

**Thomas Spry : lawyer and physician the first attorney admitted to practise under English law in the Delaware River settlements now included in the states of Pennsylvania, New Jersey and Delaware / by John Frederick Lewis.**

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New Castle in Delaware October 10<sup>th</sup> 1676

His Honor Govern: Edmond Andros  
having issued out a Commission for New  
Magistrates and Justices of the peace in the  
County and Jurisdiction of New Castle, The  
following persons where this day Sworne and  
establist in their s<sup>d</sup> Places by Capt: John  
Collier, and Capt: Edmond Cartwell viz

M<sup>r</sup>: John Moll ---

M<sup>r</sup>: Henry Ward ---

M<sup>r</sup>: William Tom ---

M<sup>r</sup>: Gerret Otto ---

and Ephraim Herman Clarke ---

The severall New Commissions Grant  
By his Honor the Govern<sup>r</sup> to Capt: John  
as also to the Justices, w<sup>th</sup> their Instructions  
and the Commission to the Clarke being  
openly Read; It was ordered that  
same should be Recorded ---

Copia) By The Govern<sup>r</sup>; =

These are to authorize Capt: John Collier &  
Edmond Cartwell or either of them, to give them  
to the New Magistrates at New Castle and up the  
River att Delaware, as alsoe all the whoreshel  
doing wherof this shall bee yo: Warrant  
under my hand in New Yorke this 27<sup>th</sup>  
of Septemb<sup>r</sup>: 1676: ---

Signed:)  
Edmos S. ---

FIRST PAGE OF THE RECORDS OF THE COURT AT NEW CASTLE IN DELAWARE  
LIBER A, SHOWING THE ORGANIZATION OF THE COURT AND THE COMMISSIONS  
OF THE JUSTICES, OCTOBER 10, 1676

THOMAS SPRY  
LAWYER *and* PHYSICIAN

The first attorney admitted to practise under  
English Law in the Delaware River  
Settlements now included in the  
States of Pennsylvania, New  
Jersey and Delaware

BY

JOHN FREDERICK LEWIS, A.M., LL.D.  
OF THE PHILADELPHIA BAR

PHILADELPHIA

1932



Printed by  
PATTERSON & WHITE COMPANY  
Philadelphia, Pennsylvania

BZP (Spray)

### NOTE

The writer marks the Fiftieth Anniversary of his admission to the Philadelphia Bar, April 1, 1882, by inflicting this little book upon his generous and considerate associates.

He acknowledges with gratitude the assistance of Mrs. Bertha Edwards McGeehan; Ernest Spofford; and Albert Cook Myers, and the invaluable treasures of The Historical Society of Pennsylvania of which he has the honor of being President.



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THOMAS SPRY  
LAWYER AND PHYSICIAN



THOMAS SPRY  
LAWYER AND PHYSICIAN

Popular interest is always aroused by the first man who does anything, and this is true whether it be some great and glorious deed, or some insignificant or even ridiculous one. He may discover the North Pole or the South, or be the first man to reach both. He may fly across the Atlantic Ocean alone from New York to Paris, or span the American Continent from San Francisco to New York in 17 hours; or be the first man to breakfast in London, lunch in Berlin and dine in Paris. He may ascend the highest mountain in the World, the highest ever reached by man on foot or he may go down in a large metal ball with heavy glass windows, and study the wonders of the deep, or go up in a similar ball by means of a balloon, until he reaches the stratosphere—miles above the earth, higher than any human being has ever been before. He may be a little shrunken old man weighing but 90 pounds, but have a following in his lifetime who heeds his thin and squeaking voice, vastly exceeding in numbers the disciples of any teacher mankind has ever known, not excepting Moses, Jesus, Confucius, Buddha, Zoroaster, Lao Tse, Mani or Mohammed. He may be the strongest man who ever lived, or reach the greatest age, be the greatest linguist, surpassing Cardinal Mezzofanti, with his ability to speak seventy languages, or be the first man to cross and recross the Dark Continent, conquer the great Desert of Sahara, or rout out yellow fever.

Upon the other hand, he may go over Niagara Falls in a barrel; play a game of billiards with his nose and make a run of forty-six, commute day after day for thirty-five years between Wilmington and Philadelphia until he has traveled six hundred thousand miles; become a Spanish toreador though a native born American; pour petroleum

into his pipe and light it with a match; wear a suit of clothes made in three hours and twenty-two minutes after its wool was sheared from a sheep's back. He may roll a peanut with his nose from Boston to Worcester; be the first man who having lost his pocketbook and advertised for it, got it back with more money in it than when he lost it. He may be the champion in a spaghetti eating contest which so excited a South Philadelphia audience that they climbed upon the platform and spilled the eaters and spaghetti together. He may be the first man to sit on top of a flag pole for sixteen days; the first man to row across the Atlantic Ocean in an eighteen foot boat; or to win in a pie eating contest; or a marathon dance, or be the longest continuous talker, or able as a hog caller to be heard three miles away.

