"Ingenium est Fateri per quos profeceris:"
Francis Daniel Pastorius' Young Country Clerk's Collection and Anglo-American Legal Literature, 1682-1716

Alfred L. Brophy
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This Article is dedicated to the memory of Susan Ferrell. Susan was, until April 19, 1995, an attorney with the Department of Housing and Urban Development, specializing in Native American housing. Like her colleagues at the Alfred P. Murrah Federal Building, she dedicated herself to the same goals of justice through law that motivated Pastorius. She is missed.
Introduction

The rare book room of the University of Pennsylvania's Van Pelt library holds two manuscript volumes by Francis Daniel Pastorius. The larger one, his Bee Hive, collects Pastorius' thoughts on subjects as diverse as religion, slavery, usury, and horticulture. The Bee Hive provides a source of knowledge about Pastorius' wide-ranging interests and about ideas in the American colonies in the late seventeenth and early eighteenth centuries. The smaller volume, Young Country Clerk's Collection, written mostly between 1698 and 1710, consists largely of forms for contracts, land transactions, wills, and pleadings.

1. Francis Daniel Pastorius, Bee Stock or Hive, Ms Am 1, Special Collections, Van Pelt Lib, U Pa.
2. See Francis Daniel Pastorius, Young Country Clerk's Collection, Ms Am 63, Special Collections, Van Pelt Lib, U Pa. See also Craig W. Horle, et al, eds, 1 Lawmakers and Legislators in Pennsylvania: A Biographical Dictionary of Pennsylvania Legislators 586-90 (U Pa 1991) (mentioning existence of Young Country Clerk's Collection); Michael Learned, Life of Francis Daniel Pastorius 258, plate following 274 (Campbell 1908) (briefly describing the Collection).
As the oldest extant treatise on law written in British North America, it has the ability to illuminate the nature of the law in early America in a way that few other sources do.

Massachusetts published its legal code in 1648, three years before Pastorius was born; William Penn published a volume dealing with English constitutional ideas, *The Excellent Privilege of Liberty and Property*, in Philadelphia in 1687; and dozens of volumes of manuscript records of Massachusetts, New York, Pennsylvania, Maryland, and Virginia courts antedate Pastorius' volume. Nevertheless, no one in America wrote a practical legal treatise before Pastorius.


5. The earliest "practical" legal treatise—as distinguished from treatises dealing with constitutional issues or compilations of statutory laws—printed in British North America appears to be a copy of John Hill's *Young Secretary's Guide* (London 1685), reprinted in Boston in 1708. It contained a short appendix detailing Massachusetts law on wills. See John Hill, *Young Secretary's Guide* (Boston 1708) Evans 39, 476. Other early treatises included the *Secretaries Guide* (New York 1714) Evans 1668 and *Conductor Generalis* (Philadelphia 1722) Evans 2327. None of the early American treatises employed Pastorius' creativity in compiling useful precedents from several English treatises, nor were they tailored as closely to American law as was Pastorius' treatise.

This essay examines the treatise and Pastorius' other writings to see how he viewed the law. In particular, it asks what legal issues were important to him and what sources he turned to in dealing with legal issues. This article connects Pastorius' thoughts on law with his practical legal writings to show the relationship of his religious beliefs to formal law and the differences in the substantive law of Pennsylvania and England.

I. Legal History of Early America: The Debate on English Origins

Historians of seventeenth-century English and American law have been puzzled by its nature. Answers to even relatively simple questions of how English civil law worked outside of the great royal courts of Kings Bench, Chancery and Common Pleas, have been by-passed in favor of examination of the criminal law. We are answering some questions about who used the courts and what they sued over. But the substantive and procedural law of post-Reformation England remains under-explored. And the law in early America has received, consequently, little attention until recently. One is left wondering, how similar the law in the marchlands of European civilization in Philadelphia, Boston, and New York within the first one hundred years of settlement was to that of the British Isles? And how does one account for the differences?

To some extent, the questions about early American law mirror questions raised about other elements of American settlement. How similar were religion, culture, and politics in England and America? Was there anything distinctly American about the settlers as early as the seventeenth century, or were they merely replicating European culture and values in the new land? Many have responded with varying answers. Scholars of the middle Atlantic colonies in particular have discussed the similarity of middle Atlantic culture to that of Britain. They have found in religious practice and family life striking similarities to European culture, leading one historian to comment that "much of the British North American culture was familiarly European, traditional, even conservative."

6. There exist such excellent works on English criminal law and prosecution in the seventeenth century as E.P. Thompson, *Whigs and Hunters: The Origin of the Black Act* (Allan Lane 1975), and Craig W. Horle, *Quakers and the English Legal System, 1660-1688* (U NC 1988). But little is known about English local law of a non-criminal nature in the seventeenth century. Indeed, much of what we know comes from studies of American law that refer tangentially to English law. See, for example, David Konig, *Law and Society in Puritan Massachusetts: Essex County, 1629-1692* (U NC 1979).


Those few who have addressed the relationship of British and early American law in particular have offered diverse answers. Julius Goebel, one of the first serious commentators on seventeenth-century American law, suggested that the law of the Plymouth settlement in Massachusetts was similar to the law applied in English county and manor courts. Goebel also found that the religious beliefs of the Plymouth settlers motivated some changes. Their penchant for written codes derived, for example, from their “insistence upon a literal use of the Book and an irrefragable confidence in the written word.”

George Haskins, writing in *Law and Authority in Early Massachusetts*, found a similar result, mixing English ideas with Puritan religious beliefs. A host of more recent writers, whose concerns have not been quite as strictly legal as Goebel and Haskins, have argued that settlers brought with them a great deal of intellectual baggage, including English legal ideas. Sumner Chilton Powell’s Pulitzer-Prize winning *Puritan Village* showed that the settlers of Sudbury, Massachusetts copied the land distribution and farming practices from their home villages in England as well as their ideas about town government. David Grayson Allen’s *In English Ways* demonstrates that the land-distribution practices in Massachusetts were largely determined by the practices in the settlers’ homelands. It seems that a consensus has been building that the fruit falls close to the tree. But so little work concerning the actual substantive law has been undertaken that it remains difficult to make firm judgments. Most recently, Richard Ross has suggested, using the descriptive phrase “memory jurisprudence,” that much of the law of early America was what the colonists remembered of European practices.

Determining how settlers differed from their counterparts in Europe is also important because it tells how settlement occurs and, in law in particular, details the ways in which the settlers were able to reform the law according to their own desires. Legal historians constantly debate the role of social forces in shaping law. The most popular belief, exemplified by the works of such people as Willard Hurst and Lawrence Friedman, is that law is largely a cre-


ation of the surrounding social conditions. Based on such work, one might expect a great deal of change in the law in the new world, where the surrounding conditions were so different from England and where the colonists had the power to change the law. Professor Horwitz's stunningly influential Transformation of American Law, for instance, argues that early American law was a creation of a society not so much concerned with commercial relations as with fairness. In the nineteenth century, Horwitz demonstrates, the precommercial and antidvelopmental law of the eighteenth century was transformed by the judiciary in response to changing attitudes towards economic development.14

Some vigorously contest the assertion that law follows society, however. Professor Alan Watson has been the most persistent advocate of the theory that law develops autonomously from social concerns. In his provocative work Slave Law in the Americas, Watson posited that "the lesson of history is that over most of the field of law and especially of private law . . . rulers need have no interest in determining what the rules of law are or should be." Because of disinterest among the rulers, Watson concluded, legal growth has been "haphazard, slow, unresponsive to social and economic conditions, . . . and unsystematic." According to Watson, legal tradition is of primary importance in determining the law in newly settled areas.15 Watson's thesis, which he has expounded in a series of books spanning several millennia of legal development, has attracted substantial attention. The debate over the relative importance of social factors and legal tradition remains strong, as well as the debate over the extent to which early American law was similar to or different from English law.16

* * * *

Pastorius' Young Country Clerk's Collection is particularly illuminating because it allows a detailed examination of the ways that Pennsylvania law was similar to that of England and how it differed. The book, a collection of legal forms, offers a rare snapshot photograph of the substantive and procedural law of early America because Pastorius set out to write a comprehensive legal manual for use by lay people. One can, therefore, derive an excellent idea of what legal forms were needed by early Pennsylvanians. One is particularly

14. See, for example, Lawrence Friedman, A History of American Law 37 (Simon & Schuster 2d ed 1985) (concluding that "colonial legal experience was richly diverse from the outset, because conditions were so varied in the colonies. . . . This was, at least, the American experience."); James Williard Hurst, Law and the Conditions of Freedom in the Nineteenth-Century United States (U Wis 1956) (examining ways that people shaped laws to maximize social benefits and individual choice); Morton J. Horwitz, The Transformation of American Law, 1780-1860 (Harvard 1977).
15. See Alan Watson, Slave Law in the Americas 1, 3 (U Geo 1989).
16. See, for example, Alan Watson, Legal Transplants: An Approach to Comparative Law (U Geo 2d ed 1993); Alan Watson, The Evolution of the Law (Johns Hopkins 1985); J.R. Pole, Reflections on American Law and the American Revolution, 50 Wm & Mary Q 123- 59 (1993) (arguing that after the Revolutionary War independence allowed colonial courts to develop a more representative character than English law).
fortunate when dealing with Pastorius because his other writings give a remarkably vivid picture of his goals for the law and of the role of magistrates and substantive law in achieving justice. Pastorius' writings thus allow one to see the goals and the way that those goals are achieved, which is almost unique among the writings of early American lawyers. Together, they create a picture of the aspirations that motivated people to settle in Pennsylvania and the specific ways in which people used legal forms to help achieve those aspirations. One can, thereby, gauge the relative influence of desire for change with the power of legal continuity.

Section II of this essay describes Pastorius' background and training in law in Germany, which sets the stage for understanding why his religious ideas impelled him to emigrate to America. Section III then takes up his thoughts about law and religion. It shows that Pastorius' religious beliefs caused him to emphasize justice and fair treatment of individuals by the legal system. Those grand, general ideas about justice are related to Pastorius' treatise in Section IV. Section IV discusses in detail the differences between English law, as represented in English legal manuals, and Pennsylvania law as illustrated by Pastorius' Collection. The final part of this essay, Section V, draws specific connections between the Collection and the ideas of law reformers. It shows how Pastorius' religious ideas related to his efforts to reform and simplify English law for use in Pennsylvania and draws some conclusions about the relative importance of precedent and social surroundings on forming American law in the seventeenth century.

II. Francis Daniel Pastorius: Legal Education in Germany and Pietism

Francis Daniel Pastorius was born in Somerhausen, Germany, in 1651 into the family of an affluent lawyer, Melchior Adam Pastorius, who later served as Bürgermeister of the city of Windsheim. He began his legal education in July 1668 at the University of Altdorf. In mid- and late-seventeenth-century Germany, law studies consisted of largely private law courses centered around the Corpus Juris Civilis. In his autobiography, Pastorius recorded that he studied at the Institutes at Altdorf with Professor Johann Christian Ulrici beginning in September 1670 and with Professor Obrecht in January 1671.17

17. See Francis Daniel Pastorius, Res Propria, folio 12 (Hist Soc Pa) (autobiographical sketch); Pastorius, Bee Hive at 229 (cited in note 1) (describing Pastorius' life in Germany). On legal education in seventeenth century Germany, see Helmut Coing, Die Juristische Fakultät und Ihr Lehrprogramm, in Helmut Coing, ed, 1 Handbuch der Quellen und Literatur Der Neueren Europäischen Privatrechtsgeschichte 1-53 (Beck 1977); Weaver, Francis Daniel Pastorius: Life in Germany at 245-52 (cited in note 5).

In addition to his Bee Hive, Pastorius left a wealth of writings. Several of Pastorius' volumes were published during his life: Umständige Geographie beschreibung der provinze Pensylvania (Frankfurt 1701), translated and reprinted in Albert Cook Myers, ed, Narratives of Early Pennsylvania, West New Jersey, and Delaware, 1630-1707 (Scribner's 1912); Four Boasting Disputers of this World Briefly Rebuked (New York 1697) Evans
Although private law was a crucial part of Pastoriuss' curriculum, he was probably more intrigued by public law, which was a burgeoning area of study among German legal scholars in the wake of the Thirty Years War. Such prominent thinkers as Thomas Hobbes, Baruch Spinoza, and Samuel Pufendorf were studied closely for their insights into the origin and extent of political power.\footnote{18} Pastoriuss mentions Johann Böckler, who taught him public law at the University of Strassburg, where he studied in 1671 and 1672, as particularly influential in his studies. Böckler's writings and courses included discussions of the limitations on the emperor's power, Hugo Grotius' ideas of international law, and Hermann Conring's efforts to re-establish the importance of German legal traditions over Roman law. During the summer of 1672, Pastoriuss visited (and possibly studied at) the University of Basel. He wintered in 1672 and early 1673 in Windsheim, his boyhood home, then returned to the University of Altdorf in April 1673, followed by a stint at the University of Jena from July 1673 until April 1674.\footnote{19}

Both the city of Jena, an important center of Protestant thought, and the University of Jena in particular exposed Pastoriuss to ideas about natural and canon law and probably nurtured Pastoriuss' religious views. In the 1670s Jena had several prominent faculty who may have influenced Pastoriuss' intellectual development. Georg Adam Struve, a law professor, advocated empirical study of the law on government; Johann Wilhelm Bair, a theology professor, taught the theories of Georg Calixit, who emphasized the fundamental aspects of agreement among denominations of Christians. Finally, Erhart Weigel, a philosophy professor, sought to apply mathematical and scientific principles to politics.\footnote{20} It remains unclear how much direct contact Pastoriuss had with those professors; Pastoriuss had at least located himself in a place where innovative religious and legal ideas were common. He did have extensive contact with one of Weigel's students, Professor Heinrich Linck. Linck, who had graduated from Jena in 1668, straddled both the academic and political

811; A New Primer or Methodical directions to attain the true spelling, reading & writings of English (New York 1698) Evans 851. For a complete bibliography of Pastoriuss' writings, see Weaver, Francis Daniel Pastoriuss: Life in Germany at 490-95 (cited in note 5). I have benefited greatly from Dr. Weaver's excellent dissertation on Pastoriuss' training and life in Germany.


19. See Pastorius, Bee Hive at 229 (cited in note 1); Johann Heinrich Böckler, 2 Neue Deutsche Biographie 372-73 (Drunker & Humblot 1953). Böckler is credited with introducing a historical element into German jurisprudence; he accomplished that in part by editing Grotius' De Iure Bello (Strassburg 1664). Id.

20. See Georg Adam Struve, Iurisprudentia Romane Germanica Forensi (Jena 1694); Weaver, Francis Daniel Pastoriuss: Life in Germany, at 249-50 (cited in note 5) (discussing Jena). See also Coning, 2 Handbuch der Quellen und Literatur Der Neueren Europäischen Privatrechtsgeschichte, at 546, 548 (cited in note 17) (discussing Struve's work); Wieacker, Privatrechtsgeschichte Der Neuzeit, at 219 (cited in note 18) (same).
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worlds of late seventeenth-century Germany, publishing extensively on public and canon law. Pastorius studied the Pandects with Linck using Bernardus Schotanus' textbook.²¹

Shortly after Professor Linck left Jena for the University of Nürnberg in 1674, Pastorius took a break from formal study within universities and visited the Imperial City of Regensburg, where he studied public law in 1674 and 1675. Fourteen months later, in September 1675, he followed Linck to Nürnberg to study with and live in the house of Professor Linck.²² He completed his disputations with Linck and graduated in April 1676, then began to practice in Somerhausen.²³

The movement for religious reform surrounding Pastorius during his legal education continued to influence him while he practiced law. Somerhausen was suffering internal upheaval, including a significant peasants’ uprising that targeted Pastorius’ father, while Francis Daniel was practicing there.²⁴ Later in life, in reflecting on the two and one-half years he spent in practice in Somerhausen, Pastorius wrote that he spent his time “marching from one Nobleman's house in the Province unto the other . . . and in short making nothing but work for Repentance.”²⁵ Such beliefs made Pastorius susceptible

²¹. Pastorius, Res Propria at 11 (cited in note 17) (mentioning Linck’s courses and Schotanus); Bernardus Schotanus, Examen Juridicum, quo fundamenta Jurisprudentia secundum seriem Digestorum . . . (Amsterdam 1643). See also Roderich von Stintzing, 3 Geschiichte der Deutscben Rechtswissenscbafi 51-52 (Munchen & Leipzig 1884) (discussing Schotanus). Jena’s proximity to Gotha allowed Pastorius to visit the liberal court of Duke Ernest the Pious, a renowned reformer whose court formed the basis of Veit Ludwig von Seckendorf’s Teutscher Fürstenstaat. See DeElla Victoria Toms, The Intellectual and Literary Background of Francis Daniel Pastorius, 53-54 (PhD Diss, NW U, 1953); Weaver, Francis Daniel Pastorius: Life in Germany at 250-52 (cited in note 5).

²². See Pastorius, Res Propria at 12 (cited in note 17); Weaver, Francis Daniel Pastorius: Life in Germany at 246-47 (cited in note 5) (during his advanced work at Nürnberg in 1675 and 1676, Pastorius used textbooks by Amadeus Eckolt and Wilhelm Ludwell).

²³. See Pastorius, Res Propria at 12 (cited in note 17); Francis Pastorius, Disputatio Inauguralis De Rassura Documentoris, Quam, Divina suffragante Gratia, Auctoritate Magnifici Jctorum Ordinis in Incluto Noribergensium Athenaeo . . . (PhD Diss, University of Nürnberg) (Altdorf 1676) (available at the Lib Co Philadelphia).

²⁴. See Weaver, Francis Daniel Pastorius: Life in Germany at 291-99 (cited in note 5) (discussing political and social upheaval in Windsheim). Later, Pastorius advised his father to judge rightly. “May we constantly bear in mind that the Most Superior Judge of the living and the dead confers such governmental power upon us for the sake of the common good rather than for our personal advantage, and that, on the great Day of Final Judgment, He will expect much of those who were given much.” Id at 290, quoting Pastorius, Umständige Geograpbie beschreibung der provinze Pensylvanien at 61-62 (cited in note 5).

²⁵. Pastorius, Bee Hive at 229 (cited in note 1) (reprinted in Weaver, Francis Daniel Pastorius: Life in Germany at 402 (cited in note 5)). Later in life, Pastorius wrote home to his father his concern that his half-brother was studying law:

I only regret that anyone who . . . learned piety and the fear of the Lord from his dear Parents . . . may then lose this piety again while at the University . . . at extreme danger to his mortal soul, and I would rather advise him . . . to learn a
to the suggestion of Dr. Johann Heinrich Horb, a professor of religion at the University of Strassburg during Pastorius' tenure there, to relocate to Frankfurt in 1679, a hotbed of religious reform.  

In Frankfurt Pastorius "still plaid the Lawyer" while he developed a friendship with a group of Pietists, an offshoot of the Lutherans who criticized Lutherans for their emphasis on doctrine over "the teaching of an earnest, inner godliness." At the center of the Frankfurt Pietists was Philip Jacob Spener, a prominent Lutheran minister in Frankfurt and the author of the *Pia Desideria*, the leading statement of Pietism, and a brother-in-law of Johann Heinrich Horb. *Pia Desideria* proposed "the ancient and apostolic kind of church meetings" of lay people as a way of reforming the church. It also criticized civil authorities for failing to pay attention to spiritual matters:

[H]ow few [civil authorities] there are who remember that God gave them their scepters and staffs in order that they use their power to advance the Kingdom of God! Instead, most of them, as is customary with great lords, live in those sins and debaucherities that usually go along with court life and are regarded as virtually inseparable from it, while other magistrates are intent on seeking their own advantage. From their manner of life one must conclude with sighs that few of them know what Christianity is, to say nothing of their being Christians and practicing the Christian life. How many of them there are who do not concern themselves at all with what is spiritual, who hold . . . that they have nothing to do with anything but the temporal!  

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decent and readily-comprehensible trade in which he could serve God and his fellow man; although the crafts are despised and held in low esteem among you, they are nevertheless far more in keeping with God's laws and the teachings of the Apostles than all the strange conceits of the scholastics.  

Weaver, Francis Daniel Pastorius: Life in Germany at 290, quoting Pastorius, *Umständige Geographie beschreibung der provinze Pensylvanien* at 99-100 (cited in note 5). See also id at 54 (criticizing excesses of Europe and European schools for teaching nothing useful).  

26. Pastorius, *Bee Hive* at 229 (cited in note 1) (reprinted in Weaver, *Francis Daniel Pastorius: Life in Germany* at 402 (cited in note 5)).  


In his commentary on *Pia Desideria* published in 1680, Horb specifically criticized lawyers and judges for their failure to settle cases quickly. See Philip Jacob Spener, *Pia Desideria* at 181-86 (Johann Heinrich Horb, Frankfurt 1680), discussed in Weaver, *Francis Daniel Pastorius: Life in Germany* at 290-92 (cited in note 5).
One prominent Pietist particularly important to Pastorius was Johann Jacob Schütz, a Frankfurt lawyer. Schütz compiled the lectures of Johann Lauterbach, a law professor at the University of Frankfurt, on Justinian and published them in 1679, shortly after Lauterbach's death. The lectures, called the Compendium Iuris, became one of the most popular law books in Germany in the early eighteenth century. The preface to the Compendium Iuris criticized "the inexperience, negligence, and malice of the judges, lawyers, and litigants, whose outrageous conduct is creating nothing but disorder." Instead, Schütz urged reliance upon "the true laws of our most holy Savior" based on "pure love." Pastorius expressed similar sentiments in the Bee Hive: "Do not say that your social rank demands that you do what Christ has forbidden... Woe to you eternally, if you seek honors and riches opposed to the meekness of Christ." Like Schütz, Pastorius was concerned with the law's focus on wealth rather than the inner spirit.

Based on the books in Pastorius' library and on an examination of his colleagues in Frankfurt, it is possible to reconstruct the nature of his beliefs.

30. See Johann Jakob Schiltz, Compendium Iuris (Tubingen 1679). There were numerous reprintings of Compendium Iuris until the middle of the eighteenth century. See Klaus Luig, Wolfgang Adam Lauterbach, 13 Neue Deutsche Biographie 736-38 (Dunker & Humblot 1982). See also Fredrich Elsener, Die Schweizer Rechtsschulen vom 16 bis zum 19 Jahrhundert 82 n31 (Schulness 1975).

31. See Weaver, Francis Daniel Pastorius: Life in Germany at 324-25 (cited in note 5) (translating Schütz, Compendium Iuris (cited in note 30)). Pastorius kept a copy of Compendium Iuris in his library and occasionally referred to it. See note 32, infra, listing law books in Pastorius' library; Pastorius, Bee Hive at Bigamy Entry (referring to Compendium Iuris for prohibition on bigamy). Pastorius lived with Schütz upon his arrival in Frankfurt and their friendship continued via correspondence even after Pastorius emigrated to America. See id at 229; Pastorius, Umstündige Geographie beschreibung der provinze Pensylvanien at 45, 48 (cited in note 17).

32. Professor Learned's biography includes a list, taken from the Res Propria, of Pastorius' library around 1719. See Learned, Life of Francis Daniel Pastorius at 275-84 (cited in note 2). The books in his library relating to law included: Edward Cocker, Young Clerk's Tutor (London 1680) Wing C4860; John Hill, Young Secretary's Guide (London, 8th ed 1697) Wing H1993; Richard Hill, Young Clerks Guide (London 1649); Richard Chamberlain, Complete Justice (London 1681); Johann Jacok Schütz, Compendium Iuris Brevissimis Verbis (Johan Georg Cotta, Tübingen, 2d ed 1681); Conductor Generalis (London 1686); and an edition of Edward Coke's Reports (London 1656). Pastorius' pamphlets on law included Thomas Ellwood, Caution to Constables on Conventicles Act (London 1683) Wing E616; An Abstract or Abridgement of the Laws Made and Past by William Penn... (cited in note 3); Concerning the Election of Assembly men (Philadelphia 1714); Anon., Proceeding Against the Rebels in the West of England (London 1679); Bayard, An Account of the illegal prosecution and tryal of Coll. of Nicholas Bayard (cited in note 4); J.S. The Case of Quakers Concerning Oaths (London 1681); Penn, The Excellent Priviledge of Liberty and Property (cited in note 3).

The Bee Hive also contains a separate list of books that Pastorius referred to in compiling the Bee Hive, although he did not own all of them. See Bee Hive at 120-25 (cited in note 1). The law books referenced in the Bee Hive included John Cowell's Interpreter (London 1609), George Whitehead, Due Order of Law Plead'd Against Irregular & Arbitrary Proceedings (London 1680), William Penn, The People's Ancient
Roundtable about Pietism. The leading religious reformers of the early seventeenth century, the people whose thought presaged that of the Pietists in emphasizing individuals’ spiritual connection to God over religious doctrine, are represented in the books in Pastorius’ library. Pastorius had several copies of Thomas à Kempis’ *The Imitation of Christ*, a central document to early seventeenth century German Lutherans, which emphasized mystical piety through the connection of individuals to Christ.\(^{33}\)

Particularly influential on the Frankfurt Pietists were Jacob Böhme and Johann Valentin Andreae. Together Böhme, who lived from 1575 until 1624, and Andreae, a theologian who died in 1668, inspired the Pietists’ beliefs in the possibility of reformation of society through the study of nature. Pastorius had two of Böhme’s books.\(^{34}\) Similar to Böhme in outlook was Johann Valentin Andreae, one of Schütz’ cousins, whose writings spoke of a mythical Rosicrucian Brotherhood, which has supposedly existed since the fourteenth century. Andreae claimed to have re-discovered in 1604 Rosicrucian writings, which deciphered God’s meanings hidden in nature. He thought that their rediscovery presaged a reformation of society based on a reawakening of religious spirit. Pastorius had a copy of Andreae’s *Menippus*, a general attack on the shortcomings of society.\(^{35}\)

Although Pastorius, at the urging of Spener, left Frankfurt for several months in 1681 and 1682 to accompany a young nobleman on a trip throughout Europe, his trip only confirmed his disdain for European excesses. Upon return, he felt fortunate to be associated with his “Christian friends,” “especially those who frequently assembled in a house called the Saalhof,” the meeting place of the Frankfurt Pietists. Those friends included Notarius Fende, Jacobus van de Wall, Maximillian Learner, Eleanor von Merlau, and Maria Juliana Barim, the leaders of the Frankfurt Pietists, who represented some of the most influential religious reformers in Germany in the later part of the seventeenth century. Together, Fende, van de Wall, Learner, and especially von Merlau, were progressing towards a vision that the millennium was imminent.\(^{36}\) Pastorius’ closest friend among the Frankfurt Pietists was probably

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\(^{36}\) See Pastorius, *Bee Hive* at 229 (cited in note 1). See Fisher, “*Prophesies and
Eleanor von Merle. Writing in 1719, he commented that “I have been most Intimately Acquainted” with von Merle “those 40 years past.”

