scholar, well-to-do and successful practitioner (1682-1708), died in 1713, leaving four sons. Probably they and their descendants, several of whom were lawyers, inherited his law books. Abraham Gouverneur's books went to the bottom of Long Island Sound in September, 1692, when he fled from New York for participating in the Leisler regime. He was a man of learning and one of the few people in the colony who wrote shorthand. N. Y.: *Absts. of Wills*, I, 120; *Docs. Rel. Col. Hist. N. Y.*, IV, 4.

The reports of the library owned by the Morrisises of Morrisania uniformly hold it to have been one of the largest in the colony of New York. It was begun in 1676. The library of William Burnet, M.A., Cambridge, 1702, barrister of Middle Temple, governor of New York, 1720-27, and of Massachusetts, 1727-29, seems to have been large. Benjamin Franklin, who visited the governor in 1724, wrote of it: "The gov'r. treated me with great civility, show'd me his library, which was a very large one, and we had a good deal of conversation about books and authors." (John Bigelow, *Complete Works of Benjamin Franklin*, I, 74.) Of this same library Dr. William Douglass wrote Cadwallader Colden from "Boston 31st March 1729.—His Excellency's library is of excellent use (excuse the jingle) to his frie[nds] here. . . ." (Cadwallader Colden, *Letters and Papers*, 1711-29, p. 308. See also *Additional Letters and Papers*, 1715-48, VIII, 193.) A little later (July 14, 1729) Dr. Douglass again wrote: "I forgot to tell you that the Governor's library has not a little turned my head from my former Country Botanical perambulations." This library Governor Burnet had with him in New York between the years 1720-27.

<sup>19</sup>See his "Register of Cases in the Supreme Court of New York, 1721-1742," in the New York Historical Society Library. See also the contract of apprenticeship between him and James Gilchrist under date of 1723, Appendix V, pp. 165-6.

<sup>20</sup>By this date several lawyers of New York probably owned law libraries larger than Alexander's. Neither the size nor the titles of the contents of most of them, however, are known.

<sup>21</sup>*James Alexander Papers*: "Diary," New Jersey Historical Society Library, Newark, N. J. See Appendix VI, pp. 171-6, for list of books in this library.

<sup>22</sup>Certain volumes listed in this library are not included in the comprehensive catalogues of law books published by the English legal bibliographers, Maxwell and Sweet.

<sup>23</sup>On August 29, 1763, Garrat Noel, New York City bookseller, opened a circulating library next door to the Merchants Coffee House, Wall and Water Streets. It was advertised as "Consisting of several Thousand Volumes of choice Books in History, Divinity, Travels, Voyages, Novels, etc." He enlarged it in September of the same year. Concerning this library and the rules governing it, see A.B. Keep, *Library in Colonial New York*, 102-3.

see also *Iconography*, 29 August, 1763. Samuel Loudon's general circulating library was opened in 1763, and it was still in operation in 1774. See advertisements and news items from New York City newspapers in "The Arts and Crafts in New York," *Collections of the New York Historical Society for the year 1936*, p. 240. See also *The New-York Gazette*, September 24, 1764, and Rivington's *New-York Gazeteer*, December 30, 1773.

<sup>24</sup>See his "Diary" *passim*, *James Alexander Papers*, Newark, New Jersey. An interesting sidelight upon this business of lending books and the difficulty of getting them back is shown in an incident which took place between Isaac Bobin, Deputy Secretary of the Province, and John Chambers, law student. Chambers having borrowed a book, Bobin requested its return. Chambers believed he had returned it, but apparently was mistaken for Bobin again asked him for it. Chambers then wrote:

"Mr. Bobin,

"I cannot but offer you a Thousand pardons for telling you you had yo<sup>r</sup>. Booke/ I indeed did ord<sup>r</sup>. the boy to Carry it you [*sic*] and sincerely thought he had done it. But Mr. Vernon had it from him one day in my absence and he remembering that I went and found it in his Study. I hertily blush for my obstinacy but I hope y<sup>r</sup>. goodness will pardon me on Such an ingenious Confession and believe me to be

"Yo<sup>r</sup>. Very Humble

"and Ob<sup>t</sup>. Serv<sup>t</sup>."