The first lawyer to practise his profession under English Law on the banks of the Delaware, was Thomas Spry, and he may be said to be the first lawyer to practice his profession in Pennsylvania, New Jersey and Delaware, because the settlements in the Delaware River Territory were included within the boundaries of those States. In order that the reader, if any there be of this essay, may grasp the conditions under which Spry practised, a brief review of the successive governments of these settlements may be helpful.

#### THE DUTCH

There can be no doubt but that the first settlement upon the Delaware River and Bay, was by the Dutch. In 1623, or 1624, they erected a fort on the bank of Timber Creek, below what is now Gloucester, on the eastern side of the Delaware. It was to serve as the nucleus of a colony, "to establish and maintain a safe trading post with the Indians." They called it Fort Nassau, and it is of interest, as the first European settlement within the limits of Pennsylvania, New Jersey, or Delaware.

The Dutch made a more serious attempt to colonize the Western side of the River than the Eastern. In 1629, the Dutch West India Company offered special privileges



AXEL OXENSTIERNA (1583-1654)



to those who planted on the Delaware, a colony of fifty souls. Founders were offered "a territory four Dutch miles" along the River, "and as far into the country as their situation would permit." In pursuance of this offer Godyn, Bloemmaert, and others, left the Texel, Holland, in December, 1630, and in March or April ensuing, arrived at the present site of Lewes, Delaware, and founded a Colony they called "Zwaanendael"—the "Valley of the Swans," afterwards called "Hoorncill" or "Whorekill". A fortified house was erected, and huts for the settlers, and their leaders returned to Holland. The colony was entirely wiped out, in consequence of some difficulty with the Indians, and thus ended the earliest attempt to plant a European colony on the Western shore of the Delaware.

One of the founders of the Dutch West India Company, a merchant of Zealand, William Usselinex interested Gustavus Adolphus, of Sweden, in the colonization of the River, and Axel Oxenstierna, the Swedish chancellor, incorporated a Swedish West India Company. It sent out, in 1638, some fifty Swedes. They settled on the Delaware under the command of Peter Minuit, who for several years had been the Director of the Dutch West India Company at Manhattan, but who had thereafter enlisted in the service of Sweden. He built a fort on Minquas Kill which he named Christina, now Wilmington. This second effort to colonize the Western Delaware, was reinforced, in the Spring of 1640, by the arrival from Gottenburg, of more Swedes.

In the meantime, the Dutch, notwithstanding their terrible failure at "Zwaanendael", maintained Fort Nassau, and on the east bank of the Schuylkill River, about opposite Nassau and near Gray's Ferry, erected another fort, which they called "Beverrede", on a plot of ground purchased from the Indians, in 1633.

#### THE SWEDES

The Swedish colony at Fort Christina, was augmented, by the arrival, in 1643, of Johann Printz, who had been

commissioned by Queen Christina, after the death of Gustavus Adolphus, as Governor of New Sweden. He led a party of Swedes, the best equipped of any colony yet to reach the Delaware. It came not merely to trade, but to remain, and to found a permanent settlement. Substantial dwellings were built and a church and a warehouse. Printz was authorized, "to decide all controversies according to the laws, customs, and usages of Sweden." He established his seat of government on the Island of Tinicum, where he built a fort and a large and substantial house which he called "New Gothenburg". On the eastern shore of the Delaware, a few miles below Salem Creek, New Jersey, he built another fort—the two enabling him to command the Delaware River.

In 1651, Stuyvesant, the Dutch Governor of New Amsterdam, built, near the present New Castle, a fort he called "Casimir". The Dutch and Swedes lived in reasonable amity until 1654, when Governor Risingh arrived to supersede John Papegoja, Printz's son-in-law, who had been left in charge by Printz in 1653, when the latter sailed for Sweden. Risingh had been instructed to follow a spirit of forbearance and maintain peaceable relations with the Dutch and Indians, but he treacherously seized Fort Casimir, and brought about an invasion, in 1655, by Governor Stuyvesant, and the consequent end of Swedish authority on the Delaware.