Pastorius, having seen European excesses in war, politics, and law, was confirmed in his Pietism and became eager to act on his beliefs by 1682.

Soon after Charles II granted William Penn a colony in America in 1681, the Pietists saw their chance to act on their belief that society could be reformed. Penn undertook a vigorous promotional campaign for his colony, traveling throughout Germany and the Netherlands to promote settlement in his colony. Penn also published promotional tracts, emphasizing the opportunity for both spiritual and economic advancement.

The Pietists in Frankfurt were well-acquainted with Penn; he had visited Frankfurt in 1677 and established a friendship with them. The Frankfurt Pietists spoke enthusiastically with Pastorius about emigration to Pennsylvania and circulated to Pastorius letters from Penn and Benjamin Furly, an English Quaker living in Rotterdam. To encourage emigration and thus further their “philadelphian ideal,” the Salhoof Pietists formed the Frankfurt Land Company in 1682 to purchase land in Pennsylvania and finance immigration.

Pastorius, believing that the entire group was about to emigrate, felt “a desire in my soul to continue in their Society, and with them to lead a quiet, godly and honest life in a howling Wilderness.” The Pietists took full

Revelations”: German Cabbalists in Early Pennsylvania (cited in note 28); Toms, The Intellectual and Literary Background of Francis Daniel Pastorius at 90, 145 (cited in note 21) (discussing Frankfurt Pietists).


39. See Pastorius, Bee Hive at 229 (cited in note 1); William Penn, Some Account of the Province of Pennsylvania (London 1681). See also Bernhard Fabian, The English Book in Eighteenth-Century Germany 6-8 (British Lib 1992) (discussing the importance of English devotional works, translated by German Pietists, in bringing English ideas into German culture in the late seventeenth and early eighteenth century).

40. See Pastorius, Bee Hive at 229 (cited in note 1). Pastorius also wrote that after hearing the extreme praise of Pennsylvania, “there arose a not small lust with me to set sail in their company (after seeing the abundance and costs of European vanity) to lead a quit and Christian life next to them.” Pastorius, Res Propria at 6 (cited in note 17), quoted in Toms, The Intellectual and Literary Background of Francis Daniel Pastorius at 79 (cited in note 21) (in German, translation by author). On Schütz’ religious connection to Spener, see Johannes Wallmann, Philip Jakob Spener und die Anfänge des Pietismus 283-306 (JCB Mohr 1970).
advantage of their trusted friend and designated Pastorius as their agent in Pennsylvania. In April 1683, fortified with the Company's Articles of Incorporation, a Letter of Attorney to act as their agent, and apparently dozens of books on religious themes, Pastorius departed Frankfurt for Pennsylvania, by way of London. Upon departing Deal, England, Pastorius wrote a Farewell letter reminiscent of those written by English Puritans fleeing to New England. Pastorius wrote of his desire "to escape disaster in time and eternity" by leaving "the worldly impudence and sin of Europe." He reminded his father one more time of young German noblemen who waste "their German patrimony on worldly frivolities that profit no one" and who use both legal and illegal means "to live in pomp and finery after finishing the university." Once he arrived in Pennsylvania, Pastorius took on an important role in German society. As the Frankfurt Land Company's agent, he was responsible for a 15,000 acre tract of land, which he purchased for the Company in London, and for the distribution of the Company's land to its members. The Company's Charter provided for the purchase of a brick kiln, commodities, and cattle as well as for the transportation to Pennsylvania at Company expense of people—servants and tenants—and products, such as tools and food. Perhaps most importantly, it provided for the distribution of Company land through both sale and rental. As proprietor of the colony, William Penn had the right to appoint the justices of the County Courts. Penn recognized the importance of the local

41. See Wallmann, Philip Jakob Spener und die Anfänge des Pietismus at 321 (discussing formation of Frankfurt Company); Learned, Life of Francis Daniel Pastorius (cited in note 2) (listing books in Pastorius' library in 1718, many of which were published before Pastorius' emigration). Johann Jackob Schütz, who died before he had the opportunity to emigrate, served as a director of the Frankfurt Land Company and in that capacity had contact with Pastorius; Pastorius continued to express his friendship to Schütz and Schütz' widow throughout his life. See Francis Daniel Pastorius, Exemplum Sine Exemplo (Swathmore Lib), reprinted in Samuel W. Pennypacker, ed, Pennsylvania Colonial Cases: The Administration of Law in Pennsylvania Prior to A.D. 1700 as shown in the Cases Decided and in the Court Proceedings 171 (Welsh 1892) (mentioning Schütz in connection with Frankfurt Company litigation).


44. For a fine study of Penn's rights and duties as proprietor, see William R. Shepherd, History of Proprietary Government in Pennsylvania (Columbia 1896).
justices. In appointing the justices of New Castle County in 1701, Penn reminded them of the importance of their position:

I need not putt you in mind, I hope, what Efficacy & Influence the Example of Authority has always had on the minds of the people, nor can you be insensible that the management of those that stand invested with the power of the Laws often works stronger in the minds about them than the Apprehensions of the Laws themselves. . . . You are intrusted with the administration of justice; you are her officers and are not called so much to serve me or any interest of mine, as to serve the Publick, to whose Good each man is a born debtor.\textsuperscript{45}

He, therefore, sought Justices who would lay "the Line of Equity and true Judgment."\textsuperscript{46} In recognition of Pastorius' talent and his importance in the German community, Penn appointed him a Justice of the Philadelphia County Court in 1686. In 1693, Governor Benjamin Fletcher again appointed Pastorius a Justice; between appointments Pastorius served as a clerk and judge of the Germantown court.\textsuperscript{47}

Even after his term as a Justice ended, Pastorius remained a central figure in the German community; he began teaching school in 1698 and compiled some of his important manuscripts, including his \textit{Bee Hive}, a huge volume containing excerpts from books that he read as well as his own thoughts. Pastorius copied into nearly 2,000 "honeycombs" in the \textit{Bee Hive} the nectar of wisdom he found in the books he read. He further collected some of the writings and reformed them into a sort of encyclopedia. The several hundred headings of his encyclopedia included such diverse subjects as "Justice," "Cannibalism," "Redemption," and "Universal Grace." At other points in the manuscript he recorded popular maxims, several hundred stanzas of poetry, copies of letters he wrote, a short autobiography, and a biography of his family.\textsuperscript{48} He continued working on his manuscripts until shortly before his death in the winter of 1719; they stand as testimony to the wide-ranging interests he possessed over a lifetime of nearly seventy years.\textsuperscript{49}

\textsuperscript{45} 1 \textit{Pennsylvania Archives} 111, 142-43 (Philadelphia 1838) (printing charter).
\textsuperscript{48}  Professor Learned undertook the task of reprinting some of the \textit{Bee Hive}'s poems. See Michael Learned, \textit{German-Am Hist Mag} passim (1898-1904).
III. Pastorius' Beliefs About Law and Religion

A. PIETISM AND LAW

Pastorius' thoughts on a diverse range of subjects appear in his extensive writings. Most prominent are his thoughts on religion, which provided guidance in how humans should behave. Overriding all human concerns was a sense of love. He asked in verse:

With his own kind deals bad
neither wolf nor leopard
why then should put Christ the man
Christian against Christian
when he commands constantly
Love and Peace and Unity. John 13:24 etc. \(^{50}\)

The themes of love, peace, and unity appear throughout his writings and those of other Pietists. \(^{51}\) Before the entry in his commonplace book for Jeremiah Dykes' \textit{Treatise of Good Conscience}, Pastorius wrote:

Our Duty is to reverence
the good of God in everyman
and Labour too, as much we can,
To get and keep good Conscience. \(^{52}\)

Similarly, he identified seven elements that permeated human society. "The Revolution or changeable character course and Recourse of the present world;\textit{viz} of all Empires, kingdoms, and Provinces thereof, yea of all particular Inhabitants of the Same, prefigured in a wheel of seven spokes: Poorness, Humility, Peace, Traffik, Wealth, Pride, War." \(^{53}\)

Morality occupied a central role in Pastorius' thoughts about law and lawyers. He summed up his pessimistic attitude toward lawyers in one stanza of his poetry:

Those who for money's sake Doe Preach and Plead and Cure,
May of the Firy Lake Fulwell Themselves Assure.
But they that Preach, Plead, Cure as Christ, our Lord, has done

\(^{50}\) Francis Daniel Pastorius, \textit{Commonplace Book}, 582 (Hist Soc Pa).
\(^{51}\) See generally Spener, \textit{Pia Desideria: Program des Pietismus} (cited in note 29); Pastorius, \textit{Bee Hive} at 167 (poem to James Logan) (cited in note 1); Pieter Corneliszon Plockhoy, \textit{A Way Proposed to make the poor in these & other nations happy by bringing together a fit, suitable, and well-qualified People} (London 1659) Wing P1724 (essay by settler of Germantown preaching love of neighbors).
\(^{52}\) Pastorius, \textit{Commonplace Book} at 608 (cited in note 50).
\(^{53}\) Id at 605. See also Pastorius, \textit{Bee Hive} at poem 12 (cited in note 1) ("war begets Poverty, Poverty Peace/Then People will traffick, & Riches increase/Riches produceth Pride; Pride is War's ground/War begets Poverty, So we go round.").
For Love's sake, free & pure, Are Blessed ones anon. Forever & ever.
Good Teachers, Lawyers and Physicians surely grieve,
When others do bemoan more than themselves would give.\textsuperscript{54}

Lawyers were particularly problematic in Pastorius' vision of a peaceful community. He related the parable of "a poor man [who] complained to a king that a Lawyer took a Cow from him. I will hear (saith the king) what the Lawyer will say to the matter. Nay (saith the poorman) if you hear him speak then have I lost my Cow indeed."\textsuperscript{55}

Pastorius' disdain for inhumanity appeared most strongly in his writings on slavery. He is credited with writing the first anti-slavery protest in British North America. The Protest, addressed to a Monthly Meeting of Quakers, argued first that no one would themselves want to be treated as a slave. "How fearful and fainthearted are many on sea when they see a strange vessel, being afraid it should be a Turk, and they should be taken and sold for slaves into Turckey." The Protest then went on to argue, based on the precept that "we shall doe to all men, icle as we will be done our selves," that blacks should not be enslaved, because the saying should be followed, no matter what "Generation, descent, or Colour they are." It was the protest that motivated John Greenleaf Whittier's apotheosis of Pastorius in the 1871 poem, "The Pennsylvania Pilgrim."\textsuperscript{56}

Closely akin to slavery in Pastorius' mind was usury. He issued a combined protest against both slavery and usury:

\textsuperscript{54}. See id at stanza 334.

Pastorius' critique of lawyers mirrors that of George Fox. In his Journal, Fox argued that lawyers pretend to cure "the property of the people." But they do so "outside of the equity and perfect law of God." The lawyers might be reformed, Fox thought, if they were "brought into the law of God." God would in turn answer for their transgressions and bring them to love their neighbor as they loved themselves. "This [love of God] lets man see if he wrongs his neighbors he wrongs himself; and this teaches him to do unto others as he would they should do unto him." George Fox, Journal of George Fox, 26-27 (London, Thomas Ellwood, ed, 1696) (Univ P 1952). Fox believed, as did Pastorius, that lawyers, physicians, and priests might be reformed if they "believe in the light and walk in the light," a metaphor for acceptance of Quaker beliefs. Id at 29. Pastorius criticized the physical appearance of lawyers with white wigs. See Pastorius, Bee Hive sec 27, supp (citing 1 Corinthians 11:14 and Revelations 9:8) (cited in note 1). While it was lawyers' white dress that drew Pastorius' attention, George Fox directed his comments to the "lawyers black, their blacks robes as a puddle, and like unto a black pit, almost covered over with blackness." George Fox, Law of God the Rule of Lawmakers 3 (London 1658).

\textsuperscript{55}. Pastorius, Bee Hive at Lawyer Entry (cited in note 1).

If in Christian Doctrine we abide, then God is surely on our side;
But if we Christ's Precepts transgress, Negroes by Slavery oppress,
And white ones grieve by usury (Two evils, which to Heaven cry),
We've neither God, not Christ his son, But straightways travel
Hellwards on.

... 
Among Christ's followers Are no Extortioners,
No biting Usuers, not Negro (worryers) butchers
All these are Satan's tools, Abominable Fools,
Not worthy of Christ's Name, to which they bring but Shame.57

B. PASTORIUS AND THE CONCEPT OF LAW

Beyond the injunctions against usury and slavery, Pastorius also recorded his
thoughts about justice and law generally. His views on those subjects rested
heavily upon his interpretation of the Bible. One gains a sense of the overriding
importance of religion for his concept of the law from the title page of Pastorius’
manuscript copy of the laws of Pennsylvania and Germantown. He wrote three
maxims, two taken from the Bible:

All the law is fulfilled in one word, in this: Thou shalt Love thy neighbor
as thyself. Gal 5:14. Therefore all things whatsoever ye would that men
should do to you, do ye even so to them, for this is the Law and the
prophets. Matthew 7:12 Salus populus suprema lex est.58

57. Pastorius, Bee Hive at stanzas 471, 474 (cited in note 1). Later he further crit-
icized usury:

It is a great Mistake at best
To call that Monster Interest,
Which God and good men, as we see,
Have ever stiled Usery;
But now our Saints this name refuse,
And to their Brethren lend on use:
On Usury, says Christ our Lord,
Though they abbreviate the word;
Yet surely, 'tis not His Intent,
T'abbreviate their Punishment.
Id at stanza 479.

58. Pennsilvania Leges, folio 1 (Hist Soc Pa) (reprinted in Learned, Life of Pastorius
at plate following 278 (cited in note 2)). Pastorius also cited Romans 13:8 (“Owe no one
anything, except to love one another; for he who loves his neighbor has fulfilled the
law.”). Id at 1. The Pennsilvania Leges is a manuscript copy of the laws. Each county
had its own copy of the laws, which was hand copied after the conclusion of each session
of the legislature. See Gail Beckman, ed, 1 Statutes at Large of Pennsylvania in the Time
of William Penn at 124, 142 (Vantage 1976) (requiring that the laws be posted at the
courthouse, read to the community yearly, and read to initial meetings of the courts);
Penn to Justices of New Castle, Jan 7, 1701, 1 Pennsylvania Archives 142 (reporting that
laws will be sent to Justices as soon as they can be copied).

Seventeenth and eighteenth century lawyers glossed the phrase salus populi ex-
tensively. See Francis Bacon, Of Judicature, in Francis Bacon, Essaies 316, 323 (London
His aphorisms on the next page included: “The law is good, if a man use it lawfully,” a paraphrase of Paul’s first letter to Timothy, which he repeated in his entry on Law in the Bee Hive. The meaning of the phrase is ambiguous, but Pastorius probably believed that it requires a litigant to follow the spirit of the law. Pastorius concluded that by “Christ[’s] bringing in everlasting righteousness the law is fulfilled.”

In a 1692 letter to his father in Germany, Pastorius wrote that he had identified several legal ideas to guide the Germantown court in deciding cases. He reported to his father that he had written the “following heavenly memoranda on his copy” of the Germantown lawbook:

It is without authority, unless from God. Rom 13:1. You are given the authority by Him and the power from heaven that will tell you how to act. Sap. 1 For that reason . . . take not a bribe. Exod. 23:8. Afflict no widow nor orphan. Exod. 22:22. Create right for the poor and help the wretched and destitute. Ps. 82:[3] Judge right between everyman, stand with no person but hear the small [in like manner] as the great. Deut. 1:16. You shall also not follow unjust bargaining in law courts. Lev. 19:15. You also ought not to make favor. 1 Tim. 5:11. In your election set importance on bold, honest, wise, experienced, and sensible people, who seek God, and are the enemy of haste and meanness. Deut. 1:13. Pious men have no twisted heart nor proud attitude and arrogance, so also they are not slanderous, false, and lying. Ps. 101:4 How you wish people to treat you, so treat them. Luc 6:31.

In a similar sentiment, he wrote on his copy of the laws, “Extreme Right is Extreme Wrong,” a popular phrase in the seventeenth century, which suggests that it was inappropriate to exact the utmost in legal rights from an adversary. The Bible provided a “rule to walk by” in early America. Pastorius


59. Pennsylvania Leges at 2 (cited in note 58) (paraphrasing 1 Timothy 1:11). See also Pastorius, *Bee Hive* at Law Entry (cited in note 1) (“The law is good if a man use it lawfully”).

60. Id (citing Daniel 9:24 and 1 Timothy 1:9); Fox, *Journal of George Fox* at 16-18 (cited in note 54). The tension between the spirit and the law explained in Paul’s Letter to the Apostles generated substantial debate in early modern thought. See, for example, id; Julius Goebel, ed, 1 The Law Practice of Alexander Hamilton 359 (Columbia 1964) (Hamilton’s notes from argument in Rutgers v. Waddington that “in law as in religion letter kills”). Professor Horwitz has recently suggested that differences in approaches to constitutional interpretation in early America correlate with modes of biblical interpretation. Horwitz has suggested that the differences in constitutional and legal approaches of Jefferson and Marshall may derive from their different religious backgrounds. See Morton J. Horwitz, *The Constitution of Change: Legal Foundationalism without Fundamentalism*, 107 Harv L Rev 32, 48-51 & n90 (1993).


was familiar with English writers who similarly relied on the Bible for legal principles. The writings of George Fox, a founder of Quakerism, circulated freely in Pennsylvania. In addition to Fox’s *Journal*, Pastorius had access to Fox’s *Instruction to Judges and Lawyers*, a tract published in 1659 to encourage judges to conform their behavior to Biblical precepts. Fox urged the abolition of the death penalty for property crimes; the punishment was inconsistent with “the Scripture, the Law of God, and the Apostles Doctrine.” He also argued against legal fictions as “not a form of sound words” but “a form of lyes.” Similarly inconsistent with Biblical teachings, Fox thought, was the requirement that defendants be forced to appear in court through an attorney rather than in person, even though the writs issued to defendants were issued in their names. Fox reserved special scorn for the judges who prosecuted Quakers for refusing to remove their hats in the presence of the court, a practice itself rooted in Quaker opposition to elevating one group of human beings over others.

And when the Judge is askt by the prisoner concerning the hat, what Law and custom is for it, and where he may read it? Oh, cryes the Judge, and swells, and rages, and full of fury, I doe not carry my Law books upon my back; I but faith the poor prisoner, the Judges of old was legs to the lame, and eyes to the blind, and a help to the helpless, and why wilt not thou and you inform me of that Law and custome that sayes, I must be fined a hundred mark, and forty pounds, if I will not put off my hat to you.

Methodical directions to attain the true spelling, reading, & writings of English at 34-35 (cited in note 17)(entry on magistrates’ duties).

Later in life, Pastorius used the phrase to attack Daniel Falkner, who had used legal machinations to wrest control of the Frankfurt Land Company from Pastorius. In his essay on the Frankfurt Land Company litigation, Pastorius invoked the aphorism, “summo jure, ie, summa Injuria, by extreme right, extreme wrong” when discussing the inequity of ejecting him as legal representative of the Frankfurt Land Company, based on questionable legal maneuvering. See Pastorius, *Exemplum Sine Exemplo* (cited in note 41).


64. George Fox, *An Instruction to Judges and Lawyers: that they may act and consider these as the judges did of old . . . 6* (London 1658) Wing F1848.

65. Id at 10, 22-23 (discussing importance of humility).
and thus the poor prisoner goes away uninformed in the Law and custom, not knowing the ground and the author of it, the Judge not informing him, contrary to Moses and the Judges of old, and the Scripture, which saith, They shall teach them in the Law, and instruct them in the Law . . . that all might know it and fear.66

In his entry on “Justice” in the Bee Hive, Pastorius refers to Henry Clark’s Here is True Magistracy Described, a pamphlet published in 1660, that suggests the attributes that magistrates should possess. Clark stated that “the way to rule well is to take Counsel of God.” Magistrates should “walk with the Lord God” and “to do justly and to love mercy, and govern the People by the law that is Holy, Just, Pure, and good, as it came from God.” Clark’s pamphlet concluded that love and obedience are owed magistrates, but if magistrates order people to do something contrary to the command of God, the people should “undergo the Penalties of their unjust laws.”67 Under the heading “Law” in the Bee Hive, Pastorius, like Clark, observed that “[t]here is no Law to be compared to Love. Between just laws and righteous men [there is] no antipathy.”68 In order to achieve such important goals as love and peace, several elements were necessary—most prominently, justice.

1. Justice

Pastorius grouped his thoughts about the nature of law and the legal system into three main areas in his Bee Hive—justice (and its antithesis, injustice), law, and magistrates. The need for justice occupied a central position in Quaker political and religious thought in the seventeenth century. Because Quakers had themselves been left without justice so frequently—by legislation aimed against them in Parliament, by failure of judges to protect them from attacks, and by outright mistreatment by judges—Quaker writings are vigilant to note the need for justice in order to ensure a well-functioning country.69 For instance, Fox’s Journal is replete with instances of the unjust application of laws.70

66. Id at 24.
67. Henry Clark, Here is True Magistracy Described 6 (London 1660) (Clark wrote True Magistracy to respond to charges that Quakers did not believe in civil courts).
68. See Pastorius, Bee Hive at Law Entry (cited in note 1) (“The law is good if a man use it lawfully.”). In keeping with the prevailing beliefs of the late seventeenth century, Pastorius unfortunately appended the historically inaccurate and theologically naive statement that “but the Jews made use of it to crucify Christ . . . they have acted contrary to your pure, loving God.” Id.
70. Fox tells of his questioning of New England magistrates who, relying upon an
The idea of justice and equity occupied a central place in Fox's *Journal*. After suffering imprisonment in Derby in 1650, Fox wrote to the magistrates who imprisoned him and asked them:

> to consider what you do, and what commands of God call for. He doth require justice and mercy, to break every yoke and to let the oppressed go free. But who calleth for justice or loveth mercy or contendeth for the Truth? Is not judgment turned backward and doth not justice stand afar off? Is not Truth silenced in the streets, or can equity enter? And do not they that depart from evil make themselves a prey? O consider what ye do in time, and take heed whom ye imprison . . . .

Fox also expressed concern for injustice to others. In 1651 he opposed the execution of both men and women for mere theft of cattle or money. Fox reminded justices to “mind the laws of God in the Scriptures and the Spirit that gave them forth and let them be your rule in executing Judgment; and show mercy, that you receive mercy from God, the judge of all.” Fox pointed out that the Biblical punishment for theft of cattle was restitution, not death. Lest the justices forget that they too would be judged, Fox concluded with an allusion to judgment day: “fear God and serve him, for he is a consuming fire.”

William Penn, who himself suffered imprisonment, postulated that there could be no valid government without justice. In his pamphlet *One Project for the Good of England*, Penn raised the specter of revolution; he argued that when government left its citizens without justice, the citizens would be unlikely to support the government. Pastorius adopted some of Penn’s pragmatic grounds for ensuring justice. The “Justice” entry in the *Bee Hive* consists largely of maxims from William Penn’s *Fruits of Solitude*, a book of advice Penn wrote for his children and then published in the 1690s. Penn’s thoughts on justice, which Pastorius quoted, included “Impartiality is the life of Justice, as that is of Government” and “Justice is a great support to Society, because an Insurer to all unspecified law allowing the execution of Jesuits, executed four Quakers. Fox told the magistrates they had committed murder, because even the magistrates recognized that the Quakers were not Jesuits. “For by this it plainly appears that you have put them to death in your own wills without any law.” Fox, *Journal of George Fox* at 414-15 (cited in note 54). See also id at 51-55 (Fox committed to goal without proper authority); id at 161-63 (same).

71. Id at 54. For a strikingly similar letter from Elizabeth Hutton, who was imprisoned along with Fox, to the Derby Justices, see Hugh Barbour, ed, *Early Quaker Writings* 381-82 (Eerdmans 1973). Fox wrote to several justices independently to remind them of God’s commands and to the mayor of Derby, reminding him that “thou art set in place to do justice; but, in imprisoning my body, thou hast done contrary to justice, according to your own law. . . . Remember who said, ‘I was a stranger, and ye took me not in; I was in prison and ye visited me not.’” Id at 55. See also Edward Burrogh, *Message of Instruction to All the Rulers, Judges, and Magistrates to Whom the Law is Committed* (London 1658) (arguing that Quakers should not be punished for following God’s law rather than English law).

men of their Property. This vitiated, there's no Security, which throws all into Confusion to recover it." Less pragmatic reasons also supported Pastorius' call for justice, however. He simply believed that people should treat each other justly, because it was commanded by God. "Deal Rightfully upon earth," he warned, "that you may find heaven."

Most of the Bee Hive entry, however, consists of general concerns about the nature of justice. It begins by paraphrasing Penn's *Fruits of Solitude*: "Justice is justly represented Blind because she sees no difference in the Parties concerned. She has but one scale and weight for the rich and poor, great and small. Her sentence is not guided by the person, but the cause." It goes on to emphasize the need for impartiality: "the impartial judge in judgment knows nothing but the law, the Prince no more than the Peasant, kindred than a stranger. Nay, his enemy is said to be on equal terms with his friend, when he is on the bench." Following Penn's maxims, Pastorius added, from Cicero's Attica oration, that "None should lose his right to any thing, because another has a longer Sword."

Justice also had a substantive component for Pastorius. In a poem he drew upon the Golden Rule to urge equitable dealings with others:

To do to Others as We would be done by them  
This was Christ's doctrine and, if fully understood  
Is the Eternal Band of Peace, the noblest Good  
With this runs parallel what holy Prophets taught,  
To shun the Sin as hell: Be Vertuous, and not nought.  

Pastorius was concerned with the ways to make the law serve humanist ends. He was particularly concerned with the idea of law as incorporating certain just principles that should be followed to the extent that they created justice.

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74. Id (citing Penn, *Fruits of Solitude*, maxims 348, 349, 351 (cited in note 73)). Pastorius also wrote in his Equity entry, "A just weight is God's delight. Prov. 11:1 with an equal and just hand . . . on the one side & on the other square dealing upright dealing. Justice mixed with mercy." Id at Equity Entry.

75. Pastorius, *Bee Hive* at Equity Entry (cited in note 1) (Pastorius attributed this quotation to Cicero's *Attica Oration*, and cited it to page 169 of a volume containing the oration).

76. Pastorius, *Bee Hive* at 176, stanza 331 (cited in note 1). Reliance upon the Golden Rule, Matthew 7:12, was common. See, for example, Fox, *Journal of George Fox* at 38 (cited in note 54); Fox, *An Instruction to Judges and Lawyers* at 20 (cited in note 64); F. Ernest Stoeffler, *The Rise of Evangelical Pietism* 58-68 (Brill 1965) (discussing God's law in pietism); see also sources cited in note 63 (historians' discussion of Mosaic law in seventeenth-century England and America) and compare William Perkins, *The Whole Duty of Man, Containing a Practical Table of the Ten Commandments* (London 1674); John Dod, *A Plain and Familiar Exposition of the Ten Commandments* (London 1607).
2. Law

Pastorius recognized, as did other reformers, however, that mere ideas about justice were insufficient to properly order society. He, therefore, invoked the Biblical aphorism that “[t]he law is made for Disobedient Persons.” Pastorius began his Bee Hive entry for Law by recognizing the importance of respecting and observing the law. As with the Justice entry, most phrases were taken from William Penn, often from Penn’s 1696 book, No Cross, No Crown, a collection of stories designed to show that Quaker principles had existed throughout history. Pastorius’ first phrase, which was taken from Penn, referred to the Ten Commandments: “The Law He delivered to Moses upon Mount Sinai, for a Rule to his People, the Jews, to walk by,” was “confirmed by thunderings and other sensible solemnities to strike the people with the awe of keeping it.”