"Jno Chambers"

"Augt 22, 1721

This book, or possibly another, seems never to have been returned, for eventually Chambers paid Bobin £2.5.0. See New York: *Cal. Hist. MSS.*, Vol. 63:134, 138.

<sup>25</sup>Although it was not his usual custom, Alexander sometimes charged a "rent" fee. The following typical entries show that John Kinsey, subsequently a prominent lawyer and public officer of New Jersey, early made use of the books in Alexander's library: "John Kinsey owes me as follows June 1718 . . . October . . . To one part of Crook's [Croke's 1657] reports price Sterling 1:10 Natura brevis [Old Natura Brevium 1328-1376 printed 1524] Ster. 3/3 Compl: Attorney [Compleat Attorney] 4/3 Clerks Guide 6/3 March Slander [1653] 2/3 Abridgmt Moors [More] reports 2/3 Tothills Chancery 1/6<sup>d</sup> in all 2" 8" 6" sterling for which was to pay too pr ct proc 4" 17" . ." Again in "Octb<sup>r</sup> 1718 To cases in Chancery both vol. 1" 5" 6" [Officiu Clerici pacis] 4/3 Tryals per pais 5/3 Lillys reg<sup>r</sup>. 2 vol. 10/3 Regula P. 2" 6d in all 2" 7 Sterling . . . 4" 14" 1" . ." ("Diary," p. 51 1/2, *et seq.*) Since the top of the page from which this entry is copied is dated "Perth Amboy in New Jersey, March 25th, 1720," and since the next few succeeding pages are torn out, possibly John Kinsey was indebted for additional law books.

Through purchases made chiefly in London, Alexander was constantly adding to his library. From the estate of Governor John Montgomerie he purchased 149 volumes, 21 of which covered legal subjects—12 titles—for which he paid £77.8.0. For information concerning "Inventory of Estate of

Governor John Montgomerie," see Appendix VII, pp. 193-6. For a number of years Alexander also bought and sold law books for the trade. The books other than legal which he lent covered a wide list of subjects, with mathematical treatises predominating. In 1734 he lent to William Smith, Sr., a volume on the "Art of Speaking in Public" at the time Smith and Joseph Murray appeared before the Assembly in response to its request that each give his reasons why the Supreme Court should not be constituted a court of equity.

<sup>26</sup>This was King's College, established in 1754. The first public library in New York City was established in 1729. For a history of New York colonial libraries, their size, location, subscribers, and similar matters, see A. B. Keep, *History of the New York Society Library*, *passim*. See also A. B. Keep, *The Library in Colonial New York*, *passim*, especially p. 102 *et seq.*, for a discussion of circulating libraries. This author does not include Alexander's library. Garret Noel, he thinks, started the first circulating library in 1763, although in 1729 the Mayor of New York City had informed the Common Council that the Society for Propagation of the Gospel in Foreign Parts was placing a library of 1000 volumes in New York City, it being the intention of the Society to establish "A Library from which the Clergy and Gentlemen of this Government and Jersey Pensilvania and Connecticut, might borrow Books to read upon giving security to Return them within A Limited time." (*Iconography*, 27 June, 1729.) These books were received by the Common Council on April 22, 1730, and were placed in City Hall in a room especially fitted for them. *Ibid.* Eight of the twelve trustees of the New York Society Library, which was established in 1754, were lawyers. *New-York Mercury*, May 6, 1754. Six hundred pounds was raised with which some 700 books were purchased. They also were placed "by Leave of the Corporation, in their Library Room in the City Hall." (*Iconography*, 21 October, 1754.)