#### THE DUTCH AGAIN

Under the Dutch rule settled conditions followed. Justice was properly and equitably administered. The seat of Government was removed from Tinicum Island to Casimir, which was called New Amstel. John Paul Jacquet was appointed Vice Director and Commander upon the River, and commissioned "to do justice and administer it, either in civil or military cases." Jacquet's authority, however, was of short duration. The Dutch West India Company in 1657, discouraged by the expenses it had incurred in acquiring the River, transferred the entire territory from Christina to Bombay Hook, to the Burgomasters of

the City of Amsterdam. They sent out Jacob Alrichs, as Director General. New Amstel was to be governed by a Schout or Chief Justice, Burgomasters, and Schepens—with power to decide suits under 100 guilders, but beyond that sum, subject to appeal to the Council at New Amsterdam.

Exactly what legal procedure was followed by the Dutch and Swedes on the Delaware in “administering justice”, is not easy to discover. Their colonies were military in form, and the Roman Civil Law, and the usages of the Mother countries, were doubtless looked to for precedent. No special code was in force, but as far as Printz himself is concerned, he followed his orders, to “decide all controversies according to the laws, customs and usages of Sweden”.

#### THE FIRST RECORDED LEGAL PROCEEDING

The earliest recorded legal proceeding in the Delaware River Territory, now included in the States of Pennsylvania, Delaware and New Jersey, was held before a Court at Fort Christina, 10 July 1643. The plaintiff, was Sir Johann Printz, Governor of New Sweden, and the defendant was “Mr. George Lambertson”. The case was heard before an inquest of ten prominent citizens. The hearings were conducted without pleadings or any particular form of procedure. The charge against Lambertson, was his pretense of title to lands on the Schuylkill and at Varckens Kill; that he had traded in the territory of Her Royal Majesty of Sweden right under the wall of Fort Christina, with the savages; and that he had bribed the savages to murder the Swedes.

The Court decided that as Lambertson had “denied it on his conscience and would not confess”, they “would not let the witnesses take an oath”, and that “at the request of the plaintiff, wished to treat Mr. Lambertson with mercy and see through the fingers and let such a criminality pass for this time”. The Court also found, that “Mr. Lambertson to date has by right had no place of his own, by, in, or around this River”, and through “the Honorable

Court such unreasonable pretensions are taken away from him and here again entirely denied". And finally, that in reference to his trading with the savages without authority, he was to pay double duty on 400 beavers, on condition, that if he trade again, he would forfeit his ship and property.

The judgment was signed by seven of the ten men who heard the case. Upon 18 September 1643, John Winthrop "Governor of the English in Massachusetts and president of the (united) colonies in New England in the name of us all," wrote to Governor Printz protesting against the treatment accorded Lambertson, and in consequence of, this letter, an inquiry was held 16 January 1644, before Governor Printz and seven "good men". The English present were asked if Printz had done them any injustice; if he had driven them from their chattels and plantations; if he had compelled them by force to swear allegiance to the Crown of Sweden; and if he had spoken evil of the English nation or had scorned them; to all of which they answered, "No".

A full account of these proceedings is given by Dr. Amandus Johnson, in his latest work: "Instruction for Johan Printz," pp. 209, 229, 244. No lawyer was present at this first recorded legal proceeding in the Delaware Territory. Printz, however, needed a lawyer. In his Report to the Right Honorable West India Company in Old Sweden, sent from New Sweden, 20 February 1647, he says: "I have several times before asked for a learned and able man: first, to attend to the judicial business, sometimes very intricate cases occurring, in which it is difficult, and never ought to be, that one and the same person appear in the court as plaintiff as well as judge; and, secondly, to act as secretary, especially in the Latin Language." (*Ibid.* p. 139.)

#### ARMEGOT PRINTZ VS. ANDREW CARR AND WIFE

In Smith's "History of Delaware County," p. 97, reference is made to the case of "Jeuffro Pappesgay als.



QUEEN CHRISTINA OF SWEDEN



Armigart Prince vs. Andrew Carr and Margaret Persill his wife, by John Carr their attorney." It was heard on appeal at the Court of Assizes at New York in 1672. The case was tried upon October 12, 13 & 14, and various documents read, translations made and interpreters employed. Smith says: "counsel for the defendant desired time, 'for other witnesses out of Holland,' but it was thought fit 'to delay the case no longer; so the court recommended it to the jury,' who brought in the following verdict.

" 'In y<sup>e</sup> case depending between Armgart Prince, als. Mrs. Pappelay, Ptff., and Mrs. La Grange, Deft., y<sup>e</sup> jury having seriously considered the Matt<sup>r</sup>, do find for y<sup>e</sup> Ptff., and award y<sup>e</sup> Deft. to pay y<sup>e</sup> principall w<sup>th</sup> costs of suite and all just damages' ". (Albany Records, "Court of Assizes" II., 293-304.)