Pastorius elaborated on the need for obedience to law in the 1698 schoolbook that he published for his students, A New Primer. The Primer, which was designed for students learning to read, consisted of passages that prescribed good behavior. Readers of the Primer learned that subjects must:

obey magistrates, Tit. 3:1, subject themselves to every Ordinance of Man, for the Lord’s sake, 1 Pet. 213, despise not Government, [be] afraid to spread evil of Dignitaries, 2 Pov. 2, . . . not resist the Power, Rom. 13:2, but render unto Caesar the things which are Caesar’s, and unto God things that are God’s, Math. 22:21, paying Tribute, Custom, Rom. 13:7, and making supplications for all that are in Authority. 1 Tim. 2:2.”

There was also a strong sense in Quaker writings that the law came from God and that each person had an intuitive sense of the law. Pastorius emphasized the source of law with aphorisms on the first page of his Germantown lawbook: “it is without authority if not from God” and “you are given the authority by Him and the power from heaven which will tell you how to act.” Pastorius also quoted from George Fox’s Journal that “the thunder of Moses, the law of God is perfect and written in the heart.” Even when God gave law, it was necessary for people to follow the spirit of the law in order to achieve justice. Pastorius quoted Paul’s Letter to the Romans, “The Law is good if a man use it lawfully.” The idea of law incorporated one other element—that it be exe-

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77. Pastorius, Bee Hive at maxim 197 (cited in note 1) (citing 1 Timothy 2:10).
78. See William Penn, No Cross, No Crown 246 (London 1686) Wing P1328; Pastorius, Bee Hive at Law Entry (cited in note 1) (quoting only the latter part of the sentence).
80. See Pastorius, Umstandige Geographie beschreibung der provinze Pensylvania at 50 (cited in note 17).
82. Pastorius, Bee Hive at Law Entry (cited in note 1).
cuted without passion. Perhaps from Seneca, he took the maxim that "Law is reason without the passions."  

Pastorius also recognized, however, in keeping with the most sophisticated writings on law that there were human-made regulations as well as the God-given natural law that Fox wrote about. He wrote in his Bee Hive entry on Law that "All laws are either fundamental and so immutable or superficial and so alterable."  

Pastorius drew the idea from Penn's Ancient Liberties Asserted, a pamphlet Penn wrote explaining his 1670 trial for sedition, in which he asserted the supremacy of the common law over more recent statutes prohibiting preaching.

In keeping with his recognition that laws are made by human beings, he wrote that "People should have a share in the making of their own Laws and likewise in the judicatory Power to apply these laws made."  

Pastorius drew upon William Penn's 1679 pamphlet England's Present Interest Considered, which Penn wrote to foster support for religious toleration in the Parliamentary elections. In England's Present Interest, Penn argued that there were three fundamental rights: property, legislation "or the power of making laws," and judicatory power—"the application and execution of the laws that you agree to be made."

3. The Magistrates

Magistrates, as the people charged with enforcing the laws and maintaining control of society, occupied a particularly important role in Pennsylvania. In his Frame of Government, William Penn recognized the importance of virtuous authorities. "I know that some say," Penn wrote, "let us have good laws, and no matter for the men that Execute them: but let them consider, that though good laws do well, good Men do better; for good Laws may want good Men, and be abolished or invaded by ill Men; but good Men will never want good Laws, nor suffer ill Ones."  

Pastorius was likewise attuned to the importance of the magistrates. He told magistrates that "you that sit at the stern, whether of little bargues or greater ships, whether counties or countries, you should not (like the heards of Hrael) injure Justice and pervert equity for the love of money."  

There was much in recent English history to warn about the dangers of unjust magistrates. Having suffered at the hands of the capricious judges in England, who prosecuted them for their religious beliefs, Quakers were particu-
larly wary of the discretion accorded magistrates. Isaac Penington asked on behalf of Quakers that

no laws formerly made contrary to the Principle of equity and righteousness in man, may remain in force; nor new ones be made, but what are manifestly agreeable thereunto. All just laws, say the Lawyers, have their foundation in right reason, and must agree with, and proceed from it, if they be properly good for, and rightly serviceable to mankind. Now man hath a corrupt and carnal Reason, which sways him aside from Integrity and Righteousness towards the favoring of himself and his own party; And whatever Part is uppermost, they are apt to make such new Laws as they frame, and also the interpretation of old ones bend towards the favor of their own party. Therefore we would have any man in Authority wait in favor of God, to have that Principle of God raised up in him, which is for righteousness and not selfish, and watch to be guided by that in all he does, either in making Laws for Government or in governing by Laws already made.90

The extensive collection of Quaker books in Pastorius' library and the list of Quaker books he read while compiling the Bee Hive testify that he was influenced by Penington and other Quakers. Other books in his library present tantalizing suggestions. He had, for instance, a copy of an account of the treason trial of New York Governor Nicholas Bayard. Bayard was opposed by William Atwood, a proponent of the Ancient Constitution and thus a supporter of Parliament's rights and, presumably, of English rights against the crown. Despite a vigorous defense, Bayard was sentenced to death. It remains unclear why Pastorius had the account, but it may testify to Pastorius' sympathy with Bayard's cause.91

90. Isaac Penington, 1 The Works of the long-mournful and sorely-distressed Isaac Penington 326-27 (Benjamin Clark 1681). See also George Fox, Quaker Testimony Concerning Magistracy (London 1669) Wing F1752; George Fox, Something in Answer to a law lately made at the first sessions of the General Court (London 1679) Wing F1911; George Fox, The Christian Judge, so called their words judged by the holy men of God (London 1676) Wing 1759; George Fox, The Law of God the Rule of Law-makers (London 1658) Wing F1856; Thomas Rudyard, The Second Part of the People's Ancient and just Liberties (London 1670). See generally Horle, The Quakers and the English Legal System (cited in note 6).

In his search for ways to create a virtuous magistracy, Penn turned to classical examples. Sparta, the republic famous throughout antiquity for its self-denying and hence virtuous citizens, occupied a central place in his writings. William Penn told the story in *No Cross, No Crown* of “Archidemus, King of Sparta”: “being askt, who was Master of Lacedemonia the laws, saith he and after them the Magistrates.” Pastorius included the story in his *Bee Hive* entry for Law.22

Virtue was important for magistrates not only because they affected people’s fortunes, but also because they served as models. Penn warned about the dangers in his *No Cross, No Crown*. Penn included in the second part of *No Cross, No Crown* examples from ancient history to illustrate his points. Pastorius copied several of Penn’s examples into his *Bee Hive* entry for Law. First, he used the example of Xenophanes, who was jeered for refusing to gamble. “They that make laws must keep them saith Xenophanes” in response.9 Pastorius also took the example of “Pericles, [who] mounting the tribunal prayed to God, not a word might fall from him, that should scandalize the people, wrong the public affairs, or hurt his own.”94 Penn explained the context of Pericles’ statement:

One of his friends praying him to speak falsely; we are friends, saith he, but not beyond the Alter; meaning, not against Religion and Truth. Sophocles being his companion, upon sight of a Beautiful woman, said to Pericles, Ah! What a lovely creature is that! To which Pericles reply’d, It becometh a Magistrate not only to have his hands clean, but his Tongue and Eyes also.25

The chief job of magistrates, Pastorius thought, was to uphold morals. In the *New Primer* he prepared for use by his students, Pastorius summarized the duties of magistrates. Magistrates must, he thought:

rule in the fear of God, 2 Sam 23:3, with Diligence, Rom. 12:8, as wise and understanding men, 2 Deut. 1:17, Know the law, Ezra 7:25, judgerighteously, respect not person, but judge the small as well as the great, Vers. 16, 17, and chap. 16-19, condemn not the just, Prov. 17 15, pervert not the judgment of the poor in his Cause, Exod. 23:6, slay not the innocent, ... take no Gift, Vers. 8 (Acts 24 26) ... not vex nor oppose the stranger, 12.9 afflict not any widow or fatherless child, chap. 22 Isa. 1:23, do justice to the needy, defend and deliver him, Pal. 82:3, stem and passions Zech. 7:9, justify not the wicked for reward, Isa. 5:23, but rebuke him, Prov. 24, 23, execute wrath upon evil Doers, Rom. 13:3,4, that good men may lead a quiet and peaceable life in all goodness and honesty. 1 Tim

93. Id at 341.
2:2, [be] blameless themselves, John 8:3, [and] not d[o] the same things. Rom 2:1.96

Magistrates were, thus, under a duty "to act according to the law, and not to set up [their] Will in the stead thereof."97 Nevertheless, Pastorius believed that "By Nature it is ordained that the better command the worse"98 and magistrates were some of the superiors who ought to be obeyed. He warned in the Bee Hive entry on magistrates that "A good Governor is a skillful shipmaster, that takes the shortest and safest course, but a wicked Magistrate is a wolf made leader of the fold. [He] Will not protect us in our Lives, Liberties and estates."99

* * * *

Although he opposed the use of law to extract undue advantage from an adversary, like others interested in legal reform in the seventeenth and eighteenth century, Pastorius believed that the courts should be used to enforce just debts. Some Quakers suggested that one should never resort to law suits.100 But Pastorius explicitly sided with those Quakers supporting use of the legal system to compel payment of fair debts and to punish wrongdoers.101

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96. Pastorius, A New Primer at 34 (cited in note 17).
97. See Pastorius, Bee Hive at Magistrates Entry (cited in note 1).
98. Id. Quaker writings were frequently addressed to magistrates, as the people who carried the power to enforce the laws. George Fox's Journal of George Fox, for example, contained numerous instances of his addresses to magistrates. See for example, Fox, Journal of George Fox at 45, 435 (cited in note 54). But magistrates could do only so much; religion also served to condition people to accept their place. Id at 90. We need further study of the way that Quakers' experiences in England conditioned them to adopt religious tolerance and focus attention on "justice" as a key element of good government. And in turn the way that those attitudes influenced the subsequent development of a revolutionary constitutionalism in the American colonies. A beginning appears in Horle, Quakers and the English Legal System, 1660-1688 (cited in note 6) and William M. Offutt, Jr., Of "Good Laws" and "Good Men": Law and Community in the Delaware Valley, 1680-1710 (U Ill 1995), which look at how Quakers' treatment by the English legal system influenced their beliefs. See generally Alan Heimert, Religion and the American Mind from Great Awakening to Revolution (Harvard 1966) (tracing influence of religious beliefs on American Revolution).
99. Id.
100. Daniel Leeds, New England's Spirit of Persecution Transmitted to Pennsylvania 82-83, 90 (New York 1699) (suggesting that Quakers should never sue at law).
101. See Caleb Pusey, Satan's Harbinger Refuted (Philadelphia 1699) (refuting Leeds' claim that Quakers should avoid lawsuits). Given Pastorius' heavy reliance upon other pietists and Quakers in the Bee Hive, one might look to their writings, as well as English legal reformers, for further elaboration of the ideas that Pastorius expressed. Pastorius' entry for Magistrates cited Pusey to show that law suits were appropriate. Pastorius, Bee Hive at Magistrates Entry (cited in note 1). He thereby avoided the tendency of Pietists to move entirely away from law. See A.G. Roeber, Palatines, Liberty, and Property ch 3 (Johns Hopkins 1993) (discussing Pietism, Christian liberty, and the problem of worldly goods).
Thus, concern over the payment of debts occupied an important place in Pastorius' thinking. He began his discussion of "Debt," by imploring "Christians, you owe love to one another. Will ye not be honest men and pay your debt." And then, quoting Penn's *Fruits of Solitude*, Pastorius warned that one should not "ruin him to get that which will not ruin thee to lose." Nevertheless, he urged that one should pay one's debt. "Whatever we owe, it's our part to pay it; for whether the Creditor be good or bad, the Debt is still the same.”

His final warning was to stay out of debt completely: "he that cannot pay, let him pray; he is rich who has no debt." Thus, while many of Pastorius' writings concern the need for justice, fair dealing, love and peace, he recognized simultaneously the need for strict enforcement of law and the duty of both magistrates and those they governed to follow the law. It is the specific legal structure established in Pennsylvania that Pastorius' *Young Country Clerk's Collection* illustrates well.

IV. The *Young Country Clerk's Collection* and English Law

A. *LEGAL TREATISES IN EARLY PENNSYLVANIA AND THE YOUNG COUNTRY CLERK'S COLLECTION*

The types of treatises available in early Pennsylvania mirrored the distinctions between Pastorius' writings on justice, law, and magistrates that appeared in his *Bee Hive* and those on practical law that appeared in the *Young Country Clerk's Collection*. There were a few books in early Pennsylvania that discussed law in substantive terms with wide-ranging statements about the nature of English law and justice, such as Henry Finch's *Law, or a Discourse Thereof*, Bacon's *Essays*, Coke's *Institutes*, and Penn's *Excellent Priviledge of Liberty and Property* and his *Ancient Liberties Asserted*. Pastorius' library included some such books.

There were also a significant number of sophisticated works detailing English and colonial statutes, such as *The Laws of Jamaica* and Edmund Wingate's *Abridgement of all the Statutes in force*. Works on civil law, such as John Cowell's *Interpreter* and Schütz' *Compendium Iuris*, as well as reports of cases.
in both the Chancery and the common law courts also appeared in Pennsylvania libraries.\textsuperscript{105} Sometime near the beginning of the eighteenth century, lawyers such as James Logan, who came in 1699 as Penn’s secretary and later served as a Justice in Philadelphia, and Ralph Ashton, a lawyer who emigrated to Pennsylvania in 1708, built extensive libraries of dozens of law books.\textsuperscript{106}

One also finds a healthy collection of "practical" legal treatises in early Pennsylvania. A number of important books known to be in Pennsylvania contemporaneous with Pastorius consisted largely of forms for pleadings in court. Such books included Richard Brownlow’s \textit{Book of Entries} and John Herne’s \textit{The Pledger}. There were also books aiding in land transactions such as William Style’s \textit{The Practical Register} and Robert Gardiner, \textit{Ars Clericals: the Art of Conveyancing}, which included both forms for land transactions and explanations of the law of property.\textsuperscript{107}

There were, finally, three practical volumes that proved particularly influential on Pastorius because he drew upon them in compiling the \textit{Collection}: Richard Hill’s \textit{Young Clerks Guide}, John Hill’s \textit{Young Secretary’s Guide} and Edward Cocker’s \textit{Young Clerk’s Tutor}. The \textit{Young Clerks Guide} and the \textit{Young Secretary’s Guide} consisted largely of forms for land transactions and contracts; the \textit{Young Clerk’s Tutor} contained no forms for land transactions other than testamentary and inter vivos gifts, but had ample contracts and some forms writs as well as forms for use outside of court.

\textbf{B. THE YOUNG COUNTRY CLERK’S COLLECTION}

The \textit{Young Country Clerk’s Collection}, nearly two hundred pages of closely-written manuscript, begins with a grand title: "The Young Country Clerk’s Collection of the best Presidents of Bills, Bonds, Conditions, Acquittances, Releases, Indentures, Deeds of Sale, Letters of Attorney, Last Wills and Testaments &c With many other necessary and useful Forms of such Writings as are vulgarly in use between Man and Man."\textsuperscript{108} It lives up to its billing; the \textit{Collection} consists largely of forms for land transactions, contracts and writs for operation of the courts.

The \textit{Collection} also devotes much space to forms for operation of the courts. From commissions to justices, to presentments for violating laws, to summons to appear, to recognizances, Pastorius’ book includes all the forms that were necessary for a court to operate. There are ample forms for insuring the func-

\textsuperscript{105} See id; Learned, \textit{Life of Francis Daniel Pastorius} (cited in note 2).
\textsuperscript{107} See Wolf, \textit{The Library of a Philadelphia Judge} (cited in note 104).
\textsuperscript{108} Pastorius, \textit{Young Country Clerk’s Collection} at 201 (cited in note 2).
tioning of Pennsylvania society, including a petition to the court from a family who had lost their house to fire, a petition to the Queen to restore Pennsylvania's charter, and several letters to William Penn, the proprietor, to grant residents of Germantown additional privileges, as well as notices of lost animals and runaway servants and letters to parents, relatives, friends, and business associates. It also includes a table of regnal years and a page of models for bookkeeping. Real property took up most of the space in private law; more than twenty manuscript pages were devoted to real property. Contracts took up more than fifteen pages.

The Collection was apparently written over a period of time, from around 1698 through about 1715. Many of the pleadings refer to dates from 1690 through 1703. Pastorius refers to Queen Anne's Address on the Union of England and Scotland, which took place in 1707. The Address is quoted near the end of the book, so he may have written the bulk of the Collection earlier. Moreover, his table of regnal years seems to have been completed in Queen Anne's reign, with the entries for George I and II added later.

One is left wondering why, given the extraordinary investment of time involved in writing the Collection, the manuscript was never published. Pastorius may have planned to publish it, as he had his New Primer. The Collection could stand on its own as a general treatise, because it contains information of general use such as personal names, fictitious names, a table for computing interest, a table of regnal years, and forms for letters. Given his integration of definitions of legal terms with precedents, it appears that he intended the manuscript for learning the basics of law. Perhaps the lack of a printer in Pennsylvania in the first years of the eighteenth century accounts for Pastorius' failure to publish the manuscript. For whatever reason, the book was never published and Pennsylvanians were left without books providing them legal counsel on Pennsylvania law. The first practical legal treatise published in Pennsylvania was Conductor Generalis, printed by William Bradford in 1722, two years after Pastorius' death, and that was merely a reprint of the English justice of the peace manual by the same name.

109. See id at 214 (double bond dated 1690); id at 249 (sale of land dated 1700); id at 250 (agreement about payment of land dated 1701); id at 285 (land sale dated 1703).
110. Id.
111. See Pastorius, A New Primer (cited in note 17). Professor Learned hypothesized that Pastorius may have used the Collection to teach law to his students. See Learned, Life of Francis Daniel Pastorius at 272 (cited in note 2).
112. After William Bradford fled to New York in 1693 in the wake of the Keithian controversy, in which Bradford he was prosecuted for printing books without identifying himself as the publisher, Philadelphia lacked a printer until 1707. See Dunn and Dunn, 3 Papers of William Penn at 639 (cited in note 46). Until 1714, there was no printed copy of the laws, only an abstract, see An Abstract or Abridgement of the Laws Made and Past by William Penn (cited in note 3); Laws of the Province of Pennsylvania Collected into One Volume (cited in note 3). Pastorius made due with a manuscript copy of the laws. See Learned, Life of Francis Daniel Pastorius at 70 (cited in note 2).
113. See Conductor Generalis (cited in note 5); Pastorius had a copy of the English
In order to make the treatise as accessible as possible, it had three detailed indices. The first, located at the front of the manuscript, indexed the forms in the main portion of his treatise. Appendix I prints part of the title page and the first table of contents, with Pastorius' notations to indicate where he obtained each precedent. The second index, known as the "Universal Index," was apparently written after he completed the treatise. It referred to both the forms in his treatise and to other forms found in English law books. The third index, called the "Supplement," is only a page long; it was likely added sometime after the main portion of the manuscript was completed.\footnote{114}

1. Sources

On the first page of the \textit{Young Country Clerk's Collection}, Pastorius lists four sources of his treatise: John Hill's \textit{Young Secretary's Guide}, Edward Cocker's \textit{Young Clerk's Tutor}, Richard Hill's \textit{Young Clerks Guide}, and Pastorius' own precedents.\footnote{115} Pastorius drew freely on the three treatises. In the body of the text, he cited the \textit{Clerk's Tutor} nearly forty times, the \textit{Secretary's Guide} more than thirty times, and the voluminous \textit{Clerks Guide}, the most comprehensive and sophisticated of the three, nearly thirty times. In many instances, he drew his forms nearly verbatim out of the books.\footnote{116} At other times he cited the works to show that further elaborations were available in the treatises. Pastorius also drew upon precedents given to him by others in Pennsylvania. Charles Brockden, a lawyer with a large collection of English law books, was credited with furnishing at least one precedent. George Lowther, another Philadelphia lawyer, supplied several precedents, and William Clark, a Justice of Sussex County who at one time served as speaker of the General Assembly, furnished one precedent. Another precedent, a mittimus from Queens County, Long Island, shows that Pastorius' circle of contributors stretched far and that legal knowledge was communicated between New York and Pennsylvania.\footnote{117}

\footnote{114}See \textit{Pastorius, Young Country Clerk's Collection} at 361-71 (cited in note 2) ("Universal" index); id at 372, 314 (Supplemental index).
\footnote{115}Id at unnumbered introductory page. He consciously thought of his manuscript as building upon the English law books by beginning the pagination of his work at 200, noting that "the previous 199 pages are in Edward Crook's Young Secretaries Guide." Id.
\footnote{116}See Appendix I, II (showing Pastorius' citations to the treatises). The citation frequencies do not include citations to the treatises in Pastorius' Universal Index. Pastorius, \textit{Young Country Clerk's Collection} at 361-71 (cited in note 2).
\footnote{117}See \textit{Wolf, Book Culture of a Colonial American City} at 141 (cited in note 104) (discussing Brockden's library, which consisted of at least 24 titles); Pastorius, \textit{Young Country Clerk's Collection} at 315 (cited in note 2) (Brockden precedent); id at 257 (Clark precedent); id at 285 (Lowther precedent); id at 257 (precedent from Queens County, Long Island).
Pastorius referred the reader to additional precedents in the *Young Secretary's Guide*, the *Young Clerk's Tutor*, and the *Young Clerks Guide* in his "Universal" index. In the "Universal" index, Pastorius observed that "Whereas there is almost a numberless number of such like Legal Writings (as in the former part of this Book you may See a pretty many) all which to transcribe I had neither time, paper, will, nor patience enough, therefore know yee that this following Table shall direct you where to find abundance of them."

It is by comparing Pastorius' manuscript to the English law books upon which he drew that one gains a sense of where Pastorius' work was original and where it was derivative. Table 1 shows the relative space devoted to each area by Pastorius' manuscript and his two most often cited sources, Edward Cocker's *Young Clerk's Tutor* and John Hill's *Young Secretary's Guide*. It shows that Pastorius had a balance between contracts, property, and forms for operation of the courts that the other two lacked. The *Collection* devoted proportionally more space to property than the *Secretary's Guide* and proportionally less space to contracts than either the *Secretary's Guide* or the *Clerk's Tutor*, although he maintained the essential contract forms. The *Collection* had a greater utility than any of the three treatises that Pastorius had drawn upon. Once he completed his work, it was useful to justices of the peace as well as clerks wanting to transfer land, write a will, or write contracts for sale of goods and services.

2. The Structure of the *Collection*

Historians have learned a substantial amount about legal systems and the minds of those who inhabit the legal systems by examining the contents of legal treatises. Examination of treatises adds a further dimension to our knowledge of colonial American legal systems, which is based largely on studies of court records.

Examination of court records is valuable for showing some

118. Id at 361.


Professor Charles J. Donahue's lectures on the structure of Athelbert's Code and of Glanville first suggested to me the profitability of structural analysis.

TABLE 1
Comparison of Pastorius’ Texts with English Law Books: Attention Devoted to Areas of the Law as Represented by Numbers of Pages or Entries

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<thead>
<tr>
<th></th>
<th>Pastorius</th>
<th>Young Secretary’s Guide</th>
<th>Young Clerk’s Tutor</th>
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</thead>
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<td><strong>Contract</strong></td>
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</tr>
<tr>
<td>Bills/Bonds/Notes</td>
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<td>20</td>
<td>28</td>
</tr>
<tr>
<td>Releases/Acquittances</td>
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<td>8</td>
<td>25</td>
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</table>
| Letters of Attorney | 8 | 5 | 19[^]

<table>
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<tr>
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<td></td>
<td>11</td>
</tr>
<tr>
<td>leases</td>
<td>4</td>
<td></td>
<td>8</td>
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<td></td>
<td>13</td>
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<td>0</td>
</tr>
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<td>Will/Trusts</td>
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<td>5</td>
<td>5</td>
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</tbody>
</table>

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<tr>
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</tr>
<tr>
<td>Petitions</td>
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<td>Affidavits/personal writs</td>
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<td>0</td>
<td>3</td>
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<td>1</td>
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<tr>
<td>Notices</td>
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</tr>
<tr>
<td>Tables[^]</td>
<td>9</td>
<td>12</td>
<td>14</td>
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</table>

[^]: For Pastorius’ *Young Country Clerks Collection* the attention devoted to each area is measured by number of pages devoted to each area; for the *Young Secretary’s Guide* and the *Young Clerk’s Tutor*, the attention is measured by number of entries in their tables of contents. In some cases, forms fit more than one category, such as Pastorius’ letter of attorney with an assignment of a bond and his arbitration bonds and arbitration awards. See Pastorius, *Young Country Clerk’s Collection* at 227 (cited in note 2) (letter of attorney with bond); id at 248 (arbitration form). In those cases, they have been counted in all categories to which they relate.

[^]: Also includes warrants of attorney. See Cocker, *Young Clerk’s Tutor* at 29-33 (cited in note 32).

[^]: Tables include fictitious names, trades, geographic locations, interest, and regnal years.
points of contention in a society and how the courts resolved disputes, but it cannot tell us much about legal procedures that do not involve suits, such as contracts and land transactions. Legal treatises, on the other hand, are valuable because they tell us about the issues important to their authors and they can give excellent overviews of a legal system, even though they may fail to tell us much about patterns of dispute within a community. Particularly with a treatise compiled by a participant in the legal system under study, the contents may illuminate much about the surrounding legal system. Pastiorius' treatise is particularly valuable because it shows what he believed were the most important elements of Pennsylvania law.

Historians of colonial American law are familiar with the range of law books that were available in early America. However, they have not sufficiently examined the contents of those books in relation to the law as practiced in early America, nor have they always known what parts of the books the colonists read. Pastiorius' manuscript is exciting because he frequently tells us where he has obtained his precedents. We can also see how he distilled English law for use in Pennsylvania.