<sup>27</sup>A reading of the arguments made all through the 1720's in a series of important causes in both the supreme court and the court of chancery tends to confirm this belief. Furthermore, as stated in the text, a reading of the arguments and opinions offered in the controversies over the establishment of the judicial system of the Province during the years 1729-35, and the numerous citations of authorities therein, proves that a wide selection of legal and historical books was available to students. For an example of this see: Chief Justice Lewis Morris' "Opinion Regarding the Authority of the King of England to Erect a Court of Equity in New York without the Consent of the General Assembly [1733]"; "The Charge of the Honourable James DeLancey, Esq; Chief Justice of the Province of New York, to the Gentlemen of the Grand-Jury for the City and County of New-York, on Tuesday the 15th day of January. *Annoq; Domini. 1733*"; "The Arguments of the Council [James Alexander and William Smith] for the Defendant in Support of a Plea to the Jurisdiction Pleaded to a Bill filed in a Course of Equity, At the Suit of the Attorney General, Complainant, Against Rip Van Dam, Defendant, in the Supream Court of New-York. [1733]." Copies of these arguments may be found in Room 303, New York Public Library.

<sup>28</sup>A complete inventory of Lewis Morris' estate was made by his executors in 1762. It did not, however, include the library. Probably this omission occurred because the library belonged to "Morrisania," not to the Judge. The inventory was entered in an interesting commonplace book, "Lewis Morris, His Book," which the future judge had begun while a youth. See "Richard Morris vs. Sarah Morris, 1786:89"; "Gouverneur Morris et al. vs. Richard Morris, 1786:71" among file papers in Chancery Room, Court of Appeals Hall, Albany, N. Y.

<sup>29</sup>*O'Callaghan Papers*: "Attornies and Counsellors."

<sup>30</sup>Thomas Jones, *History of New York . . .*, I, 138.

<sup>31</sup>N. Y.: *Absts. of Wills*, VI, 171-5 at 173. In this same Will (p. 174) occurs the classic castigation of the kind of education offered in Connecticut around 1760. It reads: "It is my desire that my son, Gouverneur Morris, may have the best education that is to be had in Europe or America, but my express will and directions are that he be never sent for that purpose to the Colony of Connecticut, lest he should imbibe in his youth that low craft and cunning so incident to the People of that Colony, which is so interwoven in their Constitutions that all their art cannot disguise it from the world; though many of them, under the sanctified garb of Religion, have endeavored to impose themselves on the World for honest men." This provision regarding his son Gouverneur's education was made by the Judge in spite of the fact that he had sent his two sons, Lewis Staats and Richard, to Yale, and that he appointed as one of the executors of his estate, William Smith, Jr., a graduate of Yale of the class of 1746. His son Lewis Staats, an officer in the English Army, was not appointed an executor. His son Gouverneur was graduated with honors from King's College in 1768, and was admitted to the New York Bar in 1771.

In 1755 the library of Yale College was catalogued in a small pamphlet of some 40 pages. On pages 36-7 are listed its 23 "Law Books." These were: "Corpus Juris Civilis, 2 vol., Paratitla in Pandectas Juris Civilis, Pulton's Collection of Statutes, Statutes of Charles I. and II. Statutes of King William and Queen Anne, The Compleat Clerk, Statutes of the University of Oxford, 4 Dup. De pace Regis & Regni, 15 Small Law Books." (*Catalogue of Books in the Library of Yale-College in New-Haven.*)

<sup>32</sup>Thomas Jones, *op. cit.*, I, 136. That these three libraries contained 60,000 volumes seems doubtful. Possibly they contained 6,000 volumes. The best account of them is that given by A. B. Keep, *Hist. N. Y. Soc. Library*, *passim*.