" 'Execution was issued against Andrew Carr and his wife Persill in Delaware river and precincts for three hundred and fifty pounds with costs, for the use of Jeuffro Armgart Prince, 'and for that it is thought the most considerable part of their property is upon the Island of Tinicum,' the sheriff was empowered, 'to put the said Jeuffro Prince in possession of the said Island and the stock thereof' ". (*Ibid.* "General Entries" IV., 261.)

It is manifest that the "counsel for the defendant" who desired time and whose name is not given, was at the court of Assizes at New York, not in the Delaware territory. There is no evidence that he represented the defendant in the "High Court on the Delaware." It is equally manifest, that the caption of the case, giving the name of the defendant: Andrew Carr and Margaret Persill, "by John Carr their attorney", does not mean that John Carr was their "attorney at law." He was defendant's agent or attorney in fact. Had he been an attorney at law, his name would not have been in the caption of the case, but as he was attorney in fact, acting as their agent, his name could not have been omitted. Furthermore, the action

was by Governor Printz's daughter to recover the Island of Tinicum, which Carr, acting as defendants' agent, had doubtless claimed in their behalf.

No record exists that Carr was ever admitted to appear as a "pleading attorney", while upon the other hand, there are many records in which the rights of plaintiffs as well as those of defendants are asserted and maintained by attorneys in fact, whose names so appear in the caption of the case. Suits were brought upon claims in debt assigned to an "attorney" who was named as such, being the party plaintiff—the word "attorney", from the old English "Attorn", meaning merely someone to whom a matter has been turned over.

Johan Printz, the former Swedish Governor, had been granted the Island of Tinicum, in consideration of his services to Queen Christina, by a deed executed, 6 November, 1643, "as a perpetual inheritance for him and his lawful heirs." He had been commissioned Governor of New Sweden in 1642, but, after some years of service, requested permission to return to Sweden, and in 1653 had gone back, leaving the government in charge of his son-in-law, John Papegoja, who had married Printz's energetic daughter, Armegot. Papegoja himself afterwards returned to Sweden, but his wife continued to live alone on Tinicum. Her title to the Island was certainly good. She had lived at Fort Christina until 1654, when she removed to Tinicum. The law suit arose from the fact that she sold the Island in 1662, to de la Grange, who failed to pay the second half of the 6000 florins for which she had sold it, and the judgment she obtained, was therefore "for the sum of 3000" florins. She was put in possession and continued to live on the Island for a time, but later removed to Upland, now Chester, to her estate "Printz-dorp," on the bank of the Delaware River, at the south side of Chester Creek. Early in 1676, she sold this property to Robert Wade, the earliest Quaker settler on that side of the Delaware and the first American host, in 1682, of

William Penn. Then she returned to Sweden where she died in 1695.

John Carr, who acted as agent for the plaintiffs in this suit, is never called a "pleading attorney", but always called "Captain". For example, at a court held at New Castle, 9 November 1676, he is so called in a proceeding by "George Oldfield and Pieterella his wyfe Execut<sup>r</sup>:" of "Cap<sup>n</sup>: John Carr Deceased", against James Sandelands, to obtain an order on Surveyor Cantwell, to deliver a Land Patent belonging to "Capt<sup>n</sup>. John Carr". In another proceeding by the same plaintiff, for the recovery of a gun long since delivered by Captain Carr, "the def<sup>t</sup> acknowledges the Receipt" of the gun, but rejoined that he had delivered the late captain a quarter of beef, and that he would return the gun if payment were made for the beef; "the Partees agreeing that the Def<sup>t</sup> should keep the gun and so acquit each other, each paying halfe Charges."

Captain Carr seems to have been in charge of the construction of the "dyke" of the Towne of New Castle, until he moved to Elk River in Cecil County, Md. In a power of attorney dated, 10 April 1675, making over to his wife all his "Reall or p<sup>r</sup>sonall Estate now Lying or being In Delowar River w<sup>ch</sup> by Pattents or otherwise may appeare to bee myne, unto my welbeloved wyfe Peteronela Carr, provided that my said wyfe shall pay My debts due to Any person or persons in New Yorke or the said River of delowar;" and upon, 2 June 1675, "Peteronela Carr of Elke River" appoints, "Thomas Sprye to bee my true and trusty attorney", to sell the real estate and generally to collect debts due her husband or herself, and "to Imprison Implead acquit or discharge", as if she were personally present. It is evident that no claim can be asserted in behalf of Captain Carr as a practicing lawyer. (Records of the Court of New Castle on Delaware, 1676—1681, *Liber, A* pp. 19, 66, 67.)\*

\*A photostat copy of the originals is in possession of The Historical Society of Pennsylvania, and hereafter when these records are cited the references are to the pages of this copy.