Following the introductory page and index, the Collection includes notices, such as advertisements for lost animals and servants, then notes, certificates of marriage, letters of attorneys, bonds and awards, and land transactions. It then shifts to warrants, releases, petitions, land sales again, mittimus, and miscellaneous other forms and an index. It appears as though Pastiorius tried to group similar forms together, as had been done in the Young Secretary's Guide. As the


Professor Alan Watson has judiciously cautioned against too heavy reliance on legal treatises as representations of the reality of the legal system under study. See Watson, Legal Transplants: An Approach to Comparative Law (cited in note 16). Moreover, Professor Watson has made solid arguments that significant portions of a legal system's rules may be borrowed and thus have little if any relationship to the society of which they are a part. See generally Watson, Slave Law in the Americas at 125-29 (cited in note 15). Nevertheless, a legal treatise that is compiled by a participant in the legal system of which he is writing will likely reflect the author's perception about the reality of the legal system.

122. In recent years there has been a proliferation of knowledge about the contents of early American libraries of lawyers and non-lawyers alike. See, for example, Wolf, Book Culture of a Colonial American City ch 5 (cited in note 104); W. Hamilton Bryson, Law Books in Colonial Virginia, A Census (U Va 1979); Jon Butler, William Teackle's 333 Books, 49 Wm & Mary Q 449-91 (1992); Lawrence B. Custer, William Cumming: A Colonial Lawyer and His Library, 3 J So L Hist 221-40 (1994).
size of the treatise grew, however, his plans dissolved. This hypothesis is supported by Pastorius’ heavy reliance upon the English treatises—particularly the Young Secretary’s Guide and the Young Clerk’s Tutor in the first fifty pages of the Collection. After the initial fifty pages, however, the Collection draws only infrequently upon the English treatises. It relies upon forms that Pastorius encountered either as a justice or as a clerk. A complete table of contents appears in Appendix II, which further illuminates the structure of the Collection. Appendix III prints a small portion of the Collection.

C. PENNSYLVANIA LAW AND THE YOUNG COUNTRY CLERK’S COLLECTION

The treatise allows us to see the several areas of Pennsylvania law and government that concerned Pastorius and allows a comparison between Pennsylvania and English law. The treatise is particularly illuminating about the state of real property, contract and criminal procedure. It shows that Pennsylvania law closely followed many aspects of English law and suggests that early Pennsylvanians “settled” the intellectual domain of law in America by using English legal ideas.123

1. Real Property

The Young Country Clerk’s Collection contains more than twenty pages of forms for land transactions. It includes simple forms for absolute sales, taken directly from the Young Clerk’s Tutor and Young Clerk’s Guide, as well as more complicated forms for land sales, mortgages, leases, and releases of land and quitrents.

a. Sale of Land and Mortgages

By statute, Pennsylvania provided a simple format for land transactions.124 Pennsylvania’s reform of the notoriously complicated English law of land transactions is one of the triumphs of the Pennsylvania legislature and of the reformers of English law. The land law, in particular, attracted the attention of Quaker reformers. One E.B., perhaps the prominent Quaker Edward Burroughs, advocated in 1659 in The Mite of Affection the abolition of “all servile Tenures or Copy holds . . . being the badge or yoke of the Norman Conquest.”125 Penn presented practical reasons as well as political ones for his requirement of recording of land transactions. “To prevent frauds and vexatious suits,” Penn wrote, “all charters, gifts, grants, and conveyances of land (except leases for a year or under) . . . shall be enrolled or registered in the public enrollment office.”

123. Eben Moglen’s forthcoming study, Settling the Law: Colonial New York, 1650-1776, explains in detail the process by which the intellectual territory of the law was settled. I have drawn upon his insightful work in thinking about the contribution of Pastorius.

124. The legislature was apparently motivated by concerns that land transactions in England were too complicated. See Beckman, 1 Statutes at Large in the Time of William Penn at 146-47 (cited in note 58).

He went on to require “all deeds, grants, and conveyances of land . . . shall be enrolled or registered . . . within six months next after the making thereof . . . else to be void in law against all persons whatsoever.” But that was soon changed when many people found it a hardship to register the transaction.

In keeping with Pennsylvania law, several of Pastorius’ sample forms for land sales were simple, although not as simple as permitted by statute. There are more complicated forms, however. His first land sale occupies five pages, the longest of any in his book. It contained a number of intricate clauses, providing for a description of the parties and the land involved, reciting the chain of title of the land from William Penn, with detailed words of grant and warranties. It followed the popular form for land sale in England. Pastorius may have compiled it largely from clauses in the Young Clerks Guide, or from deeds in use in Pennsylvania, which in turn might have been taken from such popular books as the Modern Conveyancer or Ars Clericus.

Another popular method of land sale in seventeenth century England was the lease and release. To convey by lease and release, the grantors first put the grantees into possession of the property through a lease, usually for six months or one year. The next day, the grantors, having seised the grantees, executed a release of all their interests in the land to the grantees (now lessees). The grantees’ future interest in the land merged with their present possessory right in the land, creating a fee simple in the grantees.

126. Laws Agreed Upon in England, in Jean R. Soderlund, ed, William Penn and the Founding of Pennsylvania, 1680-1684: A Documentary History 128, 130 (U Pa 1983) (Law 20); but see id at 172-73 (extending period for recording land) and Law about Recording Deeds, May 31, 1693. Id at 202 (removing requirement that deeds be registered, but providing that “deeds and writings as shall be Enrouled or Registered in the rousl office and the exemplification of the records of the same in all Courts of Judicature shall be allowed and judged as valled as the original.”) I wish to thank Barbara Weir and Laurie Rofini of the Chester County Archives for sharing their knowledge of the mechanics of early land transfers with me.

127. See Pastorius, Young Country Clerk’s Collection at 249 (cited in note 2) (A Short Form of Sale of Land) (Appendix III, Form A-7, infra); id at Sale of Land Entailed (Appendix III, Form A-8, infra); Beckman, 1 Statutes at Large in the Time of William Penn at 146-47 (cited in note 58) (prescribing format for land transactions and limiting estates to those of inheritance—fee simple—life, and years).

fered several advantages over the traditional grant. First, it allowed the parties to avoid the Statute of Enrollments and therefore allowed parties to transfer land without making a public record of the transaction. That advantage was initially not present in Pennsylvania, where the legislature required that all transactions be recorded, although it soon proved important because in 1693 the legislature removed the requirement that all deeds be recorded. A related advantage was that lease and release made livery of seisin unnecessary. Pastorius devotes an entire page to discussion of feoffment and livery of seisin, taken from the Young Clerk’s Tutor. Pastorius concludes, “instead of this Livery here in Pennsylvania Deeds are delivered and acknowledged (in Open Court of Record . . . ) before a Justice of the Peace or now by Lease and Release.”

Other land transactions were not so simple. A significant number of Pennsylvanians financed their purchase of land through mortgages. English law provided several ways of mortgaging property. One of the most popular mortgage procedures, known as the classical common law mortgage, required that the purchaser (mortgagor) convey the property to the mortgagee, with a clause terminating the deed to the mortgagee when the mortgage was satisfied. Sometimes the conveyance to the mortgagee included a provision for the mortgagor to remain on the property, at other times a separate lease, with the mortgagee as landlord and mortgagor as tenant, was necessary. Pastorius included the appropriate forms for a classical common law mortgage. In one form, he provided for a mortgagor to convey his land to the mortgagee and then make yearly payments to the mortgagee. When the mortgage was paid, then “this deed shall cease, termine and become utter void and to no effect.” He also supplied several contracts to require the owner to reconvey the property to the lessee, or mortgagor, upon satisfaction.

1996) (same).


133. See Pastorius, Young Country Clerk’s Collection at 283 (cited in note 2) (classical
Probably even more popular than the classical form of mortgage was a mortgage involving a grant of a long-term lease to the mortgagee. The mortgagor took title to the mortgaged parcel, then granted a lease to the mortgagee, with provision that the mortgagor retain possession until the mortgagor defaulted and with the condition that the lease terminated when the mortgage was satisfied. Pastorius included two lease mortgages, perhaps based on the three works that he drew upon.\textsuperscript{134}

English law also recognized a simpler mortgage, which involved a contract providing that the mortgagee had a lien on the mortgagor's property. Such mortgages, which were growing in popularity in England, had the advantage of ease of execution and insured that the mortgagee would own the property upon payment, without any need to resort to lawsuit to compel the mortgagor to convey title. They also insured that if the mortgagee died before the mortgage was satisfied, the mortgaged property was not subject to dower and forced-share rights.\textsuperscript{135} Pastorius provided forms for such simple mortgages, drawing upon forms that appeared in the \textit{Young Clerk's Tutor} and \textit{Young Secretary's Guide}.\textsuperscript{136} Perhaps the simplest form of mortgage at English law was a sale of land through installments, with the grantor retaining title until the last payment was completed. Pastorius also included such a form.\textsuperscript{137}
b. Leases

Leases in the seventeenth century were used most commonly as part of a transfer of ownership of property and as parts of mortgages. Pastorius also included two leases appropriate for creating a landlord-tenant relationship. One lease provided for a six year rental of a plantation. The rent was be paid out of the produce of the land. The landlord, who had already planted ten acres of grain, was entitled to “one half part of all the wheat, rye and barley, the produce of the . . . Plantacion yearly during the . . . Term” and “one half of the yearly Increase of the Stock.” The other lease provided for a rental of a house with fixed yearly payments for a term of seven years.138

c. Trusts

Pastorius included two forms for trusts, which had recently replaced uses as a way of dividing equitable and legal control over property between two entities. Both trusts provided a legacy for the Quakers. In one the creator provided that the Dublin Township Monthly Meeting chose the trustees and that the trustees should always insure that the Quakers occupied the land granted. The trusts allowed more control over the gift than an outright bequest because they insured that the Quakers would continue to receive equitable use of the land.139

d. Gifts

Quaker families were particularly generous with their children. They frequently gave outright gifts of land upon marriage. The ability to make gifts of land during life, therefore, took on a particularly important role in Quaker Pennsylvania.140 Pastorius was perhaps recognizing the importance of inter vivos transfers or perhaps simply relying upon forms available to him in the Secretary’s Guide. The form in the Collection followed closely the form in the Secretary’s Guide, as did the several paragraphs discussing “things to be considered” in deeds of gift following Pastorius’ deed although Pastorius’ involved a grant within a family, rather than among friends as in the Secretary’s Guide.141

138. See id at 277 (Appendix III, Form A-15, infra); id at 277 (Appendix III, Form A-1, infra); id at 366 (referring to Hill, Young Clerks Guide at 335, 54, 221 (cited in note 32)); id at Index Supplement (referring to Hill, Young Clerks Guide at 66, 113, 205 (cited in note 32)).


140. See Barry Levy, Quakers and the American Family ch 4, 144-51 (Oxford 1988) (finding high rate of inter vivos transfers of land).

141. Pastorius, Young Country Clerk’s Collection at 246 (cited in note 2) (citing Hill, Secretary’s Guide 121, 122 (cited in note 32)). Thus, Pastorius’ deed granted land “in consideration of the Love & good will & affection . . . which I have & do bear towards my loving BB and for his & his children their better & more comfortable subsistence in the world” and in further consideration of some unspecified sum of money. Id. The other deeds provided in the Collection could, of course, also be used to convey property inter vivos to family members.
e. Wills

Upon their deaths, Quakers distributed property to a wide range of family members and friends. The Collection included several forms for wills. The first form, based loosely on precedents from the Clerk's Tutor and the Secretary's Guide, provides for distribution of property among several devisees, with payments of debts by the executor and grants of money to other devisees. Although lengthy, the will is not especially complicated when compared to the wills appearing in some English books that provided for family settlements. Once again the Pennsylvanians benefited from their relatively simple real property law.\footnote{142}

Another form was apparently based on the 1699 will of John Dumpling of Philadelphia. Dumpling gave his wife a life estate in his property, with the provision that if she remarried, she would receive half of his estate and the remainder would go in equal parts to his brother and sister, who resided in Holland. Several clauses providing for executors followed the will. Another will, only a paragraph long, devised all the property to the testator's spouse. Pastorius also includes several notes on wills, including the requirement of three witnesses and the requirement that specific legacies require enumeration in the will.\footnote{143}

One is left with the impression that early Pennsylvania land law mirrored the procedures of English law in important ways. The forms for land transactions were similar to English forms. Thus, Pennsylvanians drew upon their English heritage to settle their ownership rights. At the same time, they avoided the complications of English land law, which caused the treatises written on English conveyancing to run to several hundred pages. There was not much need for extensive discussion of how lands were conveyed, or forms for settlements of uses, nor for covenants to stand seized to uses. Fines were likewise unimportant and recoveries were relatively unimportant.\footnote{144} Pastorius' real property forms, therefore, helped to make land transfers easier, thus complying with the Biblical commands to make law and justice accessible.

2. Contracts

In keeping with the vigorous market economy existing in Pennsylvania, Pastorius included many forms for contracts in the Collection. By contract, Pastorius meant "the mutual consent of the Parties concerned by a formal Deed..."
in writing, whereby they promise to give or do somewhat in such sort as they
have concluded amongst themselves. The types of forms fall into several
broad categories: obligatory paper, such as bills, notes, and bonds; contracts for
sales of goods and services, such as indentures for apprentices and agreements to
make bricks or construct buildings; and paper recognizing the fulfillment of
obligations, such as receipts, recognizances and releases.

a. Bills, Notes, and Bonds

Most of the commercial transaction forms in the Collection are bills, bonds,
or notes. Pastorius, in the midst of his bills, includes several paragraphs, based
on the Young Clerk’s Tutor to explain the terms he is using: a “Bill or Obliga-
tion is a Deed in Writing, and the nature thereof is to bind one (or more) to
another to pay a sum of money, or to give, do and perform something. The
difference betwixt them is that when it is in English, they call it a Bill; but when
it is in Latin, a Bond or Obligation.”

Several of the bills served merely to acknowledge a debt and bind the signer
to pay the debt. Such bills were called unconditional. Thus, upon receiving a
loan or a sum of money, one signed a simple bill promising to pay back the
money at a specified time. Several letters of credit, including one in Dutch,
appear in the Collection. They supplemented the loans made available through
the bills in the Collection by providing for a loan on the signer’s account. Pastorius also discusses inland and foreign bills of exchange, terms apparently
taken from Dutch and German commercial law. Inland bills of exchange, he
explains, are “such as are drawn and payable in the same Country, which is
usually either at sight or some days after. And if a bill be drawn to be payable
at sight, it is only payable 3 days after accepter for . . . Inland bills are never
protested, but returned by the first opportunity.” Foreign bills, he contrasted, are
payable in another country, several months afterwards.

Other bills were conditional; they contained both an obligation, which was
present in the non-penal bills, as well as a condition. When the obligor met the
condition, the bill became void. One example of the conditional bill is the

145. Pastorius, Young Country Clerk’s Collection at 210 (cited in note 2).
146. Id (quoting Cocker, Young Clerk’s Tutor at 2 (cited in note 32)).
147. Id at 211 (single bill without penalty and bill of debt, printed in Appendix III,
Forms B-7, B-8, infra). Pastorius closely follows the organization of the Secretary’s Guide
in his section on bills. The Secretary’s Guide prints bills in the following order: short note
acknowledging money due, single bill without a penalty, single penal bill, explanation of
bills and bonds, bond from one party to another; conditional bonds involving multiple
148. See Pastorius, Young Country Clerk’s Collection at 220 (cited in note 2) (Appendix
III, Form B-12, infra).
149. Id at 219 (foreign bill of exchange, Appendix III, Form B-11, infra).
150. Pastorius explained that a condition “is such an agreement of both parties . . .
as stayed . . . the effect thereof . . . until the Condition happen to be fulfilled or
relapsed, so that by the non-performance or not doing thereof the Parties to the Condition
shall receive Prejudice and loss and by performance Commodity and advantage.” Id at
common money bond, which appeared in both the Collection and in several books that Pastorius drew upon. In the common money bond, the debtor agreed to pay a sum of money—commonly twice the sum owing. But the bond included a condition that if the debtor paid the money owed by a certain time, the bond was void. The Collection, similarly, used bonds to ensure performance of land sale contracts.

Conditional bonds were, through the latter part of the seventeenth century, the "basic contractual institution" of English law. It was through conditional bonds, which offered a flexibility in contracting, that "important agreements were made actionable." The conditional bond facilitated not only the collection of debts, but more sophisticated executory contracts as well. The contracts for services in the Collection were penal bonds. The bonds had a condition that the obligor complete the service in order to avoid liability on the bond. One such executory contract in the Collection was for construction of a house. It joined the usual obligation of a penal bond with the condition that if the obligor constructed "one good and substantial new frame" then the bond was void.

One of the best examples of penal bonds appearing in the Collection was arbitration bonds. It provides several forms for binding parties to the decisions of umpires. The parties executed penal bonds in favor of each other, with the condition that the bond would be void if they abided by the umpires' decision. The forms map closely those available in the Clerk's Tutor and Secretary's Guide as well as those in more general treatises.

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212, 2d. Pastorius further explained that a condition was "a Rule, Law or Bridle annexed" to a Bond, staying and suspending the same until a certain time." Id.


152. See Pastorius, Young Country Clerk's Collection at 212d, 277th (cited in note 2) (see also the discussion of mortgages, supra, in Section IV.C.1.a.). Compare to id at 283 (deed of defeasance used in mortgage, allowing mortagor to reclaim title to property upon completion of payments).


The bills, bonds, and notes are remarkably similar to those appearing in the formbooks that Pastorius drew upon, particularly the *Young Secretary's Guide*. Pastorius' frequent citations to the formbooks shows his reliance upon them and the importance of those forms. Although conditional bonds were becoming disfavored in English law because the Chancery courts were increasingly refusing to enforce the bonds due to their penal nature, they remained popular in English law books up through the early eighteenth century.\(^{155}\)

b. Indentures and Letters of Attorney

Also important to Pennsylvania's market economy was the ability to arrive at long-term labor contracts and to have factors act on behalf of principals through letters of attorney. The *Collection* provides several indentures for servants and apprentices. These indentures spell out the expectations of the master and the servant. According to one indenture, the master was responsible for providing "sufficient meat, drink, apparel, Lodging and washing fitting for an apprentice" and for teaching his "art, trade, or mastery" to the apprentice. In return, the master expected that the apprentice "keep his lawful commands, gladly everywhere obey. . . . He shall not comit fornication. . . . At card, tables, dice, or any other game he shall not play, whereby his sd Master may have damage with his own goods."\(^{156}\) Another important category of contracts were letters of attorney. The typical letter allowed another to collect debts, transfer land, or pay money on behalf of the signer. The *Collection* has forms for general powers of attorney, but perhaps most important were the letters authorizing another to sell land.\(^{157}\) The letters of attorney appearing in the *Collection* were based on the forms appearing in the *Young Clerks Guide* and in the *Young Secretary's Guide*. Some letters of attorney were also used to collect judgments from a debtor. The letter, which was typically joined with a bond, provided that if the debt was not paid, the debtor gave the creditor power of attorney to confess judgment in court on behalf of the debtor.\(^{158}\)

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156. Pastorius, *Young Country Clerk's Collection* at 244 (cited in note 2); see also id at 248.

157. Id at 226 ("Letter of Attorney to receive Debts and Rents"); id at 228 ("Letter of Attorney to receive a Bond Debit with Revok[ation of] a former Power"); id at 227 (revocation of letter of attorney, citing Hill, *Young Secretary's Guide* at 140, 146-47 (cited in note 32)); id at 228 (Letter of attorney to demand debt).

158. See Cocker, *Young Clerk's Tutor* at 29, 32 (cited in note 32) (also cited in Pastorius, *Young Country Clerk's Collection* at 227\(^{24}\) (cited in note 2)).
c. Receipts, Recognizances, and Releases

A small but significant number of contract forms related to the completion of contracts. Thus, he included receipts (also known as recognizances) to acknowledge the successful completion of obligations under bonds, bills, and notes. Pastorius, closely following the organization of the Secretary's Guide, included a significant number of receipts and recognizances in the first few pages of his treatise. The Collection includes a wide variety of recognizances, beginning with recognizances for part payment, proceeding to more than a dozen acquitances in full for such diverse obligations as produce delivered to a brewer's servant, money received for another's account, rent, and purchase money.

3. Procedure for the County Justice

The Young Country Clerk's Collection has many of the forms needed by a county justice for the operation of the courts. Much like the popular English books on court operation, Pastorius provided forms for warrants and summons requiring a defendant to appear, as well as recognizances to seize a defendant, warrants to arrest a defendant, and writs for the levying of fines.

A justice could use Pastorius' book to prosecute a criminal defendant, beginning with the initial summons to appear. The Collection includes three devices to ensure appearance. First, there is a mittimus to require security from the defendant, then a supersedeas, which allowed a friend of the defendant to vouch for the defendant by providing security for the defendant's appearance, and, finally, there is an arrest warrant for the circumstance of a defendant who was unlikely to appear. For such defendants, there is a form for hue and cry, ordering sheriffs in neighboring counties to search for and arrest a defendant.

Many of the intermediary forms for criminal prosecution, however, are lacking. Absent also are forms for a grand jury to make presentments, which was often

159. The Young Secretary's Guide begins with acquitances, then proceeds to releases, letters of attorneys, wills, and bills. Hill, Young Secretary's Guide at 118-28 (cited in note 32). By comparison, the Collection begins with less than a page of bills, then proceeds to acquitances, bills again, letters of attorneys and wills. One may speculate why the Secretary's Guide began with ways of terminating contractual obligations. John Hill, the Guide's author stated that he included the acquitances "for the greater safety and security of the Person paying or receiving Moneys." Perhaps, then, the protection of people completing their contractual obligations appealed to Pastorius as well, or perhaps he was merely following precedent without any larger design. Id at 105-06.

160. Pastorius, Young Country Clerk's Collection at 206-08 (cited in note 2). Pastorius drew heavily upon the Young Clerk's Tutor and the Young Secretary's Guide for his recognizances. He cited the Tutor four times and the Guide seven times over three pages in this section of the Collection. Id at 206-08. Additionally, he appears to have taken one form, "A Discharge of a Bill, the Bill being lost," from the Tutor without acknowledgment. See id at 208; Cocker, Young Clerk's Tutor at 65 (cited in note 32).

the first step in a criminal prosecution. There are, however, forms for defendants to acknowledge their offenses and promise their future good behavior.\textsuperscript{162}

The \textit{Collection} includes several forms for warrants and a multi-purpose writ issued by a justice that authorized a sheriff or a defendant to carry out an order of the justice. The warrants could require a defendant to appear before the court,\textsuperscript{163} or order a defendant to pay a fine.\textsuperscript{164}

Also important for the Justices were recognizances, acknowledgments made before a justice of money owed to another. The recognizances, which were enforceable as a judgment, could only be made before a justice. They were most often used to promise good behavior, as with a man suspected of assault and battery, who was allowed to give a recognizance promising his future good behavior or suffer forfeiture of his bond.\textsuperscript{165} Like releases, acquittances, and arbitration bonds, they provided a means for terminating disputes.

Noticeably absent from the \textit{Collection}, however, were forms for proceeding by civil suit. There were ample forms for arbitration, to bind parties to the decisions of the umpires, and forms for the umpires to use so that their decisions would be enforced. They were drawn from the \textit{Young Clerk's Tutor} as well as Quaker practices in Pennsylvania. Nevertheless, there is little in the way of forms for initiating and prosecuting a civil suit beyond a summons commanding the defendant to appear in court.\textsuperscript{166} There is a writ to recover seisin, one to replevy goods, and several references to the \textit{Young Secretary's Guide} for civil forms. One reference was for a lease of ejectment; another was for a warrant for an attorney to confess judgment in court.\textsuperscript{167} The lack of civil forms may be attributed to the availability of the forms in the statutes of Pennsylvania, or to the failure of

\begin{itemize}
  \item \textsuperscript{162} See, Pastorius, \textit{Young Country Clerk's Collection} at 253 (cited in note 2).
  \item \textsuperscript{163} See id at 255; Chamberlain, \textit{Complete Justice} at 439 (cited in note 32). The Justice's authority to command appearances was apparently limited to cases in which there was an indictment or complaint. But Pennsylvanians disputed the point bitterly in the late seventeenth century when a justice aligned with one faction in the legislature arrested the leaders of the other faction. See \textit{From the Provincial Council And Assembly to William Penn} in Richard S. Dunn and Mary Maples Dunn, eds, 3 \textit{Papers of William Penn} 515 (U Pa 1986); Gertrude MacKinney, 1:8 \textit{Pennsylvania Archives} 106-07 (Pa Dept Property and Supplies 1931).
  \item \textsuperscript{164} See Pastorius, \textit{Young Country Clerk's Collection} at 257 (cited in note 2) ("A Warrant to levy money forfeited by Ale house haunters," Appendix III, Form C-8). For further discussion of powers of justices' warrants, see Chamberlain, \textit{Complete Justice} at 438-41 (cited in note 32).
  \item \textsuperscript{165} See William Shephard, \textit{The Justice of Peace: His Clerks Cabinet} 89-99 (London 1660) (forms for recognizances); Chamberlain, \textit{Complete Justice} at 213, 315-18 (cited in note 32) (discussing recognizances and warrants). Recognizances for the peace were pledges by a defendant that he would not hurt another, on pain of forfeit of his bond. Warrants, however, were issued by justices commanding a sheriff to arrest.
  \item \textsuperscript{166} See Pastorius, \textit{Young Country Clerk's Collection} at 253 (cited in note 2) (In jus vocato, Appendix III, Form C-2, infra).
  \item \textsuperscript{167} See id at 317 (writ to recover seisin, Appendix III, Form A-24, infra); id at 227, 2d (citing Hill, \textit{Young Secretary's Guide}, at 146-47 (cited in note 32)). See also Cocker, \textit{Young Clerk's Tutor} at 29-33 (cited in note 32) (warrants of attorney to confess judgment).
\end{itemize}
the law books upon which Pastorius drew to include civil forms. None of his three prime sources had many forms for civil suits. Nevertheless, Pastorius was intimately familiar with civil practice from his service as a justice and clerk in Philadelphia County and from his own background as a lawyer and litigant. One suspects, therefore, that Pastorius’ failure to include more forms for civil litigants—as well as the selective inclusion of forms for criminal prosecution—may derive from his opposition to the use of courts for settling disputes.

There were other important forms for those appearing before county justices for non-adversarial matters, such as petitions for special privileges. The Collection has petitions for land, for roads, and for licenses to operate taverns. Granting land was one of the most important functions of the early Pennsylvania courts and a sample petition for land was one of the most needed forms in the Collection. Regulation of ale-houses occupied substantial attention of justices, both in granting licenses for operation and in punishing excessively disruptive behavior in ale-houses.

Some of the forms were important for religious and social reasons, but were less important in commercial relations. They included the contracts of marriage, letters of reference to Quaker meetings, and general letters, which were drawn from the Young Secretary’s Guide. Together with the strictly legal forms, the other forms help to compose a well-rounded collection of forms that might be of use to a person without access to other legal and business guides.