<sup>33</sup>In speaking of what happened to the contents of this library, one eyewitness, a judge of the Colonial Supreme Court of Judicature, reports: "I saw in a public house upon Long Island nearly 40 books bound and lettered, in which were affixed the arms of Joseph Murray, Esq., under pawn from one dram to three drams each." (Thomas Jones, *op. cit.*, I, 136-7.) The books of the other libraries, he adds, were "publicly hawked about the town for sale by private soldiers, their trulls and doxeys. I saw an Annual Register neatly bound and lettered sold for a dram, Freeman's Reports for a shilling,



and Coke's 1st Institutes, or what is usually called Coke upon Littleton, was offered to me for 1s. 6d." (*Ibid.*) A number of Joseph Murray's books, with his plate in them, are still extant in various public repositories. See, for instance, those in the Law Library of Columbia University, where eighty-eight volumes (fifty-seven distinct titles) are on its shelves. See Appendix VII, pp. 177-9. Peter Jay, in 1764, referred his son John to these libraries, recommending that he should consult the law books there rather than spend so much for new books while he was still a clerk. Frank Monaghan, *John Jay . . .*, p. 29.

For an account of the destruction of certain of the libraries in New York City in 1776, see a letter written by the Rev. Dr. Charles Inglis, Rector of Trinity Church, dated May 1, 1778, in A. B. Keep, *op. cit.*, 81-2. On January 27, 1777, Governor Robertson issued a proclamation ordering the return of the books of the King's College Library and the New York Society Library, both of which had been plundered. *Iconography*, 27 January, 1777. The library of Thomas Hicks, attorney at law, of Flushing, Long Island, was plundered in May, 1781, by a roving band of colonists. Thomas Jones, *op. cit.*, I, 304.

In the War for Independence a majority of the well-to-do lawyers of New York remained loyal to the mother country. When they were banished, they took whatever portions of their libraries that struggle had not destroyed with them to England, Nova Scotia, New Brunswick, or Canada. Indeed, not a half-dozen practitioners prominent before the war survived the professional chaos of the years 1776-1783.

<sup>40</sup>From his extant papers, his reputation, and the number of clients employing his services it would appear that Thomas Smith, second son of Judge William Smith, was a lawyer of wide learning and that he owned a library well stocked with legal treatises. For references to his library as well as to those belonging to his brothers—William, John William, Samuel, and Joshua Het, consult references cited in notes 36-38, pp. 90-1.

<sup>41</sup>William Smith, Yale 1719, was for many years one of the leaders of the bar of New York as well as one of its most prominent citizens and public officials. He was an Associate Judge of the Supreme Court of Judicature of the Colony of New York from 1761 until he died in 1769.

<sup>42</sup>Following the War for Independence, the surviving members of Judge William Smith's family quarreled over the extensive estate he had left. From the papers filed in the ensuing legal controversies—especially those in chancery—much information concerning the Smith family, its activities and connections, can be learned. For the material given in this chapter, see particularly "The Bill of Complaint of Susannah Livingston Widow and Relict of Robert James Livingston late of the City of New York, Merchant, deceased, against Thomas Smith, Executor, of the Estate of William Smith," Filed, "May 30, 1789 by Aaron Burr of Counsel." (Chancery Room, Court of Appeals Hall, Albany, N. Y.)

<sup>43</sup>See Thomas Smith's "Answer" to the "Bill of Complaint," *supra* note 36. A copy of the inventory of Judge Smith's library, as made June 19, 20, 1770,

was written on six large parchment sheets and constituted Schedule #3 of said "Answer."

<sup>44</sup>In 1789 the original of this appraisal was in the hands of Thomas Smith. See "Answer of Thomas Smith of the City of New Yorke, Esquire Defendant to the Bill of Complaint of Susannah Livingston Widow and Relict of Robert James Livingston late of the City of New Yorke Merchant deceased Complainant." This "Answer" was "sworn to the 16th day of September 1789," by the defendant. Thomas Smith, Jr., was Solicitor. (Chancery Room, Court of Appeals Hall, Albany, N. Y.)

<sup>45</sup>This probably represents what Noel believed he could secure for these books. It is interesting to compare these sums with the gift of £500 made by Governor Tryon and Council to Justice George Duncan Ludlow in 1774 to compensate him "in some measure for the loss of his Library by Fire." (New York: *Calendar of Council Minutes*, XXVI, 394.)