V. Connections

The predominance of forms and writs in Pastorius’ treatise is representative of much of English legal literature of the time period. The three treatises that

168. The statutes of Pennsylvania prescribed the form for the standard civil pleadings. See Beckman, 1 Statutes at Large of Pennsylvania in the Time of William Penn (cited in note 58); supra note 147 (discussing statutory form for land transactions). The laws were posted in every county and were read yearly to the court. Thus, Pennsylvanians had ample opportunity to learn the fundamentals of civil procedure. The systemization of Pennsylvania civil procedure, by prescribing the format through statute, was an important part of the reform of complicated English law. It was a product of Quaker beliefs that the law should be accessible. Veall, The Popular Movement for Law Reform, 1640-1660 (cited in note 63) (discussing codification movement); See also, supra, Section III.B.1 (discussing ideas of Fox and Pastorius regarding justice).

169. See Pastorius, Young Country Clerk’s Collection at 268 (petition for road, Appendix II, Form C-11); id at 271 (petition for license to keep alehouse, Appendix III, Form C-14. infra); id at 757 (levy of fine for operator, Appendix III, Form C-8, infra); William Penn to Justices of Philadelphia, in Richard S. Dunn and Mary Maples Dunn, eds, 5 Papers of William Penn, at 244 (U Pa microfilm ed 1986) (William Penn requesting that justices charge a grand jury on the importance of disciplining ordinaries).

170. See John H. Baker, An Introduction to English Legal History ch 4 (Butterworth 1990). It is also similar to notebooks of pleadings kept by lawyers in early America. See Julius Goebel, ed, 1 The Law Practice of Alexander Hamilton 37-166 (Columbia 1964); L. Kinvin Wroth & Hiller B. Zobel, eds, 1 Legal Papers of John Adams 26-86 (Belknap
Pastorius primarily drew upon and many of the law books known to be in Pennsylvania by 1710 concentrated on procedure. It is through writs that one can determine the state of the law. The Young Country Clerk's Collection is thus representative of a world in which substantive rights were heavily dependent upon procedure and in which the proper procedure had to be followed, or substantive rights were lost.\(^{171}\) It is also representative of a world in which writs conferred power to hear and decide cases.\(^{172}\)

Perhaps most significantly for historians of American law, the Collection confirms the picture that early American law was sophisticated and that it closely followed English procedure. Since the early 1930s, scholarship has increasingly theorized that seventeenth-century American law followed closely the local law of England.\(^{173}\)

Some participants in the Pennsylvanian legal system may have been drawing upon their memory of proceedings in England, having brought their culture along with them as part of their baggage when crossing the Atlantic.\(^{174}\)
Pastorius drew directly out of law books, and it is becoming increasingly clear that other Pennsylvanians relied upon legal treatises as well. For those participants in the early American legal system, the law as it was in England—as well as the Bible—provided a firm guide.

Despite the importance of procedure, Quakers contributed to the idea that law included an element of substantive justice and Pastorius followed them in that area. In the ample Quaker writings on the importance of following just laws, from George Fox's pleas to abolish the death penalty for property crimes to William Penn's pleas for revival of ancient common law powers of the jury, Quakers sought a moral basis for the law.\(^{175}\)

Those general ideas about justice coalesced in Pennsylvania. They led to simple, clear statements of the criminal laws, broad powers in the jury and selection of jurors from wide segments of the population.\(^{176}\) They also resulted in relatively simple real property and contract law and in the simplification of court procedure. Pastorius' treatise seems to meet quite well the Quaker needs for justice.\(^{177}\)

The Collection concentrates its energies on providing readers with the means of transferring land and making contracts properly and providing the courts with the proper means for "execut[ing] a wrath upon evil Doers," so that good people "may lead a quiet and peaceable life in all goodness and honesty."\(^{178}\)

The precedents in the Young Country Clerk's Collection added some form to the generalizations that Pastorius wrote on his law books and that he scattered in the Bee Hive. The prescription of the Golden Rule to "do unto others as you would have them do unto you," a common phrase in Pastorius' writings, proved hard to put into practice. By providing simple, accessible forms Pastorius apparently intended to make the law itself more amenable to his maxims. He did not attempt to rewrite the law from the ground up. Instead, he offered a book that made law accessible—and facilitated commercial transactions as well as individual wishes. Lay people, not just those who had spent thirty years mastering the "common" law,\(^ {179}\) could have used the Collection if it had been available to them to transfer land, form a partnership, sell their crops, cattle, and

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American law developed from English law and the settlers' social beliefs. See Zechariah Chaffee, Colonial Courts and the Common Law, 68 Ma Hist Soc 132-59 (1952).

175. See, supra, Sections III.A and III.B.1.


177. The treatise, significantly, contains only one form for a private suit—a writ to recover seisin. In that way, it apparently conforms to Pastorius' belief that lawsuits should be minimized, because it fails to give the readers the means by which to prosecute lawsuits. Pastorius, Bee Hive at Law Entry (cited in note 1); see also notes 102-103 and accompanying text discussing controversy over suits.


179. See Penn, The People's Ancient Liberties Asserted in the Trial of William Penn at 31 (cited in note 32) (arguing that common law implies that law is understandable by lay people, not only those who have spent thirty years studying it).
manufactures, hire workers, settle their disputes with an arbitrator, and, when
the time came, to devise their property to their family.

Seventeenth-century Pennsylvanians were about as likely to resort to formal
court proceedings as anyone in early America, however. Despite exhortations
such as William Penn's to "put an end to the restless heats and jars," Pennsyl-
vanians remained contentious. As the eighteenth century progressed, American
law—and American society in general—became increasingly complex, which
further hindered the attainment of Pastorius' vision of a peaceful wilderness.

Pastorius, living in the marchland of European settlement, brought extensive
knowledge of civil law and pietism to Pennsylvania. One can imagine him sitting
among more than 250 books in Germantown, quietly recording his thoughts
on nature and religion in his manuscripts and then going off to tend his garden
and teach school. In the interim he carefully transcribed several hundred pages
of forms and precedents in order to help bring about the godly, peaceful land
that he had sought to find in his youth. And so, having come to America to
partake of a peaceful society, Pastorius recast English law to combine elements
of the corrupt European world he left with his religious vision. In law, his legacy
is a treatise that is traditional in form and both traditional and innovative in sub-
stance and purpose. Pastorius acknowledged his debt to other lawyers even as he
was recasting their work on the title page of the Collection with the phrase
"Ingenium est Fateri per quos profeceris"—true genius is to acknowledge those
through whom you have advanced.

180. See Offutt, Of "Good Laws" and "Good Men": Law and Community in the Del-
aware Valley, 1680-1710 at 68-79 (cited in note 98) (describing litigiousness of early
Pennsylvanians); Brophy, 40 Am J L Hist at 182 (cited in note 120) (comparing litigation
rate in Sussex County, Pennsylvania to that of other parts of British America).
181. Penn to Provincial Council, Nov. 11, 1690, in Richard S. Dunn and Mary Marples
Cunn, eds, 3 Papers of William Penn, 288 (U Pa, microfilm ed 1986). See also William
Penn, The Fundamental Constitutions of Pennsylvania, in Richard S. Dunn and Mary
Maples Dunn, eds, 2 Papers of William Penn 141, 148 (U Pa 1986) ("lawsuits . . . have
so lamentably consumed the estates of many families in divers nations, as well as sown
and fixed perpetual hatred between neighbors and near kindred.").
182. Professor Offutt has recently presented an alternative vision of the litigiousness of
early Pennsylvania, suggesting that Quaker justices facilitated the attainment of harmonious
society by deciding cases fairly. In turn, Offutt believes, the litigants then brought their
cases to the justices. Litigation, thus, is part of a well-functioning society. Offutt, Of
"Good Laws" and "Good Men": Law and Community in the Delaware Valley, 1680-
1710 (cited in note 98). While the willingness of litigants to submit their disputes to
Quaker-dominated courts shows confidence in the decision-makers, it also shows at least
a partial breakdown of the ability of the litigants to peacefully resolve disputes on their
own.
183. See Pastorius, Bee Hive at 56, 275-76 (cited in note 1) (listing Pastorius' books).
Appendix I:
Excerpts from the Young Country Clerk's Collection\textsuperscript{184}

[1] The Young Country Clerk's Collection
of the best Presidents of Bills, Bonds, Conditions, Acquittances, Releases
Indentures, Deeds of Sale, Letters of Attorney, Last Wills &c Testaments &c
With many other necessary and useful Forms of such Writings
as are vulgarly in use between Man and Man.
An Alphabetical Table Whereof is thereunto prefixed.
Now whereas \textit{Ingenium est Fateri per quos profeceris} according to Plinius
Observe that /S/ stands for the Young Secretaries Guide by J. Hill 1687 in 12
/T/ for the young Clerks Tutor by Edward Cooker, 1682 in 8
/G/ for the first part of the Young Clerks Guide by R.H. 1649 in 8
Several of the abovesaid Indenture taken out of authentical manuscripts and as
for the rest /F/ born at Somerhausen in Frankenland part of Germany the 26th
of September 1651.
An Exact Table of all what is
CONTAINED in this Book.

\begin{verbatim}
Abraud 247\textsuperscript{185} [T, 66]
Acquitances in part of paymt 205 T 84 [S 106]
—in full 206 S 107
—for a horse 207 S 107
—for Rent 207 S 108; T 46
—for a Legacy 208 T 71; S 142; T 47
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of a Bill which is lost 208 # [T 65]
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Alehouse Keeper's Recognizance 253
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Apprentices Indenture 244 248 303 from the child's mother S 116 G 288 F F
—Assignmt of his time 245 G 82
\end{verbatim}

\textsuperscript{184} The first numbers following each entry denote the page(s) where the entry may be
found. The letters "S," "G," and "T" and the numbers following them indicate that
Pastorius attributed the form to a precedent in the Young Secretary's Guide, the Young
Clerks Guide, or the Young Clerk's Tutor, respectively. When a similar form appears in
one of these treatises, but Pastorius did not cite the treatise as a source, the citation to
the treatise is enclosed in a bracket. Spelling has been maintained as in the original; as
needed for clarity, capitalization and punctuation have been modernized.

\textsuperscript{185} Meaning to surrender a Lease.
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—to pay a sum at Sundry time & the penalty
to be forfeited in default of any paymt 217 S 136 G 48 T 14, 17
—to build & set up a frame of a house 216 G 312
—to pay Tobacco 218 F
—to make a Title 218 F
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—Anuity or year by ?? 309—later addition}
to render what we Borrow 203 F
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Agreemt to Build a Barn 262 F

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— for a friend removing to another place 224, 292 F
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187. Reference to Pastorius' comprehensive index.
188. "A more fuller Table than this see in Edward Cocker's Young Clerk's Tutor, p.
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2402d  Redhibitio An Indenture of Redemption or Recovering
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241  281, 329 [first form has much simpler format than found in English
241  books]
242  Bond of Obligation to have an accord and to the Umpire G 241, 289,
242  15 S 149 T 16, 26
243  Form of an Award G 273 T 45
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245  Discharge of an Apprentice from his Service G 275
245  Assignment of two Apprentices & their years to Come G 82
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250  Articles of Agreement T 42 [Corporation]
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250  Agreement about land sold, to be paid
2502d  Brickmaker [agreement]
251  Supplemental Additions T 23, G 193, 194, 195
251  General Release from Two to two T 23
2512d  Supplement additional—added after Pastiorius' death
252  Supplemental additions—and Some Testaments G 72, 286
252  John Dumpling's Testament
2522d  Conditional Examples of Wills; nomination of executors
253189  An Acquittance for Receipt of Money upon a Sale T 67
253189  An Acquittance for Consideration Money & Release of the Estate T 54
2533d  Recognizance taken before Justices of the Peace
2533d  In Jus Vocatio [order to appear before the court]
254  A Warrant
254  A Summons
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189. Manuscript erroneously reads "243"
A Replevin
To the Keeper of the Goal or his Deputy
A Mittemus to Comit an Alehouse Keeper

These are to authorize thee to raise, levy & receive the sd Duties & upon denial of payment thereof to distrain on the goods & Chattels of the Person so offending
A warrant to levy money forfeited by alehouse
sale of goods of debtor who fails to satisfy judgment of the court

[attestation of debt]

J.P.'s attestation regarding payment/non-payment of debts

Warrant to Bind Man to Give Evidence
Warrant for one who has dangerously hurt another
Warrant for the reputed father of a bastard child
Warrant for a fugitive servant
Warrant for ale house keepers to renew their Recognizance
Warrant for the Suppressing of an Ale house

General Warrant for Misdemeanor
Warrant for the Peace
Warrant for Good Behavior
Warrant to Search for Stolen Goods

Blank

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275 Proper Names of Women

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2762d Fictitious Names

2763d Endorsement on Deeds of Sale Delivered Before a Justice
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277 Letter of Attorney from One to his Sister & two men more on his Voyage

2772d German language?

2773d German language?

2774th One Selling the 4th A Part of his Mill

2775th (cont.)

2776th Free-Willing Subscription
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2777th Large Indenture of Lease of a House & Lands in the Country [T 335]

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279 (cont.)

280 (cont.)

281 Sale of Land

282 Sale of Land (second form)

283 Mortgage
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285 Sale of Land (German heading)

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287 Supersedas by a Justice of the Peace
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288 A Hue and Cry after Robbers

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292 Certificate of Marriage to be used among Friends

293 Self-Condemnation
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294 Book Debts (sample)
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295 Assignment of a Bond with a Letter of Attorney G 318
296 Penal Bond
297 Sale of Land
298 Index to Supplement
299 Blank
300 to 346 Epistology
347 Some Clauses to Enlarge Deeds of Sale by [G 195, 346]
348 Blank
349 Blank
350 Engress & Regress from roads [Petition?]
351 Some mysterious & technological phrases of scriveners
352 (cont.)
353 to 359 Blank
360 Table of Interest (8%) [S]
361 to 371 Universal Index
297[372] Lott & Side Land in Germantown
298[373] Regnal Years [T 160]
299 Houses of Lancaster & York
300 Year—Seasons & Divisions
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302 Blank
303 Indenture of Apprenticeship
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307 Blank
308 Petition for rectifying of a breach of charter
309 Later addition on annuity/rent charge
310 (cont.)
311 (cont.)
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320 (cont.)
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Appendix III:
Selected Forms from the Young Country Clerk's Collection190

A. REAL PROPERTY

1. An Absolute Bargain and Sale of Land &c Being a Conveyance in Fee Simple [235]191

This indenture made the __ day &c between A.B. of &c (of _) on the one part and C.D. &c (of ox) on the other part witnesseth that the said AB for and in Consideration of the Sum &c to him at and before the Sealing & Delivery of these Rehnstoovel?? and truely [partly] in hand paid [and partly seyed to be paid by a penal bond, under his hand and Seal of the date of these Presents] by the said C.D. — The Receipt whereof the said AB doth hereby acknowledge [and himself therewith fully consended and satisfied] and thereof &c of every part &c parcel thereof doth clearly acquit, exonerate and discharge the said CD his heirs, Excs and admnr & assigns for ever (by these Presents) hath given, granted, aliened, bargained, sold enfoeffed and confirmed, and by these Presents doth freely, clearly &c absolutely give, grant a lien, bargain, sell, enfoeff, and Confirm unto the said CD his heirs and assigns forever —

A certain * Tract of land in Dublin Township in the County and Province above named, beginning at a post standing in the line dividing the land of the said AB from the land of PM. thence South west perches to a post sett in the ground in the line of RS. Thense South East by a line of marked trees —perches to a Stake dividing it from other lands of the said AB. Thence North East _ perches to N: Creek, and by the Several Courses of the said Creek to the place of beginning; Containing &c laid out the-day &c by T.F. Surveyor for _ hundred acres of land.

Being part of — acres granted to OP his heirs and assigns by Warrant from WP &cbearing date &c laid out by the Surveyor Generals Order the _ day &c. and Confirmed by Letters Patent of the sd WP dates &c. Recorded in the Patent Office at Philada the day &c.

Parcel of _ acres granted to the sd AB by Patent from &c bearing date &c and are not in the Tenure & Occupation of the sd AB by vertue of the sd Patent.

A certain Lott and Tract of Land in Germantown Containing &c Whereof _ acres are scituate and lying in the Inhabited part of the sd Town, broad 14 perches &c 4 foot adjoining South Eastwards to the Lott of RS and North Westwards to the Lott of W and the residue of the said _ acres broad &c are scituate and laid out in the side lands of the said Town towards [Philadela] Plymouth between the lands of the aforesaid RS and TV.

190. The spellings and capitalization have been retained as they appeared in the original. Abbreviations have not been expanded, except when necessary for understanding. The first entry retains superscripts and underlines to give the reader a picture of what the manuscript looks like. For the sake of clarity, subsequent entries are in uniform typeface, without underlining.

191. Numbers in block parentheses indicate the page on which the form begins.
# piece or tract of land scituate lying & being in the sd township of D
beginning at a corner post, thence South East — perches by JP land to a second
post for a corner, thence South West by TS land — perches to third post for a
Corner, thence by EW land North West-perches to a forth post for a Corner,
thense North East — perches by RS land to the first mentioned post, containing
one hundred acres of land-being part — drr pag. sec. #

[236]
With all and singular its rights, members, Jurisdictions and appurtenances,
together with all houses, outhouses, Edifices, buildings, Barns, Stables, Orchards,
Gardens, Yards, backsides, Wharfs, Easements, Ways, Wasts, passages, Soil,
medows, seedings, pastures, marshes, water, water courses, woods, underwoods,
fences,# Profits, Commodities, Priviledges, hereditaments & appurtenances
whatsoever to the said _ messuages or Tenement & Premises, or to any part or
parcell of them belonging or in any wise appertaining. add pag. 285. # Or with
all the _ and other Improvements and appurtenances whatsoever held, used,
occupied & enjoyed with the said _ land, or reputed to be any part, parcel or
member of the same.#

And the Reversions, Remainder, Rents, Issues and Profits thereof—add pag.
251.

And also all the Estate Right to the Interest, Inheritance, Use, Pressessions,
Property Claim & Demand whatsoever of him the said AB of M and to [:the
same] the above bargained Premises.
And all Deeds, Grants, Warrants, Surveys, Returns, Letters Patents, and other
Evidences & Writings touching or Concerning the Premises, or any part &c parcel
of them. All which are Scituate, lying and being as is above sd and now in the
Tenure and Possession [or Occupation] of the said AB by Vertue of a Bill of Sale
of — acres from PW &c [Son in Law and Sole Exeqr pf P. deceased, dated &c]
dated &c acknowledged &c Recorded &c — AB is assigned See # [Containing
fifty acres of land being part of two hundred acres granted & Confirmed unto
JZ by Patent under the hands of the Proprietary Comissioners & Seal of the
Province bearing date __ Recorded __ and by the sd JZ the sd two hundred acres
of land was assigned unto the sd AB by an Endoresment on the Back of the sd
Patent & duly Executed under his hand & Seal the __ day of __ mo: 1698. as
therein may appear]

Add habend. To have & hold the said __ acres of land [messuage or
Tenement] and all &c singular other the Premises hereby granted, bargained &
sold, with their and every of their rights, members &c appurtenances whatsoever
unto the said CD his heirs and assigns, to the [sole] only proper use and behoof
of the said CD: his heirs Exeqst Admrs & assigns forever.

Quo Onere &c. At and under &c. See pag. 238. .* and O

Warrantie And the said AB (::doth Covenant and Premise:) for himself, his
heirs, Exeqs & adminrs & Assigns (::that they:) the said __ acres of land and all &c
singular other the Premises above granted with the Appurtenances [together with
the Egress & Regress aforesd] to him the said CD his heirs & assigns against
him the said AB his heirs & assigns and [:also against all others:] all and every
other person and Persons whatsoever, lawfully claiming or to Claim, by from or
under him, them or any of them (Or by his, their or any of their or their heirs
their Means, Privy Consent or Procurement,) shall and will warrant & for ever
defend by these Presents. Add pag. Seq. # Seven years.

As further full and free Egress & Regress to and from any part of ye
Premises, by these Presents granted through all other the land belonging to the
said AB adjacent on the said Creek. adde infra p. 350

[237] And the sd AB and his above written shall and will likewise by these
Presents for ever Warrant & defend the hereby granted — acres of land and
Premises against the Paymt of all bygone Quitrents, Provincial and County
Taxes, Levies, Duties and Impositions whatsoever due or that have or might have
been due and payable forth—thereof at any time or times preceeding the Date
hereof.

[And that free and Clear, and freely & clearly acquitted, exonerated &
discharged, or otherwise from time to time well and Sufficently saved and kept
harmless by the sd AB his heirs, Execrs or Admints of and from all and all
manner of former & other Gifts, Grants, Bargains, Sales, Leaves, Mortgages,
Joyntures, Dowers, Tithe of Dower, Judgmts Executions, Uses, Entails, Rents and
Arrearages of Rents, forfeitures, fines, Issues and Amencements, and of and from
all and singular Tithes, troubles, Charges, Demands, & Incumbrances whatsoever,
had, made, done wittingly or ? offered, committed or omitted by the said AB
his heirs or assigns for in respect of the Premises. add pag. 251 and pag. 347.

* And the said AB hath not done, acted nor suffered any act matter or thing
whatsoever, whereby the said granted Premises or any part thereof is are cann
shall or may be by any means Justly Impeatched, Charged or Incumbered in any
maner of way,

# And the said AB his heirs Exec or Admits shall and will at any time during
the space of seven years now next ensuing the Date hereof at and upon the
reasonable Request and at the Costs and Charges of the said CD his heirs or
assigns make, do, perform, acknowledge & execute, or cause to be made, done,
performed, acknowledged & executed all and every such acts & deeds in the
Law whatsoever for the further more full and perfect assurances conveying &
Confirming of all and singular the before granted or mentioned to be granted
Premises, with their rights, Improvements and Appurtenances unto the said CD
his heirs or Assigns [and assigns shall & will at any time within 7 years next
ensuing at the request & charges of the said CD make & execute all such other
conveyances & assurances in the Law needful for the further assuring & convey-
ing of the sa one hundred acres of land & premises to the said CD & his heirs,
as by him or them or by his & their Council &c] as by him & his abovewritten
or his & their Council learned in the Law in that behalf shall be reasonable de-
vised, advised and requires, So as he the said AB his heirs & assigns or such
other persons who shall be required to make such other assurances, be not
compelled or compellable to travel further than Philadelphia or Germantown or
either of them about the making or executing thereof. And has such further
assurances containing other Warranty or Covenant than is herein contained. add
infra p. 398. adde p. 318 in fine.
Superabundance And lastly is Covenants, concluded, condescended unto and fully agreed upon by and between the said Parties to these Presents for them their heirs and assigns, that all and every [of] the said assurances and conveyances so as aforesaid, hereafter to be had of the Premises shall be, and shall by esteemed and taken to be to the only use of him the said CD his heirs & assigns forever and to no other Intent or purpose, anything in these Presents Contained to the Contrary hereof in any wise not withstanding.

Attorney And the said AB hath made & constituted and hereby doth make and constitute X:Y to be his attorney, to acknowledge &c deliver these Presents to the sd CV (or his certain attorney:) in (the County Court of Philadelphia:) Open Court of Record according to Law.

Conclusion In Witness whereof the Parties first above named have to these Present Indentures Interchangeably sett their hands and seals the day & year first above written.

*In witness whereof and for the true performance of all things & matters written and Contained in this Indenture he the said AB hath hereunto for his hand and Seal the __ day of the third year of the Reign of Our Sovereign Lady Anne Queen of England &c. Anno Domni 1704. Signed, sealed and delivered in the Presence of LM.No.

Rent At and under the proportionable part of the yearly Rent of an English Silver Shilling or Value thereof in Coyn Currency for one (:hundred:) or thousand acres of land from the day of the date of these Presents to become due to the chief Lord of the Soil of the said land and Premises.

[O] Yielding & paying the sd CD his heirs and assigns yearly &c every year forever at & upon the — day &c unto the sd AB his heirs & assigns one bushell of good winter wheat or value thereof in Coyn Currt for each hundred acres of the sd land, if lawfully demanded; and if the sd yearly Rent shall be behind, unpaid by the space of ten days next after the said __ day of &c that then in that Case it shall be lawful for the sd AB & his above written in &c upon the ground of the said land and houses thereon to enter and there to distrain fore the said yearly rent so to be behind unpaid &c the distresses there found to carry away, detain and sell at reasonable rates for payment to him the sd AB & his abovewritten of the said yearly Rent &c of the arrearages thereof, if any by without.

[239] Suit of Law, &c the overplus to return to the said CD &c his above written, and if no distresses can be had thereon, then it shall be lawful for the said AB &c his above written into the said land, houses, &c premises to Reenter &c the same to have again, retain &c reposses as in their former estate, anything herein contained to the Contrary not withstanding, as also at and under the yearly rent &c. as p. 238. * *

Memorandum, that not withstanding of the within Clause in these words (as also at and under the yearly Rent from thenceforth to become due to the chief Lord of the Soil of the said land &c premises:) It is the true meaning of the within Indentures that the said AB & his heirs shall for ever hereafter pay the Quitrents. Witness PQ TU.
Acknowledges in the Court of Common Pleas held at Philadia in the ___ day of 1701 Certified under my hand & County Seale.

2. Mortgage [23924]

These Indentures made the — day &c between AB &c of the one party, & CD &c of the other party Witness that for &c in Consideration of the Sum &c to him the said AB in hand paid by the sd CD the receipt whereof &c hath given granted, bargained, sold, aliened, enfeoffed &c by their presents Consigned to the sd CD his heirs Excs adms and assigns both his Lotts of land &c houses situated in Ph: viz. a Lott in the front street Containing in breath &c bounded to the Eastward &c as also that his the said AB bank Lott &c with all the rights, members, wharfs, houses, outhouses, building, fences, gardens, orchards, Improvements & appertenances whatsoever of the said Front Lott & Bank Lott held, used &c enjoyed therewith or reputed as any part of the same, and all the Estate, right, title, interest, Property, Possession, Claim & Demand whatsoever of the said AB of in &c to the sd two Lotts & premises, &c all Deeds, grants &c Writings concerning the same. To have &c to hold the sd Lotts, houses &c granted premises to him the said CD. to the only proper use &c behoof of the sd CD his heirs &c assigns for ever, at and under the yearly Rent becoming due to the chief Lord of the Soil and under the Conditions, Limitations & Restrictions in the Patent for the Bank Lott more at large contained, Provided always nevertheless that if the said AB his heirs, Excs Admins or ass shall well &c truely pay or cause to be paid to the sd CD his heirs the sum &c at or before the ___ day &c and shall also during that term yearly &c every year pay the Sum &c likewise Silvermoney being after the rate of 8.per cent for the Interest, to be paid quarter-ly at the four usual Feasts, viz. &c. without fraud &c further delay then these present Indentures of Sale &c Mortgage shall cease termine &c become absolutely void &c of no effect, anything therein contained to the Contrary thereof in any wise not withstanding, and the sd AB doth for him &c his above written Covenant &c agree that if her or they make default of paying the said Sum &c with the yearly Sum of ___ pounds for Interest at the respective days above mentioned, that then the said CD &c his above written shall forever thereafter have &c enjoy the sd premises and its profits receive without disturbance. And the said CD doth for him &c his above written Covenant, that the sd AB his heirs shall enjoy the premises &c its profits receive until default of paymt be made of the aforesaid Sums without molestation or rendering any account to the said CD or his above written therefore. In Witness and Confirmation whereof the Parties abovenamed have to theses present Indentures Interchangeably sett their hands &c Seals the day &c year first above written.

Sealed & Deliv. in the presence of:

3. Acquittance for Lands Mortgaged [240] [T 46]

Be it known unto &c that I AB &c have received and have this present day at the now dwelling house of CD &c the [illegible] in the ___ Street at Philada between the house of &c of EF &c the Sum &c for the Redemption &c full Satisfaction of all and singular those lands &c Contained and Specified in one pair
of Indentures of Covenant, bearing Date &c made between the said EF of the one part and me the said AB of the other part, of, for &c concerning the Bargain & Sale of all and singular the said lands and Tenems. Conditionally, as by the same Indentures more at large may appear. Of which 30£ in full payment as is above recited, I the said AB acknowledge my self wel and truly Consented, satisfied & paid thereof and of every parcel thereof I clearly acquit & discharge the said EF his heirs, Execrs by these Presents. In witness &c.

4. Redhibito An Indenture of Redemption or Recovering [240nd]

This indenture made the — day &c between AB &c and CD &c witnesseth that whereas the said CD by his Conveyance under his hand &c seal bearing Date &c for the Consideration of __ Pounds Currt money therein exprest hath given, granted, enfeoffed & Confirmed unto the said AB his heirs and assigns for ever a certain Tract of Land &c Eastward, Southward &c with all its Right houses, buildings &c and all other [of] its improvements in the said Conveyance mentioned, as the same more amply purports; Nevertheless it is Covenants between the abovesaid Parties, and the said AB is Contented and pleased, and for him, his heirs, Execrs and admins doth Covenant with the said CD his heirs, Execrs & admins that if the said CD his heirs, Execrs & admins do and shall pay to the said AB his heirs Execrs and admins the Sum &c at or upon &c without fraud or further delay, that then the said Conveyance shall be void, null and of no effect, as if it never had been made.

See page 234 the Bill of Sale until the mark of * * *

Provided always, that if the said AB my Execr admn or ass do well and truly content & pay, or cause to be paid unto the sd CD his Execs admrs or ass the full sum &c on the — day &c at or in the &c That then &c &c And the said AB for myself, my Ex Adm & ass. Covenant and grant to &c with the said CD his Ex adm & ass by these Presents that if default be made of or in payment of the said Sum or any part thereof contrary to the form aforesaid, that then I the said AB me Ex or adm: and every of us shall and will warrant &c for ever defend the said several parcels & every of them unto the said CD his Execs and ass. against all men by these Presents. In witness &c.

5. A Release of Recovering of Land, refered in ye Deed of Sale given [240nd]

To all People, Whereas the sd AB by his Deed of Sale Indented bearing Date &c for the Consideration therein mentioned did give grant, sell &c Confirm unto CD &c a certain Tract of land lying &c To have &c to hold the same unto the sd CD — under the yearly Rent &c with this final Condition that the sd CD &c his heirs shall at all times when he or they are willing to sell the aforementioned Tract of land unto any other person or persons who are not of their Religion, let the abovesd AB &c his heirs have the prehquience to take it to him — or themselves for the price which others offer, as by the sd Deed, Reference being had thereunto doth appear. How therefore know ye that the sd AB for &c in Consideration of a certain Competent Sum of lawful Money of Pensylvania to him in hand paid before the Ensealing & delivery of these Pr by the sd CD whereof & wherewith the sd AB doth hereby acknowledge the Receipt &c himself fully
satisfied, hath remised, released & Quitclaimed & by virtue of these Pr. for himself, his heirs & Execs & admrs & every of them doth Clearly & absolutely remise release & Quitclaim for ever unto the sd CD his E. A. & assigns & every of them the afore rehearsed final Condition of Preheminence to Retake the sd Tract of land, so that he the sd AB for himself & his above written doth hereby freely Resign & Set over unto the sd CD his heirs & ass. for ever, Sd Indenture Contained & expressed so that neither he [nor] his ass[?] at any time hereafter shall or will ask, Claim challenge or Demand, any Interest, Title, benefit, prerogatives or other thing whatsoever by reason or means of the sd Deed of Sale or any Covenant therein specified, But thereof & therfrom & from all actions, Suits & Demands which he the sd AB & his heirs may, might or could have concerning the same shall be utterly Secluded & for ever debarred by these Presents. In witness &c.

6. Assignments on the Back Side of a Deed of Sale [241]

Know all men by these Presents that the herein names AB for & in Consideration of &c hath granted, assigned and by these presents transferred unto CD all the 50 acres of land within mentioned together with the Indentures within written concerning the same, To have & to hold unto the said CD his heirs & assigns forever, as fully and amply and under the same Rents & Covenants as he the said AB and his heirs may, might or ought to have held & enjoyed the same with the appertenances. In Witness whereof he hath hereunto set his hand & Seal the ___ day.

Know all &c that I CD by virtue of a Public Instrument or letter of attorney duly executed by the within CD before a public notary in Letter proved at Philada & Recorded in the Rolls Office there in Book &c bearing date &c have had & received full satisfaction by Security from EF &c of & for the within mentioned mortgage money and Interest, In consideration whereof & hereby grant, bargain, sell, assign & set over unto the said EF all & singular the within mentioned one hundred acres of land & premises with their appurtenances and all the aid CD his rights, use & Interest of in & to the same, To have & to hold unto the said EF & their heirs to the use of them & either of their heirs & assigns forever in Common & not in Joint tenancy and to have made G. my attorney to deliver these Presents in Court according to Law. In Witness whereof I have hereunto set my hand & Seal, the ___ day &c.

Know all men by these Presents that the within names AB of G: yeoman for & in Consideration of the same &c Current silver money of Pennslv. unto me paid by CD of Ph mercht the receipt whereof is hereby acknowledged & also for other good causes & Consd me the said AB thereunto moving, the said AB have granted & Bargained assigned enfeoffed & confirmed and by these presents of grant bargain sell alien enfeoff and confirm unto the sd CD all that Lott and Tract of land being in Germ: aforesd & more particularly within mentioned, with all houses, outhouses, edifice, buildings, barns, stables, yards, gardens, Orchards, backfields, ways, easements, passages, profits, priviledges & appurtenances whatsoever & with the reversion & reversionary remainder & remainders of the same [illegible most of line] of the sd CD his heirs & assigns
for ever for and for the [illegible most of line] and behoof of him the sd CD his heirs & assigns for evermore and I the sd AB and my heirs and assg of the sd premises with the apurtenances & every part thereof to the sd CD his heirs & assigns against me my heirs & assigns shall and will warrant and for ever defend by these Presents. Witness my hand and Seal this ___ day &c.

An assignment of a lease, see Young Clerks Guide 209. 283.

7. A Short Form of Sale of Land [249]

Know all men by these Presents that AB &c for the Consideration of &c to him in hand paid by CD &c hath given, granted enfeoffd & by these Presents fully Confirmed unto the said CD a certain Piece or Parcel of land, lying and being in the Township in the sd County begining at a Corner marked post of LMs land thence &c to the place of begining. Containing — acres of land, with all the Improvements & appurtenances thereof, aliened by FG unto the said AB by a certain Indenture made between the sd FG of the one part & the said AB on the other part Dated &c acknowledged &c Recorded &c. together with all the Estate Right, Will, Interest, Use, Possession, Property, Claim and Demand whatsoever of the said AB of in & to the said Premises; And all Deeds, Evidences and Writings concerning the same. To have and to hold the said — acres of land & appurtenances unto the said CD and his heirs to the duly proper use and behoof of him the sd CD his heirs and assigns forever, freely acquitted and discharged of and from all arrearages of Quitrents or other Charges. Charges until the day of the Date hereof, at and under the yearly Rent &c. See pag. 238 *** or O. And the said AB and his heirs the above granted Premises with the appurtenances unto the said CD and his heirs against him the said AB and his heirs, and against all others Claiming or to Claim by, from or under him, them or any of them shall and will warrant &c forever defend by these Presents. And the sd AB hath made ## his attorney to deliver these Presents in Open Court according to Law. In witness whereof he hath hereunto set his hand &c seal the day &c 1690. Sealed and Delivd &c. AB.

8. Sale of Land Entailed [249]

This Indenture made &c between AB &c and CB & E his wife &c Witnesseth that the sd AB for &c in Consid. &c hath given, granted &c & doth hereby absolutely give, grant, alien, bargain, sell enfeoff &c Confirm unto the sd CD & E his wife and the heirs lawfully begotten of him, but for want of such heirs then to the right heirs of RE &c forever a certain tract of land situate &c with all its rights, members &c To have &c to hold the sd one hundred acres of land & premises to them the sd CD & E his wife, and the heirs of her body lawfully begotten, but for want of such heirs then to the right heirs of the abovesd RE forever, to the only use &c behoof of him the sd CD and E his wife, add the heirs of her body lawfully begotten, but for want of such heirs then the right heirs of the sd RE forever, at and under the yearly rent &c and the said AB doth Covenant, promise, and grant for himself &c his heirs that they sd one hundred acres of land and premises to them the sd CD & E his wife and her heirs but for want of such heirs then to the right heirs of the sd RE agt him the said AB &c his
 heirs as also agt all other person or persons &c [See p. 236 Warrantie] and that the said AB hath not done nor suffered any act &c [See p. 237] And that the sd AB his heirs & assigns shall & will it any time &c [See ibid. Seven years] In Witness whereof &c. See pag. 238 the Conclusion — Signed/Sealed & Deliv. AB.

9. Declaration of Trust [249]

To all People to whom these Presents shall come We AB CD all of the County of Pha in the Province of Pn yeomen send Greeting. Whereas H of G in the sd County husbandman by his deed poll duely executed bearing date the day next before the date of these Presents for the Consideration therein mentioned did grant & Convey unto us the sd AB CD a certain tract of land Scituate &c Containing &c To hold the sd piece of land with the appurtenances unto usu the sd AB CD out heirs & ass. forever, as by the sd deed poll may at large appear which sd land &c Premises were so as aforesd Conveyd unto us by the direction & appointment of the Inhabitants of Germn aforesd belonging to the Monthly Meeting of the People of God called Quakers in the township of Dublin in the sd County of Pga and the above recited Deed poll was so made or Intended to us in Trust to the Intent only that we or such or so many of us as shall be & continue in unity & religious fellowship with the sd People & remain members of the sd Monthly Meeting (whereunto we now belong) should stand & be seized of the sd land &c Premises in & by sd Deed poll granted to the uses & Intents herein after mentioned & declared and under the Conditions Promises & Restrictions herein after limited & expressed and to no other use Intent or Purpose whatsoever, that is to say, for the benefit use &c behoof of the poor of the sd People called Quakers in Germn aforesd for ever and for a place to erect a meeting house for the use & service of the sd People, and (if need shall so require) for a place to bury their dead. Provided always that neither we nor any of us nor any other person or persons succeeding us in this Trust who shall be declared by the Members of the sd Monthly Meeting for the time being to be out of unity with them shall be capable to execute this Trust or stand seized to the uses aforesd nor have any Right or Interest in the sd Premises while we or they shall so remain. But that in all such cases as also which any of us or others succeeding us in the Trust aforesd shall happen to depart this life, then it shall & may be lawful to & for the sd Members of their sd Monthly Meeting as often as occasion shall require to make Choice of others to mannage & execute the sd Trust in stead of such as shall so fall away or be deceased. And upon this further Trust & Confidence that w & the Survivor of us & the heirs of such Survivor should upon the Request of the sd Monthly Meeting either assign over the sd Trust or Convey & settle the sd Messuage piece of land &c premises to such person or persons as the sd Meeting shall order or appoint to and for the uses, Interests & Services aforesd. Now have ye that the sd ABCD do hereby acknowledge that use a renomination in the sd recited deed poll by & on the behalf of the sd People called Qrs and that we are therein trusted only by & for the Members of the sd Monthly Meeting and that we do not Claim to have any Rights or Interest in the sd Land &c premises or any part thereof to our own use & benefits by the sd deed or conveyance so made (as aforesd or otherwise)
howsoever. But only to & for the use Intent & Service herein before mentioned under the Limitation & Restrictions above expressed & rescued, and to no other use, Intent or Service whatsoever. In Witness whereof we have hereunto set our hands & Seals. Dated the thirtieth day of November in the year of our Lord One thousand Seven hundred & five.

10. Land Sold, No Deed Given Until Last Payment [250]

Memorandum that AB &c hath bargained with & sold unto CD &c all that Quantity of Sideland which formerly did belong to the Lot in Germn that the sd AB Conveyed to EF &c being about thirty acres more or less for the Consideration of 37 Pounds Currt Silvermoney of P. to be paid 7 Pounds within 3 months after the Date hereof with Interest & the other 30 Pounds with lawful Interest of the same to be paid within two years after the Date hereof & to be secured unto the sd AB by a firm penal bond under the hand & seal of the sd CD for the true paymt thereof. And likewise the sd AB is to give unto the sd CD a Bond of 74 Pounds for to make him as good a Title to the sd Land as he hath himself at the receipt of the last paymt for the same and both Parties bind themselves, their heirs Execrs & admnst unto each other by these Pr[esents] in the penalty of ten pounds lawful Silver money to be paid by the Party that shall refuse to perform the Conditions above mentioned unto the other that shall demand the performance of the same. In witness &c.

Sealed & Deliv. &c.

Agreement about Land Sold to be paid When &c.

It is concluded & agreed upon by & between AB of Ph. &c. and CD of G. &c in manner &c form following that is to pay, that whereas the sd AB has sold unto the sd CD a certain Lott &c a half of the land in G with all the Improvements thereof in Consideration of 66 pounds Currt money of P. to be paid by the sd CD unto the sd AB at or before &c next ensuing the Date hereof, which land is to be made over unto the sd CD by deed under the hand &c seal of the sd AB and the sd land from thence forth to remain unto the sd CD his heirs and assigns forever, But in case the sd CD shall not be able to pay the sd 66 pounds at the time aforesd then he the sd CD is to pay only 20 pounds at the __ day &c and to pay 10 pounds yearly on the sd day till the sum of __ pounds be fully paid &c discharged, and for the paymt of the sd 20 pounds which are on the __ day &c aforesd he the sd CD is to give sufficient Security, and from &c after the sd day in Case the sd 66 pounds be then unpaid, he the sd CD is to bind himself and the sd land also unto the sd AB for the paymt of the 20 pounds residue of the sd 110 pounds which are to be paid ten pounds yearly till the whole sum be fully paid as aforesd. In witness whereof they have hereunto Interchangeably put their hand & Seals the __ day of the &c. in the __ year of the reign of King Wm. the third over England &c. Anno Domi 1700. Sealed & Delivered in the presence of LM NO AB CD
11. John Dumpling's Testament [252]

I ID of Phila merchant being sick of body, but of sound & disposing mind, memory & Judgment do make my last Will and Testmt as follows. [First] I will that all my Just Debts and funeral expenses be duely paid by my Executr after named with all expedition after my decease. Secondly I do give bequeth & devise to my wife W all and singular my clear real & personal Estate and the profits thereof during her viduity or widowhood; But in case the sid my wife should marry again then I only give bequeth & devise to her the Just & equal Moity & half part of my said clear Estate real and personal and the other Just moity and half thereof. I do give & devise to my brother A and my sister MD in Holland their heirs & assigns for ever equally between them share and share alike. And in case my said Wife should dye before marriage then and in that Case I give bequeth & devise my said clear estate both real & personal to the said A and MD my brother and Sister, and to S and their heirs, Execrs, admrs and assigns equally between them share and share alike that is to say One Just and equal third part thereof to each one of them. I do also order and appoint that my Executrix or Executor afternamed shall sell and dispose of my real and personal Estate to such persons as they shall think Convenient, and that they or any one of them do sign, Seal & deliver Deeds of Sale for the same to the Purchasers and acknowledge the same in Open Court with all Solemnities requisite. And of this my last Will and Testament I make my said Wife Executrix during her lifetime and after her decease I make VI of Philada baker my executor whom I desire to be assistant to me said Wife and Overseer of this my Last Will and Testament, to whom for his Trouble I give ten pounds. Witness my hand and Seal this 14th Septem 1699.


To all People &c know ye that AB of &c for divers good causes & valuable Considerations him thereunto moving hath remised, release & for ever quit claimed, and by these Presents for himself & his heirs doth fully clearly & absolutely remise, release & for ever quitclaim unto CD of &c in his full, peaceable & quiet possession and Seizin and to his heirs & assigns forever, such right, Estate, title, Interest (use, claim) and demand whatsoever as he the said AB has now, hath, or which he his heirs, Execrs or adminrs at any time hereafter shall or may have (or claim) of in or to all the Messuage, Tenement or Farm called &c by any ways or means whatsoever. To have & hold all the said Messuage &c unto the sd CD his heirs and assigns to the only use and behoof of the sd CD his heirs and assigns forever, so that neither he the sd AB nor his heirs, nor any other person or persons for him or them, or in his or their names, or in the name, right or stead of any of them shall or will by any way or means hereafter have, claim, challenge or demand any estate right, Title or Interest of, in or to the Premises, or any part or parcel thereof; But from all & every action, right, Estate, Title, Interest & demand of in or to the Premises, or any parcel thereof they & every of them shall be utterly excluded & debarred for ever by these Presents; and also the said AB and his heirs the said Messuage, Tenemt or Farm
& other the Premises with the appurtenances to the said CD his heirs & assigns, to his and their own proper use and uses in manner & form afore specified at their heirs & assigns & every of them shall warrant & forever defend by these Presents, In witness &c. AB

13. Release of Quitrent [264]

This Indenture made the __ in the fifth year of the reign of King W. over England &c anno Domi — between AB &c & CD &c of the other part, Whereas the sd AB by his Indentures of Lease & Release bearing date &c for the Consideration therein mentioned did alien, grant, bargain, sell, release, & Confirm unto the sd CD his heirs & assigns forever the full & Just proportion & quantity of one thousand acres of land &c scituate, lying &c being within the Province &c and also all the Estate, Right, Title & Interest of him the sd AB of &c to the sd one thousand acres to have and to hold the sd one thousand acres &c every part & parcel of the same to him the sd CD his heirs & assigns for ever to the use of him the sd CD his heirs & assigns forever to beholdren, in free &c common Sogage of him the sd AB his heirs & assigns of the Signory of Windsor, yielding and paying therefor yearly unto the sd AB his heirs & assigns the Chief or Quitrent of one Shilling for every hundred acres of the sd one thousand acres at or upon the first day of March for ever in lieu or stead of all Services and demands what soever. Now this Indenture witnesseth that the sd AB for &c in Consideration of the Sum of &c to him in hand paid by the sd CD the Receipt whereof the sd AB doth hereby acknowledge & thereof & of every part thereof doth acquit & discharge the sd CD his heirs Execs & admnts and for divers, other good &c valuable Considerations him thereunto especially moving hath remised, released & quitclaimed, and by these Presents for himself, his heirs & assigns doth remise, release & quitclaim unto the sd CD his heirs & assigns forever the yearly Rent or Sum of nine shillings, being part of the aforesd yearly Chief or quitrent of one shilling, for every hundred acres of the sd one thousand. To the end Intent and purpose that the yearly Chief or Quitrent of one shilling in the whole &c no more shall henceforth by payable &c issuing for &c out of the sd one thousand acres unto the sd AB his heirs & assigns for ever in lieu and stead of all Rents Services &c Demands whatsoever. In witness whereof the Parties hereunto have to these Present Indentures Interchangeably sett their hands &c seals dated the day &c year first above written. AB.

14. To Exhibit the Former Deeds of Sale in Case the Seller shall want them to Warrant the land thereby [265]

To all People to whom these Presents shall come PC of &c sendeth Greeting. Whereas WH of &c by his Deed of Sale bearing date duly Executed & acknowledging according to law, did give, grant Sell &c confirm unto the sd PC his heirs & assigns for ever, for the Consideration therein mentioned, a certain Tract of land in the abovesd Bristol Township Containing __ with all the Improvements, Privileges, Comodities &c Appurtenances, and all the Estate, Rights, Title & Interest of him the sd WH together with all Deeds &c Writings, concerning the sd Tract of land, fifty acres whereof have been Conveyed unto the sd WH his
heirs & assigns forever by VL by his deed dated &c and the other Fifty by S & JM by their Deed Dated &c as in the first abovementioned Deed of Sale of WH more at large may appear relation being had thereunto. Now know ye that the abovesd PC doth by vertue of these Presents Oblige himself his heirs, Ex: adm. & assigns at all & every time &c times hereafter when the sd WH or his heirs Ex & adm shall have lawful occasion to warrant &c defend the abovesd — acres of land or any part thereof by the aforesd Deeds of CP and S & JM at least after six days warning given & request mad by WH his heirs Exec &c adm in the presence of some witnesses to which &c deliver the sd deeds if they are for certain days or weeks, in order to dispatch such an Emergency as aforesd. And the sd WH doth otherwise by vertue of these Presents Oblige himself, his heirs, Ex: adm & ass. that then he or they will well & faithfully restore & deliver unto the sd PC his heirs Ex adm &c ass. the abovementioned deed of VP and S & JM safe &c without any hurt Canceling or defacing soever, And if the aforesd Deeds of OP, S & JM should be by any means be burnt, lost a Copy thereof out of the Records or Rolls office for the use above mentioned. In witness whereof the Parties to these Presents have Interchangeably sett their hands & seals the __ day of ___ in the ___ year of the Queen’s reign, anno &c.

15. One Selling the 4th Part of his Mill [277th]

This Indenture made Before A and B of the other part, Whereas the sd A by force &c vertue of some good Conveyance or conveyances, assurance or assurances in Law now is &c standeth lawfully seized in his demeane as of the fee of and in all those two water corn mills or grist mills under one roof commonly called or known by the name of P Mills, with the appurtenances, scituate lying &c being in the sd Township of &c and of &c in all that piece or parcell of land on part where the sd mills now stand Beginning &c containing &c and running thence down the several courses of the sd millrace, viz North, &c to the first mentionedstake, containing in the whole &c part of &c as by an Indenture duly executed &c acknowledged in Court by ____ may at large appear. Now this Indenture seeth that the sd A as well for the Consideration of 200£ Currt money of Pens to him paid by the sd B, the Receipt whereof &c as for other divers good causes &c consids him the sd A specially moving hath granted, sold 1. unto the sd B One full, equal & undivided fourth part of all the sd piece or parcel of land, whereon the sd Mills stand containing by Estimation ___ acres scituate, bounded &c being as is herein above set forth &c described and also one full equal fourth part of all the Toll &c profits of the sd Mills, together with one full & equal part of all the headwaters, mill ponds with the soil thereof and also of all &c singular the mill pools, mill dams, banks, ponds, streams, waters, water-courses, millraces, creeks, fishings, ways, freebords, passages, easements, advantages, enoluments and appurtenances whatsoever to the sd Mills, lands & premises belonging or in any wise appertaining, or therewith now, or at any time heretofore held used, occupied or enjoyed, and the reversions & remainders, rents, issues & profits of the sd one fourth part of the sd Mills, land & premises, and true Copies of all Deeds, Evidences, writings concerning the same to be had &c made at the proper Costs &c charges of the sd B. To have &c to hold the sd
full, equall & undivided fourth part of all & singular the sd Mills, land & other
the premises hereby granted or mentioned or intended to be granted with their
appurtenances unto the sd B & his heirs to the use & for ever—Under the
proportionable part of the quitrent hereafter accruing for the same to the Lord
of the fee thereof and the sd A & his heirs the [?] one full, equall fourth part &
all & singular the sd mills, land & other the premises hereby granted or men-
tioned or Intended to be gr[anted] with their app. unto the sd b his heirs & ass.
agt him the sd A his heirs & ass & agt all other persons whatsoever lawfully
claiming or to the claim by, from, or under him, them or any of them shall &
will war[rant]— and the sd A, for himself, his heirs Execrs Adms doth Covenant
promise & grant & with the sd B his heirs & ass by these presents that he the
sd B his heirs & ass shall & lawfully may from time to time & at all times for
ever hereafter, freely, quietly & peaceably have hold & enjoy the sd fourth part
of the aforesd mills, land, hereditaments and all other the premises hereby
granted or mentioned to be granted & every part thereof with the app. without
any Lett[?] Suit, trouble or molestation of the sd A his heirs or ass or any other
person or persons whatsoever, and free & clear & freely & clearly acquitted &
is charged of & from all & all manner of former & other bargains, Seals, gifts,
grants, feoffments, Jointures, Dowers, Intails, Mortgages, Estates, rights, Titles,
Debts, Charges, troubles, forfeitures & Incumbrances whatsoever had, made
down, acknowledged & suffered by the sd A or any other person or persons
whatsoever, by or with his means, privit, consent or procurement and that he the
sd A &c his heirs & all and every other person or persons whatsoever having or
lawfully Claiming any stake, right, title or Interest of, in &c to the sd fourth part
of the sd Mills & prem. hereby granted or any part hereof shall & will at any
time hereafter upon the reasonable request, Costs & charges in Law of the sd B
his heirs or ass. make, execute & acknowledge or cause so to be all & every
such further & other acts, Law for the further & better assurance & Confirmation of the sd fourth part
of the sd Mills & Land and all other the premises hereby granted with the appurts
unto the sd B his heirs & ass as by him or them or by his or their Council
learned in the Law shall be reasonably de[manded] adv & reqred, In Witness &c A.

16. A Lease of a Plantation for half the Increase [277th]

AB of the County of PH yeoman for the Consideration herein
aftermentioned hath & hereby doth grant, demise, set & to farm let unto C of
the sd County husbandman a certain plantation & tract of land in J. with the
dwellinghouse, buildings, Improvements & appurtenances (:exception & reserv-
ing only unto the sd AB his Execs adms & assigns one half of the meadow, being
the upper end there between the barn & the Creek,) and also two horses &
Cows & calves, one heifer three sows, one plough & Irons & goats suitable[?],
three bells & collars, To hold all & singular the hereby demised premises with
the appurtenances unto the sd C his Execs admins & ass. during the full Term
of 6 years from the 25th day of May instant, In consid of which sd grant &
demise the sd C his heirs Excess adms or ass shall give & pay unto the sd AB his
./. one half part of all the wheat, rye & barley, the produce of the sd Plantation yearly during the sd Term, and one half to be taken out of before decision all the Corn to be divided after winnowing the sd AB assisting to carry all the Corn to the Mill and the sd AB shall have one half of the yearly Increase of the Stock and whereas the sd AB now leaves on the premises about 10 acres of wheat & rye in the ground, the quantity & value thereof with the Stock & Implements of husbandry being at the Comencmt of the Term view'd & valu'd by Impartial & Judicious men the sd C at the expiration of the sd Term shall make good unto the sd AB the like value in quantity & quality Excepting only that if any of the Stock dye or miscarry accidentally (and not thro' negligence & defect of the sd C) the sd parties shall equally bear such Loss and at the expiration the premises shall be yielded up unto the sd AB or Order in good repair and well Conditioned, and the sd C shall have the liberty of keeping on the premises a breeding mare & sow of his own. For the true performance of all which sd Covenants & agreemnts the sd parties mutually bind & oblige themselves with one[?] to the other in the penal sum of 100 pounds lawful money of America firmly by these presents, witness the hands & seals of the sd parties Interchangeably putt hereunto, dated the 18th of May anno Domni 1714.