<sup>46</sup>A number of the volumes in this collection, aside from those strictly legal, would be highly useful to a practicing attorney.

<sup>47</sup>From internal evidence as well as from an inspection of "Some Directions Relating to the Law," written by William Smith, Jr., in 1756 (Appendix VII), it may be surmised that Judge Smith's library was practically the same in content at the middle of the eighteenth century as when inventoried. The books the son then advocated should be read were almost without exception listed in the appraisal of 1770. Moreover, when dates of publication are considered, few books were added after 1760. For instance, despite the fact that all through the 1760's New York practitioners generally were familiar with Blackstone's *Commentaries*, this important work is not listed in the inventory. It was this library that Judge Smith's clerks consulted. Among these were William Livingston, William Smith, Jr., John Morin Scott, and Thomas Smith. It is probable that clerks in the offices of the two sons, William and Thomas, also had access to it.

<sup>48</sup>Following the Peace of 1783, the children of the late Judge Lewis Morris (d. 1762) quarreled over the disposition of his estate. Several suits in equity between Richard Morris and his half-brother, Gouverneur, were filed. In the accountings demanded in these, the possessions of the father were minutely inventoried—all except his library. See the records of the court of chancery for the years 1784-1790 in the Court of Appeals Hall, Albany, N. Y., consulting names Richard Morris, Sarah Morris, and Gouverneur Morris either as complainants or defendants.

<sup>49</sup>These were: sons—William, Thomas, John W., and Joshua Het; daughters—Susannah and Sarah; and sons-in-law—Abraham Keltelas and Andrew Bostwick.

<sup>50</sup>Although the records show that the terms of this agreement were taken advantage of by every one of the fourteen children, it is not known what volumes each selected.

<sup>51</sup>John W. Smith, lawyer-son of the late Judge Smith, was admitted into the Supreme Court of New York in 1762. He carried a small law library of his own with him to Orange County in 1776. As inventoried by his brother

Thomas, it contained twenty-six volumes. He had also "Received the Books and Registers of the Testator [William Smith, Sr.] and Retained the same in his Custody to the time of his Death," May 10, 1782. He was living at that time with Robert Morris at Morristown, N. J.

<sup>40</sup>The books sold at this auction realized £153.16.8. During the years 1787-1791, several sales of books took place at the auction rooms of Frederick Jay, New York City. None, however, was listed as constituting the library of the late Judge Smith (1697-1769). See G. L. McKay, *American Book Auction Catalogues 1713-1934, passim*.

<sup>41</sup>See Appendix VIII for this course of study.

<sup>42</sup>Benjamin Nicoll's brother, William (1715-80), inherited the ancestral home—the Manor of Islip, Long Island. With it, presumably, went the Nicoll's Library. N. Y.: *Abstracts of Wills*, IX, 89-91. Said William Nicoll left his library to his son, Samuel Benjamin. *Ibid.*

<sup>43</sup>See *Minutes* of the different courts sitting in New York City, *passim*. Also see *Index to Docs. Rel. Col. Hist. N. Y.* Benjamin Nicoll was reared and given his early formal schooling by his stepfather, the Rev. Samuel Johnson, future first President of King's College. His father-in-law was Edward Holland, wealthy and prominent citizen of New York. Both may have contributed books to his library.

<sup>44</sup>N. Y.: *Abstracts of Wills*, V, 417; see also *Ibid.*, XIV, 154-5.

<sup>45</sup>John Chambers died in the spring of 1764. In his Will he provided: "I give; etc. to Augustus Van Cortlandt, whom I brought up, one-half of all my law books and manuscripts, and the other moiety or half of said books and Mss. to John Jay, son of Peter Jay my brother-in-law." (N. Y. *Abstracts of Wills*, III, 57-62.) Thus at the very time Jay commenced his clerkship with Benjamin Kissam, he inherited a law library.