Sealed & delivered in the presence of _

After Inserting the additional Clause before Signing It's mutually agreed between the above parties, that the sd C shall also keep a Cow of his own on the premises, and to sow an acre of flax & hemp yearly, & to plant an acre or two of Indian Corn yearly, and whatever land the Tenant clears he shall be paid 20 shill. an acre for every acre so cleared out of the first Crop of such land, out of the Landlords share, and the sd Tenant shall yearly sow with winter Corn as many acres as he possibly can without neglecting that business to sow Flax, hemp or Indian Corn above the aforesd quantity, or follow any other business but what is unavoidably necessary besides the plantation work. Griffith Pritchard AB.

This is John Cadwalader's drawing, to which he added on the same sheet a Bond of Performance.

17. Sale of Land [282]

To all people to whom these presents shall come N. of &c sends Greeting. Whereas the said N. by virtue of a Deed of Feeoffment made and executed by OP bearing Date &c acknowledgewd in the County Court &c & recorded &c became lawfully seized in his demesne as of free of &c in two hundred acres of land in the Bristol Township & County aforesd and being so thereof seized he the said N. did by his Deed under his hand & Seal dated &c sell and grant unto QR a certain Tract of land & plantation being part of the sd two hundred acres beginning at a Corner post &c Containing one hundred acres with all the housing fencing gardens orchards & apptenances thereto belonging to hold to the said QR his heirs and assigns for ever which said one hundred acres he the said QR did sell unto ST who sold all his right therein to AB # of the said County yeoman, Now know ye that the said N. for the better confirmation of the sd one hundred acres with the apptenances to the said AB and for the
Consideration of sixty poinds this Country money paid by the said AB the said QR & ST signified by their signing as Witnesses hereunto given give grant enfeoff & confirm and by these presents he the said N doth give grant enfeoff & Confirm unto the sd AB all the said one hundred acres with the apptenances butted & bounded as aforesd. To have & to hold the sd one hundred acres of land & premises hereby granted with all the houses orchards Improvements & appurtenances thereto belonging unto the said AB & his heirs to the use of him his heirs & assigns forever. And the said N. & his heirs the sd one hundred acres of land & premises hereby granted N. & his heirs agt all other persons lawfully claiming or to claim by from or under him them or any of them shall & will warrant & for ever defend by these Presents. In Witness whereof he hath hereunto set his hand & Seal the __ day &c.

Sealed & delivered in the presence of J. N.

18. Mortgage [283]

Know all men by these Presents that AB for & in Consideration £100 in hand paid by CD &c in receipt thereof the said AB doth rightly acknowledge, & thereof acquit & discharge sd CD his heirs Execrs & assigns for ever &c the said AB hath given, granted, bargained alienated enfeofed &c by these present Consideration to the sd CD his heirs & assigns a certain tract of land followeth in the township of Cheltenham in the County aforesaid beginning at &c Containing an hundred acres of land with all the Profits, Improvements, & appurtenances thereunto belonging[,] To have & to hold the granted premises with its appurtenances unto the sd CD &c the only purposes &c behest of the said CD his heirs & assigns forever Provided always that of the (abovesaid) AB his heirs Execrs & Adminrs shall well & truly pay or cause to be paid to the said CD his heirs Execs or Admints the full sum of 100£ &c at or before the __ day of __ mo. which will be in the year __ and shall also pay the sum &c in the like Silver money at or upon the __ day &c and so yearly &c every year thereafter on the ___ day of Dec. the Sum &c being the Lawful Interest of &c until the whole Sum of 100£ be fully paid[,] If the said AB and his above written shall pay the said respective sums both the principal & Interest as the said Intersts shall yearly become due as is above expressed at the times &c in the Specie aforesaid, then this deed shall cease, termine & become utter void) & to no effect. But if the said Sums or any part remain unpaid at the times &c in the manner before exprest, than this Deed from thence force & for ever thereafter shall be &c remain in full force[,] Strenest[?] & Vertue In Witness whereof the said AB hath hereunto set his hand & Seal this __ day of Octbr 1693.

Sealed & delivered in the presence of WR.

19. A Deed of Defeasance. [283]

To all People to whom these Prests shall come TT of Philadea Ironmonger sends greeting — Whereas S of Phil aforesd Widow Executrix of the [illegible] of her late husband TB deceased by the Consent & approbation of JB Son &
heir of the sd TB in the sd Complaint named Coexecutor with the sd S by a quitclaim deed Poll bearing date the day next before the Date of these Presents for the Consideration of _ pounds Currt money in the same deed poll mentioned did grant, bargain, & sell unto him the said TT a certain tract of land Scituate & bounded on &c. layd out for one thousand acres besides fifty for allowances for Roads, to hold to the said TT & his heirs, to the use of him his heirs & assigns for ever, as by the said deed Poll may more fully appear. Now know ye that the true Intent & meaning of the said Deed Poll & of the Parties thereunto was is &c shall be that if the said S her heirs Execs adminrs or assigns or some or one of them shall well & truly pay or cause to be paid unto the sd TT his heirs, Execrs admrs or ass. or to any of them the sd Sum of — Currt silver money of Pensa with the lawful interest thereof on or before the — day of the — month called — which will be in the year of our Lord — without any fraud or further delay then &c from thence forth the sd Deed Poll & every Covenant article & Clause therein contained to be void &c of no effect, and all the [intelligible] thereby granted to cease, termine &c be utterly extinct, and that then &c from thence forth the sd S her heirs & ass. shall stand &c be seized of the sd bargained land &c premises with the appurtenances as fully &c freely as if the sd Deed of Poll had never been made. And the sd TT for himself &c his heirs Execs &c ass. doth Covenant grant &c agree to &c with the sd S her heirs, Execrs admrs &c assigns by these Presents that the said TI' his heirs Execs or ass. upon payment of the said — pounds &c Interest aforesd according to the true meaning hereof shall &c will at the Request[,] Costs & Charges of the said S her heirs Execrs admnrs or ass. make do execute &c acknowledge or cause so to be[,] all such Deed or Deeds as may be necessary for the Reconveying & assuring of the said one thousand acres of land &c premises to the said S her heirs &c assigns forever, Provided always that if default be made in payment of the sd Sum of — pounds with Interest aforesd or any part thereof within the time herein before limited for paymt thereof as aforesd that then &c from thence forth the said Deed Poll &c the bargain &c sale thereby made of all &c singular the sd one thous. acres of land and premises with their appurtenances shall stand good Indefeazible & effectual in Law to the only use of the sd TT his heirs &c ass. as they might have done if these Prests had not been made any thing therein Contained to ye Contrary in any wise not withstanding. In witness whereof they have hereunto set their hand &c Seals the day—Ano Domi 1700.

20. Sale of Land [284] [same as 281]

To all to whom these Presents shall come AB of .J. in the Province of P. mercht sends Greeting. Whereas CD of &c by his Deed of Sale & Conveyance under his hand and Seal bearing date .J. acknowledged in open Court & Recorded in the Rolls office at Ph. &c for the Consideration therein mentioned did give &c grant unto the said AB all that two hundred acres of land scituate & lying being in the # Township & County of P. aforesd as the same is metted & bounded To hold unto the said AB his heirs &c ass forever as therein may more appear being aliened by EF unto the sd CD by a certain Indenture made between the sd EF and the sd CD dated &c acknowledged in Court and Recorded in the
Rolls Office the 12th of the 5th mo: & same year in Book /. and is part of five hundred acres of land, confirmed unto him the sd EF by Patent under the hands of the Proprietary Comissioners & Seal of the Province bearing date /. Recorded the 27th 9th mo. & year aforesd in Book &c. Now know ye, that the sd AB for the Consideration of /. to him in hand paid before the Sealing & delivery hereof by GH of /. the Recruit whereof he the said AB doth hereby acknowledge, and thereof doth acquitt, Exonerate & forever discharge the said GH his heirs, Execs admrs & ass by these Presents, hath given, granted, aliened, sold, Enfeoffed &c by these Presents Confirmed unto him the sd GH the one moiety of that two hundred acres of land, sold & conveyed unto him the sd AB by the said CD as above specified the sd moiety hereby Intended begins at a Corner &c Containing one hundred acres of land with all the woods ways wastes watercourses Easemts Privledges Imrpvemts buildings & appurtenances thereunto belonging or in any wise appertaining Together with all the Estate, Right, Title & Interest of him the said AB of in & to the sd one hundred acres of land & Premises hereby granted with the appurtrances & the Reversions, Remainders, Rents & Profits thereof To have &c to hold the sd One hundred acres of land & Premises and every part & parcel thereof with tall the appurtenances unto him the said GH and his heirs to ye only use of him the said GH his heirs & ass for ever, fully, freely and clearly acquittet & discharged of &c from all former Quitrents Taxes & Charges &c all other Incumbrances whatsoever chargeable upon the premises until the day of the Date hereof. And the said AB for himself his heirs Execs and admrs doth Covenant, promise & grant to and with the said GH his heirs Exeexs admrs & ass: by these Presents, that he the sd AB & his heirs the said one hundred acres of land with its appurtenances to him the sd GH his heirs &c ass: against him the said AB &c his heirs &c agt all the heirs Exeexrs &c admrs of the said EF &c CD and agt all other persons whatsoever lawfully Claiming or to Claim by, from or under him them or any of them shall &c will warrant &c forever defend by these Presents F And the said AD doth hereby Constitute LM to be his attorney to deliver these Presents in the County Court in due form of Law unto the said GH or to his certain attorney. In witness whereof the sd AB hath hereunto set his hand &c Seal this . day /. 1698. Sealed &c delivered in the Present of . . AB

To all to whom these Presents shall Come AB of /. in the Province of P. mercht

21. Sale of Land [289]

To all People to whom these Presents shall come AB &c and CD his wife Sendeth greeting, Whereas EF &c with consent of G his wife By his Indenture under his hand &c Seal bearing date &c acknowledged in open Court &c next after Recorded in the Rolls office in Book &c made by the sd EF of the one part &c the sd AB &c CD his wife of the other part for the Consideration therein mentioned did give &c grant to the sd AB &c Two hundred acres of land situate in the sd County of PH: being butted and bounded as in the sd Indenture To hold to him the sd AB &c his wife as is therein exprest, their heirs &c assigns forever, and whereas one hundred acres of the sd land was by them sold &c
conveyed to HJ some time since, Now know ye, that the sd AB & CD his wife for and in Consideration of &c to them in hand paid by KL &c the Receipt thereof they do hereby acknowledge & thereof do acquit exonerate & forever discharge the sd KL his heirs Execr adms & assigns by these Presents [they appoint the sd CD his wife?] have given granted &c unto the sd KL all the Remaining part of the sd two hundred acres of land beginning at a corner &c Containing one hundred acres of land, being the moiety of the above granted two hundred acres, and is part of the five hundred acres of land confirmed to the EF by patent under the hands of the Comissioners & Seal of the Province bearing date &c Recorded in the Patent office in Book &c with all the woods, underwoods, ways, water, watercourses, Easements, Priviledges, Improvements Buildings & appurtenances to the sd one hundred acreas of land beloning or in any wise appertaining Together with all the Estate, Right, Title, Use, Possession, Property, Claim &c demand whatsoever of them the sd AB & CD of in & to the sd premises, and the Reversions, Remainders, Rents, Issues & profits thereof with all Deeds, Evidences, & Writings touching the same, To have & to hold the sd One hundred acres of land Residue of the sd two hundred acres & premises hereby granted & every part & parcel thereof with their & every of their appurtenances to the sd KL & his heirs to the only proper use of him the said KL his heirs & assigns forever without any manner of Condition, Redemption or Revocation in any wise and the sd AB & CD his wife do hereby Covenant, promise & grant to & with the sd KL his heirs, Execs adms & assigns by these Presents that they the sd AB & CD & their heirs the sd one hundred acres of land & premises hereby granted with all the appurtenances to the sd KL his heirs all forever free & clearly acquitted and discharged of & from all former & other Bargains, Sales, Dowers, Mortgages, Titles, Gifts, grants and Incumbrances whatsoever had, made or done, or to be had, made or done by the sd AB & CD or any of them as also against all people whatsoever lawfully Claiming or to Claim by, form or under them or any of them shall & will warrant & for ever defend by these presents, saving the Quitrent & other Duties that from here forward shall grow due on the premises, that the sd AB &CD his wife do here in due form of Law unto him the sd KL or & his certain Attorney, In witness in the thirteenth year of the Reign of King Wm the Third over England &c Anno Domni 1701.

Sealed and Delivered in the Present of AB CD.

22. Sale of Land [297]

To all to whom these Ps. shall Come AB &c sends greeting whereas there is two certain pieces of land lying in Germantownship, One whereof scituate in the Inhabited part of Germantown aforesd lying in breadth fourteen perches &c two feet Bounded South Easterly with the Lott of C. Westerly with the land of D Northward with the Lott of E. and Eastward with the same[?] Contains twenty acres & a quarter, The other piece or parcel of land Scituated the adjacted sideland of the sd Germantown towards Plymouth in breadth . . . perches ./. between the land of the sd C & the land of the sd E Contains twenty nine acres and three quarters of an acre, which sd two pieces of land F. of Germantown
Young Country Clerk's Collection  719

aforesd Farmer by an Indenture of Bargain & Sale duly Executed bearing Date the 4th Day of Nov. 1693 made between him the sd F on the one part & the sd AB on the other part for the Consideration therein mentioned did grant & convey (amongst other land . . . ) unto the sd AB to hold to him his heirs & assigns forever, as by the sd Indenture at in the open Court of Record held for the Burrough of Germantown aforesd the fifth day of the tenth month 1693 may at large appear. Now know ye that the sd AB for & in consideration of the sum of Sixty Pounds curr money of Pensa to him in hand paid by MN & O all of the sd County of Philadea yeomen, the Receipt whereof he the sd AB doth hereby acknowledge & thereof doth fully acquit & forever discharge the sd MNO their heirs & assigns by these Presents, hath granted, bargained, sold, aliened, Enfeoffed & Confirmed, and by these Presents doth absolutely grant, bargain, sell, alien, Enfeoff & Confirm unto the sd MNO all the singular the sd two pieces of land, Containing in the while fifty acres, Scituate, bounded & being as is herein above sett forth & described together with all the buildings, Orchards, gardens, fields, fences, ways, walls, passages, soil, meadows, pastures, swamps, marshes, woods, underwoods, waters, watercourses, commodities, Privilegedes, Improvements, hereditaments, Remainders, Rents, Issues, & Profits, thereof, and also all the Estate, Right, title, Interest, Use, Possession, Property, claim & demand whatsoever of him the sd AB of &c to the above bargained Premises and all deeds, writings, & other evidences touching & concerning the same, To have and to hold the sd two pieces of land & all other the hereditary Premises hereby granted with the appurtenances unto the sd MN & O and their heirs to the only proper use &c behoof of them the sd MN&O their heirs forever at &c under &c vide supra p. 238 * * *

And the sd AB & his heirs the sd two pieces of land, hereditaments & Premises hereby granted with the appurtenances unto the sd MN&O their heirs & assigns agt him the sd AB & his heirs & agt the sd F his heirs & assigns & agt all other persons whatsoever lawfully claiming or to claim by from or under him, them or any of them & shall & will warrant & forever defend by these presents And the sd AB for him self, his heirs, Execs & adminrs doth covenant propose grant to & with the sd MNO their heirs & assigns by these Presents that he the sd AB or his above written shall & will (at any time hereafter) within the space of seven years now next ensuing at the Request, Costs & Charges in Law of the sd MNO or any of them Or the heirs or assigns of the Survivor of them make execute & acknowledge or Cause so to be all &c every such further & other Act & Acts, Deed or Deeds, Device or Devices in Law whatsoever for the further better assurance & Confirmation of the sd two parcels of land, and all other the hereditaments & premises hereby granted with the appurtenances unto the sd MNO their heirs & assigns as by them or any of them, or any of their heirs or assigns, or by their or any of their Council learned in the Law shall be reasonable devised, advised or required. In Witness whereof he hath hereunto sett his hand & seal, Dated the twentieth day of Nov. Ano Doni 1705.
23. Short Sale of Land [315]

This Indenture made the first day of October anno Dmi One thons./. Between AB of C. in the County of Ph. yeoman & D his wife of the one Part, and EF of G in the sd County yeoman of the other part, witnesseth, that the sd AB and D his wife as well in Consideration of the Sum of Five pounds to them paid by the sd EF the Receipt whereof they do hereby acknowledge & whereof do hereby for ever discharge the sd EF his heirs & assigns as for other good Causes & Considerns Have granted, bargained, sold, aliened, enfeoffed & confirmed, and hereby do grant, bargain, sell, alien, enfeof & Confirm unto the sd EF a certain nook or piece of land Scituate in & aforesd beginning at a Corner post standing by the Limekiln road./. thence extending by the line SW . . . perches to another post dividing this from other of the sd EF's land, thence by the same SE . . . perches to an other corner post standing by the sd road, thence by the same # five degrees W . . . . perches to the place of Begining, Containing __ acres __ [?] or thereabouts, be it more or less / part of . . . acres formerly granted by one Ann Williams unto the sd AB by [?] bearing date---Recorded in the Inrollmnt Office at Ph. in Book . /. Together also with all & regular the ways wates Woods Rights Members & appurtenances therunto belonging, and the Reversions & Remainders, Rents, Issues and Profits thereto. To have and to hold the sd Nook or piece of land and premises hereby granted with the appurt: unto the sd EF his heirs & assigns, to the use of him the sd EF by his heirs and assigns for ever under the proportionable part of the yearly quitrent hereafter [?] for the same of the Chief Lord of the Fee thereof. And the sd AB and his heirs the sd piece of land & premises hereby granted with the appurt: unto the sd EF his heirs & assigns agt him the sd AB & his heirs & the sd D his wife and agt all other persons whatsoever claiming or to claim by from or under him them or any of them shall and will warrant & for ever Defend by these presents, and the sd AB for himself his heirs Exects and Admints doth Covenant, promise & grant to and with the sd EF his heirs & assigns by these presents, that he the sd AB his heirs & assigns and all & every other person or persons having or lawfully claiming or that shall or may hereafter so have or claim any Estate, Right, Title, or Interest of or in or to the premises or any part thereof shall & will at any time hereafter upon the reasonable Receipt, Cost & Charges in Law of the sd EF his heirs & assigns make, execute and acknowledge all & every such reasonable act and acts, device or devices, in law whatsoever for the further & better assurance & Confirmation of the sd piece of land & premises hereby mentioned to be granted with the appurtenances unto the sd EF his heirs and assigns as by him or them, or by his or their Council learned in the Law shall be reasonably devised or required, In Witness whereof the sd Parties to these Presents

24. Writ to Recover Seissen [317]

This Ind: made /. Between A of the one part & B of the other part, Whereas the sd A at the County Court held at PH: the _ day & by the Consideration of the same Court did recover his Seisen agt. M /. of twenty acres of cleared land
as his Rights by vertue of a certain Covenant contained [in] a pair of Inden-
tures made between him the sd A of the one part & the sd M of the other part,
whereupon the sd A craved the Propriety & Govrnmnt writt to be directed to the
sheriff of the County of Ph requiring him that full Seisen & possession of the sd
twenty acres of land to the sd A he should cause to be had, which was granted
him returnable to the County Court to be held at PH the day __ then next after,
at which day day [sic] the sd sheriff returned, that by vertue of the sd writt, on the __
day of the month ano domni 1688. he had caused to be had to the sd A
all seizn of the sd twenty acres of land, in the sd writt mentioned , as by the
same writt he was commanded, which Return was then accepted of & ratified by
the same Court as appears of Record there New this Ind: Witnesseth, that the sd
A for ten Pounds of Currt Money of Penn to him paid by the sd B the receipt
whereof J. hath given, granted, enfeoffed, & by these pr. Confirmed unto the B
all the sd twenty acres of land with the appurtenances beginning at
...J. To have & to hold unto the sd B his heirs & assigns forever, and
the sd A & his heirs the sd twenty a. of L. & premises with the appurtenances
with the sd P & his heirs agt him the sd A & his heirs, and agt them or any of
them, shall & will warrant & for ever defend by these Presents. In Witness
whereof sealed & Delivered in the pr. of A.

25. Lease and Release [319-20]

This Ind, made the __ day of ano dom on th . . . Between AB of the County
of Ph. in the Prov. of Pens. Sadler of the one part, and CB of the same County
yeoman of the other part witnesseth, that the Pres. [?] to Enable the sd AB to
grant Release & Convey the piece or parcel of land Scituate lying & being as is
herein after mentioned with the appurtenances unto the sd CD & his heirs in
such sort, manner & form as in and by one Indenture intended, to bear Date the
day next after the say of the Date thereof, and to be made between the same
parties as these presents the same shall be granted, Released & convey'd by the
sd AB for the Consideration of the sum of five shillings to him in hand paid by
the sd CD the Receipt whereof he doth hereby acknowledge, hath bargained &
Sold and by these Presents doth bargain & Sell unto the sd CD all that sd piece
or parcel of land Scituate, lying & being in the County of Philadelphia aforesd,
beginning at — to the place of beginning Containing Three hundred acres Togeth-
er with all the woods, underwoods, way, waters, watercourses, fishings, fowlings,
hawkings, hunttings, rights, Liberties, Priviledges, Improvements hereditaments &
appurtenances whatsoever thereunto belonging or in any wise appertaining and
the Reversions & Remainders Rents Issues & Profits thereof, To have and to
hold the sd three hundred acres of land and Premises hereby bargained & Sold
or mentioned so to be with their appurtenances unto the sd CD his Exects admts
& assigns from the day of the Date hereof for and during unto the full End.
Term of one year from thence next ensuing and fully to be Compleat and
Ended*; In Witness whereof the sd Parties to these presents have Interchangeably
set their hands & Seals hereunto dated the day & year first above written.

To Release the land to CD| This Ind. made the __ day &c supra of the other
part whereas W, Pen Proprietor & Govr of the sd Province by his present
Commisioners of Property to which MNO &P in &c by a certain Grant or Patent under their hands & the Great Seal of the sd Province bearing date the-last past for the Consideration therein mentioned did grant & confirm unto the sd AB Three hundred acres of land Scituate lying & being as is herein after mentioned to hold to him the sd AB his heirs & assigns for ever paying therefor yearly unto the sd Wm Pen his heirs & Sucessors One English silver shilling or value thereof on the first day of the first month yearly forever for every hundred acres of the sd land, as by the same Patent, Recorded in the Rolls Office at Phila in book—may more fully appear, now this In. witnesseth that the sd AB for &c in Considn of the sum of _ pounds lawful money of America to him in hand paid by the sd CD the Receipt whereof he doth hereby acknowledge & thereof doth acquit & forever discharge the sd CD his heirs & assigns by these presents, hath granted, bargained sold aliened Enfeoffed Released & confirmed, and by these ps. doth grant / unto the sd CD his heirs & assigns all that Tract or parcel of land Scituate lying & being in the sd County of Pha Begining — at — Containing three hundred acres together with all the woods / at supra, profits thereof and true Copy's of all Deeds Evidences & writings concerning the same. To have &c to hold the sd 300 acres of land herediaments & promises hereby granted & Released, or mentioned to be granted & Released with their appurtenances unto the sd CD his heirs & assigns to the sole use & behoof of him the sd CD his heirs & assigns for ever Under the sd yearly Quitrent hereafter accruing for the sd land to the Lord of the fee thereof. And the sd AB & his heirs the sd CD his heirs & ass agt him the sd Ab his heirs also and agt all &c every other person &c persons whomsoever lawfully claiming or to the claim the sd law & promises hereby granted and Released of any part thereof shall &c will warrent & forever defend by these presents and the sd AB for himself his heirs Exects & admts doth Covenant promise &c grant to &c with the sd CD his heirs & assigns by these presents that he sd AB &c his heirs and all &c every other person &c persons whomsoever lawfully claiming or to claim the sd land & premises hereby granted & Released or any part thereof shall &c will from time to time &c at all times for ever hereafter upon the reason all Request Costs &c charges in Law of the sd Cd his heirs or assigns make Execute and acknowledge or cause so to be &c every such further &c other reasonable act, acts Deed or Deeds Device or Devices in Law for the further &c better assurances &c Confirmation of the sd 300 acres of land & premises hereby granted & Released with their appurtenances to the sd CD his heirs &c ass as by him or them, or by his or their Council [?] law shall be reasonably devised advised or Required. In witness whereof the sd parties to these Presents have Interchangeably set their hands & seals hereunto on the Date and Year first above written. Sealed & Delivered —

Lease and Release.

1st Lease for a Year AB to CD. I This Ind. made the — day of Sept. in the year of our Lord / Between AB /. of the one part and CD of the other part, Witn: that the sd AB for &c Consid of the Sum of five Shill. to him in hand pd by the sd CD the Receipt whereof he doth hereby acknowledge hath bargained &c sold, &c by these pres. doth bargain &c sell unto the sd CD all that piece or parcel of land, Scituate in &c Containing — more or less, together with all the
ways, waters, watercourses, woods, underwoods, timber & trees, fishings.

2d Release AB to CD. This Ind made ./. other part Whereas ML by a certain Ind. bearing Date the day of May last past made between him & the sd AB for the Consid. therein mentioned did grant & convey unto the sd AB his heirs & assigns for ever a certain piece or parcel of land, Scituate lying & being in acres, which KS by a certain Deed under his hand & Seal, Dated /. Sold & conveyed unto the sd ML. To hold to him, his heirs and ass. for ever as by the sd deed acknowledged ./. & Recorded /. more at large doth appear No this Ind. witnesseth, that the sd AB for & in Consid. as pag. anteced.

[In different handwriting:] Release & Confirm unto the sd CD In his actual possession now being by virtue of one Indenture of bargain & sale to him thereof made by (him ye sd AB:) or (them ye sd AB & E his wife:) for one whole year bearing date the day before the date hereof & by force of the statute made for transferring uses into possession & by his heirs & assigns (all that tract or parcel of land:) or (a certain tract of land:) Scitutate &cc.

B. CONTRACTS AND COMMERCIAL PAPER

1. Notes to Receive Money [205]

   Philadelphia 1 Sept 1698

   AB. Be please to receive of CD the sum of &cc for which give him a Receipt. In so doing thou wilt oblige thy Friend. EF

   2. Bills to Pay Money [205] Add infra p. 257 #

   AB. Pay to the bearer hereof CD or his assigns the Sum &cc at Sight, and this with his Receipt shall be thy discharge for so much. Witnesseth my hand. E.F.