<sup>46</sup>The list of these volumes raises some doubt as to whether it was made in 1760 and whether it is in Chambers' handwriting, despite a written statement on the original document asserting that it was. The number and variety of volumes other than law books shows Chambers to have been a man of wide cultural interests. See Appendix VII, pp. 180-1, for a list of the law books in this collection.

<sup>47</sup>In 1738 the following advertisement appears: "To be Sold. A choice collection of Law Books, consisting of Reports of all the Chief and Eminent Lawyers, the Statutes at large, Domat's Civil Law Institutes, etc., with a number of other Books upon various subjects, being above 300 volumes as may be seen by a Catalogue of the same. Whoever inclines to Purchase the same, or any part of them may apply to John Roberts near the long Bridge in New York." (*The New-York Gazette*, May 21, 1738; *Iconography*, IV, 21 May, 1738.) These may have been new books, for no well-known lawyer is known to have died at this time. Possibly the executors of a practitioner of a preceding generation—May Bickley, for instance—were now placing a library on sale, or possibly the books belonged to Colonel Nathaniel Gilbert, admitted to practice in 1730. It would be interesting to read the catalogue of these books. The emphasis is on law books, not on works

concerning religious or metaphysical subjects. That there were catalogues of law books printed from time to time may be seen from the entry by James Alexander in the list of law books in his library in 1721 of a "Catalogue of Law Books, anno 1716." That book dealers in New York City sold law books and supplied outlying districts—as far even as Quebec—is seen from the contents of two letters written in 1765 by John Watts, New York merchant, to Mr. William Brymer. He writes: "The Account of the Books, to be had, is inclosed amounting to £30. - - supplyd by our most noted Dealer in that way, some of them were not to be had it seems quite New others not at all. Not understanding these things myself I put the Account into the hands of a practitioner of the Law for his Inspection. His Report was, that the Books were dear, but as cheap as they could be bought here. I hope the Effect of them may make up for the price." (*Letter Book of John Watts*, 365.) That the above were law books appears from a letter to the same Mr. Brymer the following month (September 23, 1765). Watts wrote: "Sir I wrote you 29th July in Company & 3d August singly by Capt: Simonton, who carryd the Law Books with the Account amounting to £30 Currency. Should you want any more of these kind of Wares, I beleive you would find it cheaper to be supplyd from England directly." (*Ibid.*, 383-4.) It may be of interest to note that personages other than lawyers placed orders for legal treatises directly in London. For instance, in 1724 Cadwallader Colden sent an order to John Clerk, London bookseller, for a variety of books, among which were copies of Wood's *Institutes and Lilly's Conveyancer*. Cadwallader Colden, *Letters and Papers*, I, 52, and *Ibid.*, Collections for 1936-1937, pp. 34-6. Messrs. William and John Innys, London booksellers, also supplied New Yorkers with books upon occasion.

<sup>48</sup>In this library there were 1341 volumes. The sale of them realized £483.5.11 for the estate. The law books realized £99.7.11. See Appendix VII, pp. 182-192.

<sup>49</sup>Lawyers in New York City not heretofore mentioned also possessed libraries. This may be seen in a warrant signed on April 6, 1774, by Governor Tryon upon the advice of the Council. It reads: "To M<sup>r</sup>. Justice Ludlow as a Compensation in some Measure for the Loss of his Library by Fire—£500<sup>o</sup>0<sup>o</sup>0." Thus, this eminent lawyer and judge would seem to have owned a library of considerable size. Why he should have been so honored, however, would be interesting to know. He was, of course, a judge of the supreme court and a good politician. New York: *Council Minutes, mss.*, XXVI, 394, April 6, 1774.

Frederick Morris, deputy secretary and recorder of New York City for a number of years, possessed a fair library if the number of books borrowed from it by clerks and lawyers during the years 1731-1744 is any indication of size. See O'Callaghan, *Cal. Hist. MSS.* Pt. II, Index; see also Index of New York: *Calendar of Council Minutes*.

<sup>50</sup>In speaking of the literature available in New York in 1765, Cadwallader Colden stated: "In a country like this, where few men, except in the profes-