   AB. BE please to pay unto CD or his Order the sum &cc & it will be as satisfactory as paid to my self. E.F.

   AB. I desire thee on Sight hereof to pay the bearer CD or his assigns the sum &cc in money or goods, and take his Receipts for the same, and it shall be allowed on the account of &cc by thy Loving Friend E.F.

3. Acquitances in Part Payment [205-06]

   Sept. the 3d 1690. Then received of AB the Sum &cc being in part of other Sums & accounts yet depending and remaining unpaid. I say received by me. E.F. [S 106]

   Received this _ day &cc of AB the Sum &cc in part of a Bond of eleven pounds due & payable to me on the 8th day &cc last past and bearing date &cc In acknowledgement of which Receipt of this find Sum &cc I have hereunto set
my hand the day & year first above written. E.F. [S 106]

4. Acquitances in Full [206-07] [S 108]

Receive this ___ day &c of AB the Sum &c in full of all accts being the ful content of this Bill. E.F.

5. An Acquitance for Purchase Money [208]

Received by me AB this 4th day of Sept. 1699 of CD &c the Sum &c (as in part or in full, which it is:) of the money agreed to be paid for the purchase of a Certain Tract of land in &c according to an Indenture of Bargain & Sale bearing date with &c and made between the AB of the one part and the late CD of the other part. In witness whereof the said AB have hereunto set my hand &c seal the day & year above written. A.B.

Sealed & deliv. in the presence of N.N.

6. Notes or Bills, acknowledging money due with Promise [210] [S 123]

Observe, that Bills of that nature are not better than book debts.

Memoradum, that I AB &c. owe unto CD &c the Sum &c. For the payment whereof I bind me & my heirs. Witness my hand, Sept. the first 1690. AB

Know all men by these presents, that I AB &c do owne & acknowledge my self justly bound Indebted to CD &c the Sum &c which I do hereby promise to pay unto him the said CD on the twentieth Day of October next ensuing the date hereof. Witness my hand, Sept. &c AB

7. Simple bills, without Penalty [211] [S 126; T 25]

Be it known by all men by these presents that I AB &c do owe and am indebted unto CD &c the Sum &c to be paid unto him the said CD by his heirs, Execs adminrs or assigns upon the day of Novemb next ensuing the daye here of at or in the now dwelling house of the aforesaid CD. For the which payment well & truly to be made I bind me, my heirs, Execs & adminrs firmly by these presents. In Witness whereof I have hereunto put my hand (:& Seal:) the ___ day &c A.B. [:Sealed & deliv. &c:]

8. A Bill of Debt [211]

Know all men by these Presents that I AB of &c do owe & am Indebted unto CD of &c the Sum of . lawful English Coin, which paid Sum I promise to pay unto the sd CD his Execrs admins or assns on or before the . day of . next ensuing the Dayey hereof; Sealed & Deliv. &c

9. Bills Obligatory with Penalty [212]
a. Penal Bills Single [212]

Know all men by these presents that I AB &c do owe & stand justly indebted unto CD &c the Sum &c to be paid to the said CD his heirs, Execs admins or assigns at or upon (:on or before:) the . day of Decemb next ensuing the day hereof without fraud or further delay. To which paymt well & truly to
be made I find myself, my heirs, Execs & adminrs to the said CD his heirs, Execs, adminrs & assigns in the penalty Sum &c of the like lawful money firmly by these presents. In Witness whereof I have hereunto put by hand & Seal, the . . day &c. A.B.
Signed, Sealed & dliv. &c.

b. A Bond from One Party to Another [213] [S 124; T 128]

Noverint universe per preasentes me AB de Germantown in Comitata Philadelphia Tentorem teneri & firmiter obligari CD de &c Mercatorium Viginiti libris bonae & legalis moneta Anglia, solyend' eidem CD aut suo certo Attornato, Executoribus, administratoribus vel assignatius suis; ad quam quidem Solutionem bene & fideliter fauciendam obligo me, hieredes, Executores & administratores meos firmiter per presentes Sigillo meo sigillat' dat' primo die Septembris, Anno Regni Ec Ano Dom. 1690.

Know all men by these Presents that I B of Germantown in the County of Philadelphia weaver am holden & firmly do stand bound unto CD &c merchant in the (penal:) sum of twenty pounds of good and lawful money of England, (Currant Silver money of Pennsylvania:) to be paid unto the said CD his Certain Attorney his heirs Execrs Adminrs or Assignes whosoever. To the [true payment hereof faithfully to be made] which payment well & truly to be made, I do hereby bind myself, my heirs, Execs and Adminrs firmly by these Presents, Sealed with my Seal Dated the first day of September in the . . year of the Reign &c and in the year of our Lord 1690.

The Condition of this Obligation is such, that I the above bound AB his heirs, Exes, Adminsr shall well & truly pay or cause to be paid to the above named CD his heirs, Execs admins or assigns the full Sum of ten pounds of good & lawful money of England at & upon the . . day of Decmeber next ensuing the Date hereof [at or in the dwelling house of the said CD] [But in Case the sd AB shall fail in the amyt on the day now mentioned then he shall have time til the . . . he paying lawful Interst for so long time as he shall keep the same from the . . day of December next __ without fraud &c.] without fraud or further delay, that then this present obligation shall be void & of no effect. Else to stand good & continuing in full power, force and Overdue.

Signed, Sealed & delivered A.N. in the presence of L.M.l N.O.

10. Inland Bill of Exchange [219]

At four days sight pay unto AB or his order one hundred pounds value received of CD and place it to accompt as per advice of __ thy friend EF.
To M.N. at __

11. Forgein Bill of Exchange [219]

Philadelphia Nov. 1696 for 100 ps. 8 at 53 3/8 Ster. (per 8)
At these presence pay this my first Bill of Exchange (pay second not being paid) unto AB or his order acct for [illegible] Exchange at fifty three pence 3/8 Sterling per piece of eight, for the value received of CD & pass it to accompt as per advice of __ thy real friend EF
To P.P. merchand

12. Letter of Credit [220]

Sir, since mine of the ___ present I have your of the ___ month & release myself to what I have above written in answer to your letter. This leaves at present to desire you to furnish & pay unto AB to the value of 200 Crowns, at one or more times, according as he shall have occasion for it, & as he shall desire it from you, taking this Bill or Bills of Exchange for what you shall so furnish him with, & put it to my account and this my Letter of Credit shall be your sufficient warrant for so doing. Sir your humble servant JL

This is not to be sealed, but it to be carried upon by him who is the Bearer & to be written in words at length, because less subject to be counterfeited by anybody.

13. Letter of Attorney to Receive a Bond Debt [228]

By this Publick Instrument of Procuration or Letter of Attorney Be it known & manifest unto all People, that on the thirtieth day of the month of December ano dom 1709 and in the Eight year of the Reign of our sovereign Lady Anne Queen of Great Britain &c before me Wm Scorey Notary Publick admitted & sworn, dwelling in London and in the presence of the witnesses afternamed personally appear Mr Cornelius vande Putt of London afterdsd Merchant, which appearor in the first place Revoking the Power by him, sometime first given to Mr. Wm Trent merchant in Pensylvania for the following effect: hath de novo made & ordained and in his stead & place hath putt & constitute Mr. Harmen Groothuyser at present in London & designed for Pensylvania aftersd his true & lawful attorney, giving unto him full Power & authority, for & in the name, and to the use of the sd Constituant. To ask, demand, sue for, recover & receive of & from Mr. John Henry Sprogel merchant at Philadelpia, in Pensylvania aforesd, or of his heirs, Execs, admins or Estate the full Import & Contents (as yet entirely unpaid) of a certain Bond executed, by the sd Sprogel to the use of the sd Constituant in the penalty of two hundred pounds of good and lawful money of Great Britain, bearing date the twelth day of November anno Dom 1707. Conditioned for payment of the sumn of one hundred pounds like money as foresd to the sd Constituant Cornelius vande Patt, his Exec, admins or assigns on or before the fifth day of February then next ensuing as by the sd Bond may appear. . . .

14. A Bill of Sale [234] [S. 137]

Know all men by these Pr: that I AB &c for and in consideration of the same &c to me in hand paid by CD &c whereof I do hereby acknowledge the Receipt, and my Self therewith fully & entirely satisfied, have bargained, sold, set over and delivered and by these Presents in plain and open market according to the just & due form of Law in that Case made & provided do bargain, sell, set over & deliver unto the said CD one Silver talk and [?] weighing &c one Silver Beaker weighing &c one feather bed with proportionable furniture valued at five pounds, with other goods & chattels & to have & to hold the said bargained
Premises unto the said CD his Execs admrs and assigns to the only proper use &
behof of him the said CD his exexs adms & assigns against all & all manner of
persons shall and will warrant & for ever defend by these Presents. In witness
whereof together with the deliver of the bargained Premises I have hereunto set
my hand & Seal the . . day &c. A.B.

15. A Bond of Arbitration to stand to an award to an Umpire [242]

The Bond: Noverit Universi . . . Know all men &c &c The Condition of this
Oblig is such that if the above bounden AB & CD their heirs, Execrs & adminrs
and every of them of &c shall for their & every of their parts & behalvs stand to
obey, abide, observe and in & by all things well &c truly perform the Award
order rules arbitrants determination, Final end & Judgment of EF &c & GH
&c arbitrators indifferently chosen, elected nominated & named as well by the
said AB as by the said CD to award, arbitrate, order, rule, decree, Judge,
determine &c final end to make of, for, upon & concerning all &c all manner of
action, actions, cause & Causes of actions, Suits, doubts, debts, Scibes, veronicas,
debates, accounts, Reckonings, Sum & Sums of money Presspases, offences,
damages, offers, Quarrels, Bills, Bonds, Specialties, Judgments, Extents, or
any other matter, thing or demand whatsoever has been made, stirred, brought,
moved, arisen or any wise depending &c now in Question & controversy between
the said Parties. Provided always the said award, arbitrmt, order, determination,
fine &c end & judgment of the said arbitrators of for or upon that Premises be
made &c but in writing indented under their hands & Seals ready to be delivered
unto the said Parties [Or to such of them as shall come to require the same of
the said Arbitrators on this side or before the — day] or before the . . day &c
next ensuing the date above mentioned# then this obligon to be paid &c of no
effect; or else to stand &c remain in full force & vertue. AB CD
Sealed

16. The Form of an Umpirage [248]

To all People to whom this present Writing shall come, I AB of &c Umprire
indifferently chose by CD & EF of ./. merchants having deliberately heard &c
understood the griefs, allegations, & Proofs of both the said Parties, &c Writing,
as much as in me lieth, to be the sd parties at unity &c good accord, do by these
presents arbitrate, award, order, deem, decree and Judge that the said CD his
Execrs and assn shall well &c truly pay or cause to be paid unto the said EF his
Exers admrs or assns the full sum of . . on the . . day of . . 16. . . and that
upon paynt thereof the sd CD & EF shall seal subscribe &c as their several acts
&c Deeds deliver each to the other a general Release in writing of all matters,
actions, suits, causes of actions, Bonds, Bills, Covenants, Controverses, &c De-
mands whatsoever, which either of them hath, may, might or in any wise ought
to have of &c against each the other of them by reason aforesaid, or means of
any matter, Cause or thing whatsoever, from the beginning of the World to
the . . dat of . . now last past. In witness whereof I have hereunto set my hand
&c Seal the . . day of . . in the year ___ Sealed &c delivered in the presence of
LM NO

AB
17. Brickmaker Contract [25034]

These Articles of agreement Indented & made the __ &c between AB CD &c witness, that the sd AB by these Prs doth Covenant & promise to & with the sd CD for them &c for their only use, benefit & behoof to mould, sett & burn so many thousands of bricks as he the next ensuing summer is able to do and to work at all times & Seasons covenants, for & suitable for the business aforesaid; binding & obliging himself in the forfeiture of 20 shillings Currt &c for every days absence, or for all & any of those days which he shall wilfully & by his own fault lose or omit in the work by him hereby undertaken. Sickness & lameness of body only excepted. And the sd CD do also by these Prs bind & oblige themselves & their heirs to pay unto the above sd AB his heirs or assigns four shillings Currt &c for each thousand of good & merchantable bricks which he shall deliver out of the kiln or kilns sett & burnt by him according to the true meaning hereof unto the sd CD or his order and the sd CD shall also find meat, drinck, lodging & washing to the sd AB the full term of time, when he is moulding, setting & burning for him the sd CD, further give unto the sd AB one gallon of Rum at each kiln he burns for him in manner aforesaid, and send all materials & necessary hands whatsoever needful & requisite to the making of bricks to their respective places & employments (unless they be sick or lame:) or else every one of them for every days neglect to forfeit likewise the sum of 20 shillings to the sd AB to which forfeiture the sd CD is to bind the sd workmen in their particular agreements.

18. General Release [26334]

Know all men by these Pr. that AB of &c have remised, released &c for ever quit claimed and by these Pres. for me, my heirs, Execrs and admns and also for CD &c do remise, release & forever quit claime unto EF of &c his heirs &c all and all manner of action and actions, Bills, Bonds, Titles, Writings, Obligatory, Judgments, Covenants, breaches thereof, Debts, Dues, Trespasses and Demands whatsoever, now or hereafter by me to be taken advantage of from the beginning of the World until the day unto for my hand and Seal the __ day &c to the sd year of the reign &c _ ano Domi 1703

Sealed & Deliv. in the pres. of __ A.B.


To all People, to whom these Presents shall come I AB of &c send Greeting. Whereas CD of &c & EF of &c by one obligation bearing Date &c are and stand Individually & severally bound unto one the said AB in the sum of &c with Condition hereunder written for the true payment of &c true delivery of 200 bushells of wheat, at by the said Obligation & Condition more at large appeareth. Now know ye that I the sd AB is well for and in Consideration that the sd Obligation was made in the name of me the said AB only in trust, and for the use of GH of &c as for divers other good Causes me hereunto moving, have given, granted, assigned & set over and by these Presents do give, grant, assign & set over unto the said GH his Execrs and assigns as well the said obligation
& sum of &c therein mentioned, as also all my rights, action & demand to due in the same. Giving & by these presents granting unto the said GH by vertue hereof my full and whole Power & authority for money in my name but so the only use of the said GH his Execs and assigns to demand . . . recover & receive of the sd CD & EF and of either of them, their Execs or assigns the said Sum of &c mentioned & due by the said obligation, and to use all lawful ways and means for the recovery thereof: and the same so had & recev'd to detain & keep to his own use and behoof, without any account thereof or therefore to be rendered. And I the said AB do Covenant & agree that for any act or acts, thing or things whatsoever by me, or by any other heretofore by my appointment done or commited or hereafter to be done or commited, the said obligation now is, and hereafter shall stand and continue in full force and effect. And that neither I the said AB my Execs or assigns shall nor will acquit, release or otherwise discharge the paymt (or delivery of 200 bushells of wheat) in the Condition of the sd Obligation mentioned without the special License, Consent & agreement of the said GH his Execs and assigns, first had & obtained in writing under his or her hand & seal. And to the true performance of all and every the articles &c agreement hereby expressed on the part of me the said AB to be done and performed, I bind me, my heirs, Execs and adminrs by these presents in the Sum of &c (nomine penae) to be forfeited and paid unto the said GH his &c. In witness &c &c.

C. FORMS FOR OPERATION OF THE COURTS AND GOVERNMENT

1. Recognizances taken before Justices of the Peace [253²]

  Mentioned, that the _ day of ___ in the 3d year of the reign of J. anno Domni 1709 AB of &c yeoman & CD of J. weaver & EF of J. tailor appeared before us G & H Justices of the Peace in the County &c &c recognized themselves to stand Indebted to the sd our Sovereign Lady the Queen each in the full sum of One hundred £ curr't money of P . . .

  The Recognizance is such that if the above bounded AB shall make his personall appearance before the next general Sessions of the Peace to be held in the sd County of &c to enforce all such matters shall be objected agt him, &c to do &c receive that which by the Court will be . . . enjoined him, and that he in the mean time to keep the Peace of our Sov. Lady the Queen towards her &c her liege People &c especially wardship, that then &c from thence further this present Recognizance shall . . . be made void, or else to remain in full force &c strength &c vertue.

2. In Jus Vocato [253²]

  AB. Complaint having been made to this Court by CD that thou hast taken rails from him to his great damage, and threatened farther wrong, thou art therefore ordered to appear before the Court tomorrow &c show reason (if any:) for thy so doing. N.N.N.
3. A Warrant [254]

There are by the kings (& Queens) authority and in the Propertarys name to require thee to being before me or any other of the Justices of this Place the body of AB to answer the Complaint of CD for with holding of &c And for they so doing this shall be the sufficient warrant. These to be served by any of the Constable of the P.

4. A Summons [254]

Philadelphia These are by the Kings authority or in the Propertarys name to Summon thee AB to appear at the next County Court to be held at Phil on the ___ day of this instant month, as well to answer the complaint of CD for withholding of &c due upon Bond or Bill or for goods sold; or for work, Trespass, Slander, assault and Battery as to abide Judgmt of the said Court. Whereof fail not [thou are not to fail] at thy Peril. Given under thy hand & Seal this ___ day of the ___ month 1698 being these to be served by the sheriff of G. N.N.

5. An Arrest [254]

These are by the kings authority & in the Prs name to require thee to arrest the body of AB if found in thy Bailiwick and him safely to keep and have at the next County Court to be held at Ph. the ___ day &c then & there as well to answer the Complaint of CD as to stand to &c abide the Judgmt of the said Court according to Law; and to make a true Return hereof to the next County Court. Given under my hand & Seal this ___ day &c being the year of the Kings reign & the ___ year of the Propitarys Government. N.N.

6. A Replevin [255]

There are by Ks authy & in the PRs name to replevin (:be if horses, corn &c:) the good of AB now distraint or Impounded by CD &c to deliver them to the said AB provided he give Bond with sufficient Security to prosecute the Replevin at the next County Court to be held at P the ___ day &c & then &c there to abide &c perform the Judgment of the said Court according to Law; and to make a true Replevin hereof that the next County Court given under my hand &c Seal this day &c being the year of the ks reign &c N.N.

7. A Mittemus [255]

On Charges AB printer & CD Taylor being brought before us upon an Information of publishing and spreading a malitious and seditious Paper to the disturbance of the Peace & Subversion of the present Government, and the said Persons being required to give Security to answer it at the next Court, But they refusing so to do, these are therefore by the ks auth. & in the Props name to require you to take into your Custody the bodies of AB & CD and them safely keep, till they shall be discharged by due Course of Law. Whereof fail not warrant, Given under our hands & Seals this ___ day &c N.N.N.

These to they Sheriff of P. or his Deputy.
8. A Warrant to levy money forfeited by Ale house haunters [257]

To the Constables of ./

For as much as it hath been duly proved before me according to the Law in that behalf provided, that all & every the persons hereunder named, being Inhabitants of ./ upon the __ day of this Instant month of Nov. have been & continued drinking & [illegible] of A Inkeeper) Contrary to the Laws. These are therefore in the kings auth. & Props name command you & every of you, forthwith to levy by distress & sale of the goods of every the sd persons hereunder named the Sum of __ shill, a piece, if they shall make or neglect forthwith to pay the same; and that you render to every of the sd offenders the overplus that shall remain upon your Sale of their sd goods. And if the sd offenders, or any of them, shall refuse or neglect to pay their sd several Forfeitures, and that you can find no sufficient distress whereof to levy the same, that then you the Constables, or one of you, shall comit every such offender or offenders (:refusing or neglecting to pay the sd sum or forfeiture and not having sufficient wherein to be distrained for the same;) to the stockes, there to remain by the space of __ hours. And this shall be your sufficient Warrant herein Dated &c.

But a Justice shall do well first to send for the Offenders & examine them.

9. Attestation of Debt [257]

Lewis 4th June, 1703. Then came John Hermison before us Wm Clark & Philip Russel two of the Justices of the Peace for the County aforesaid and solemnly attested the above amount, to be true and Just, and that he hath received no part Satisfaction therein, Witness our hands &-Seal of the County of the day & year next before written.

10. Petition for Land [267]

To the honorable WP Esq. Propr. & Govr. of the Prov. of Pens. & Territories thereunto belonging. The Petition of ABl showeth that your Petitioner being a poor man & destitute of house or land, humbly prays your honor to grant your Petitioner 200 acres of land at Mason about 18 miles over Scholkill adjoyning unto the Swedes Settlemt on Conditions of Sale at such Price as your honour can afford to give some time for Paymt. And your Petitioner in Complyance shall perform & ever remain your Honours humble Servant.

11. Petition For a Road [268]

To the Court of Quarter Sessions to be held for the County of PHa the __ day &c The Petition of the Inhabitants of the Township of North Wales in the sd County humbly shoueth, that there are in the sd Township above 30 families already settled and probably many more to settle in & about the same especially to ye North and thereof And as yet no Road being laid out & established to accomodate your Petitioners — But what Roads or Paths have hitherto been marked, are removed by some and stopd by others; Therefore your Petitioners both for the publick good, and their own Convenience, earnestly desire an Order from this Court for the laying out, settling & establishing a Road or Cartway
from Philada by & through Germantown, to the utmost of their above men-
tioned Township of North Wales, which will greatly tend to the Satisfaction of
your Petitioners and others of their Neighborhood, not a few whereof have
abundantly suffered for want of ye like Road or Cartway.


Humbly showeth that with great grief we apprehending ourselves under a
necessity of making this our address to the king being deeply sensible of the
severe circumstances which threatened us by a bill brough into Parl, last sessions,
for dissolving Charter Govrmts in America & annexing them to the Crown, &
having upon the Credit & Encouragement of a Grant from King Charles the
Secound to our Propertary & Govr transplanted ourselves & families into this
remote wilderness where with much charge, Hazard &* Labour we have added
another Colony to the English Empire therein without the least Charge to the
Crown, and humbly conceiving if such a law should pass against us, these
following Inconveniences would probably be the Consequence thereof, vizt ll

\[...\]

\[5thly this will Inevitably discourage the better peopleing of the Province &
Consequently the further Improvements thereof, which must needs sink the value
of our present Estates & also hereby lessen Trade & the Interest of the Crown.

Wherefore we most humbly pray the king to take the Premises without
annexed Case into his Princely consideration and permit us to the Manifest
Inconveniences which will attend disdoing our Proprietary & Governmts Charter,
Especially since not only he but some of us are yet greatly in disburse for the
settlemt of this Province.

13. Petition for License to Sell [270]

The Petition of some of the Inhabitants of the County of Ph . . . humbly
showeth that . . . they are both able for the Imploymt & will keep good orders
& rules with their house, if allowed to be publick. Therefore, we do hereby as
neighbors, recommend them unto our honourable Gov, humbly requesting the
same, to be please to License & admit the aforesf AB & M his wife to Entertain
Travelers at their sd house & to sell drink & the like to them, as is [illeg in
back Country Ordinaries, and they as well as we, shall as in duty bound thank-
fully acknowledge the Govrs favour herein. Spr Manour in the County of Ph the
18th day of Decmeb 1714.

14. A Licence to keep an alehouse [271]

For as much as good & Credible report has been made unto us A & B
Justices &c by divers honest persons that C is a man made to keep a Common
alehouse in the house where he had dwelleth We do by these Presents license
allow & admit the sd C to keep a common alehouse for one whole year next
ensuing the Date hereof, that the sd C suffer not any unlawful games to be used
in his sd house nor any evil & rude or disorder of the same During the time of
his License. For the using of which License accordingly we have bound the sd C
by Recognizance with Surities & the Kings use in __ Ls a piece that he shall
maintain good Rule and further to do &c behave himself therein in all things according to the Laws &c in that behalf made &c provided. In Witness where we have hereunto set our hands &c Seals dated #

15. Power to Qualify Magistrates [271]

Pensylvania John Evans Esq. by her Maties Roall approbation Liet Governour of the Province of Pensylvania & Counties of New Castle, Kent & Sussex upon Delaware # To Geo Lowther Gent. Whereas I am willing that Justice should be done unto the Inhabitants of Germantown pursuant to their Charter &c to the end they may be qualified according to Law who are to administered the same both Provincial & ministerial officers I therefore hereby give unto you full Power authority to administer unto Thomas Rutter Bayliff, Casper Hood Recorded for Daniel Pastorius Clark & all others the Justices & Officers of the same Corporacon such oaths or affimacons as by Law they ought to take for their due Qualification. Given under my hand &c seal at Philadeia the Eighteenth day of March Anno Dno 1706.

16. A Mittemus of the reputed Father of a bastard child [286]

I send you herewithal the body of A of &c brought before me this present day &c charged by B of &c to have gotten her with Child; and for that the sd A refuseth to put in Security for his appreance at the next Court /. &c to the end that he may be forthcoming whence Order shall be taken for the relief &c discharging of the sd care, and for the keeping of the sd Child (when he shall happen to be born:) according to the statute in that case provided: these are therefore in the kings behalf to charge &c command you that immediately you receive the sd A and him safely keep in your goal until such time as he shall be from thence delivered by due order of Law. And hereof faithfully.

N.B. In every Mittimus the Cause of the Commitment is to be set down to the end it may appear whether the Prisoner be bailable. In the manner of the offence, how long time the offender is to be kept in Prison for it.

17. Supersedas [287]

To the Sheriff, Constables &c other the faithful minister of our Sovereign Lady . . . For as much as A of &c yeoman hath personally come before me &c and hath found sufficient Security that is to say B &c yeomen either of which hath undertaken for the sd A under the pain of 20£ and he the said A hath undertaken for himself under the pain of 40£ that the sd A shall well &c truly keep the Peace toward our Soy: Lady and all her liege People and especially towards D of &c yeoman, and also that he shall personally appear before the next Court /. therefore on the behalf of our sd Soy: Lady I Command you &c every of you, that you utterly forbear & suercease the arrest, take, imprison or otherwise by any means (for the sd Occasion:) to molest the sd A and if you have (for the sd occasion, &c none other) taken or Imprisoned him, that they you do cause him to be delivered &c set at Liberty without further delay, Given under my hand &c Seal this last day of Oct &c.
N.B. This Supersedeas of the good behavior may be granted, mutatis mutandis and such Spersedeas are good tho' neither the Surities nor the Sums wherein they are bound abovementioned therein.

18. A Hue and Cry after Robbers &c [288]

To all Constables &c other the Kings officers as shall within the County of &c as officers within the Province of P & Territories thereunto annexed

Whereas Complaint hath been made unto me A one of the Justices of the Peace within the said County of P by B of &c husbandman, that upon the ___ day of this Instant November he was robbed of certain Linen taken out of his house with some other things (:they would be named:) and that he hath manifest cause of Suspicion of one D a lewd rogue (:here describe his personage & apparel) These are to require you, & every of you, to make search within your several Premises for the sd D and also to make hue & Cry after him from Town to town & from County to County, and that as well by horsemen as footmen. And if you shall find him the sd D that then you Carry him before some one of the Justices of the Peace within the County where he shall be taken, by him to be dealt withal according to Law.