A copy of the Record in this famous case of Printz vs. Carr, as heard in the Court of Assizes in New York (to which it appears an Appeal was taken from Delaware) is given in Hazard's Annals of Pennsylvania, pp. 400-401, as follows, 2 October 1672 (Old Style).

#### A COPY OF THE RECORD OF THE CASE

"Armgarth Printz, plaintiff; Captain Carr, as attorney for Andrew Carr, defendant,

"Upon motion of Mr. S. Edsall, assistant to the attorney John Sharp, that in regard some of the papers are in High Dutch, and others in Low, desiring time till tomorrow afternoon to be heard, it is granted, and that the Lutheran domine be advised with about the translation from High into Low Dutch, of the procuration by Hans Block, and the Dutch papers put into English by a good interpreter.

"Mr. Ryder, attorney for the defendants, denies Captain Carr's letter of attorney, as to trial for lands or title.

"It appears Peter Alricks, bailiff of New Castle for Delaware, was present at the court.

"Thursday, P.M. [3 October]—The same parties: Jacob Milborn, by power from John Sharp, attorney for plaintiff, is admitted to plead, and puts in a declaration.

"Mr. Ryder refuses to go to trial further than Captain Carr's letter of attorney from Andrew Carr directs; however, the court thinks fit to proceed to trial, in regard it was so ordered at the high court at Delaware, the governor being present.

"The first bill of sale, in Dutch, upon record, with Mr. Van Ruyven, is produced.

"A power from Governor Printz, under his hand and seal was produced, which being not judged sufficient, in regard the state seal was not affixed to it, another was procured, with the seal, and likewise put into court. The

writings being in High Dutch, the translation of it into Low Dutch by the Lutheran domine were, according to order, brought into court.

“Besides this, Governor Printz dying, the plaintiff was forced to procure from Sweden new power from her sisters or other relations, which, in three papers, was delivered in also.

“The original letter of attorney, or power, with the state’s seal, was translated into English by Nicholas Bayard, out of the Low Dutch.

“The bill of sale was read from Dutch into English, by Mr. Daniel.

“Peter Nÿs declares, that when he was in Holland, he saw and had in his hand, the power and consent of Jeuffro Pappelay, from her sisters, and their husbands’ approbation.

“Mr. Ryder pleads his client Captain Carr had not sufficient authority in his letter of attorney, which was read, but withal produces several authentic papers, with seals to them, from out of Holland, against the plaintiff’s right.

“He desires time for other witnesses out of Holland, but it is thought fit to delay the case no longer; so the court recommend it to the jury.”

“Friday, before noon [4 October]—In the case of Jeuffro Pappelay, plaintiff, and Andrew Carr, &c., defendant, the jury find for the plaintiff, as by their following verdict, viz. ‘In the case depending between Armigart Printz, alias Mrs. Pappelay, plaintiff, and Mrs. La Grange, defendant, the jury having seriously considered the matter, do find for the plaintiff, and award the defendant to pay the principal, with costs of suit, and all just damages.’

“Afternoon—Order and judgment of the court;

“The same parties.—This case having been ordered to be heard at this court, after a full debate, being referred

to a jury, who brought in their verdict for the plaintiff; the court having taken the same into consideration, do unanimously agree with the verdict of the jury, in manner and form as delivered in court, and do give judgment accordingly, and that the defendants pay costs and charges of suit. By order of the governor and court of Assizes."

#### ATTORNEY SCHELLUYN

In a letter written by J. Alrichs to Director Stuyvesant dated at New Amstel 30 March 1658 (Penna. Archives 2d Series vol. VII. page 562, edition of 1891) reference is made to "Attorney Schelluyn" and on page 559-60 to civil and military judicial proceedings. (Edition of 1878 p. 528).

"I have also to pay the Attorney Schelluyn for salary, earned by him in the suit against Dirck Cornelissen Heunich, skipper of the ship Prins Maurits, but it seems, that the expenses ought to be paid out of the deposited sum, the proceeds of the sale of the goods, unless your Honor understood, that we should not consider this. I have also been written to by my principals the aforesaid deposit may be taken up by the aforesaid Dirck Cornelissen Heunich or his order, which serves for our directions, and to inform of it your Honor, as I find myself ordered; only to deduct, what has been paid on account to the said Attorney by the Hon<sup>ble</sup> Burgomaster Allard Anthony."

This reference is cited for what it is worth. "Attorney Schelluyn" was probably an attorney in fact—a factor—working for a salary, under Dutch Law, and not admitted to the Bar to practise in the Delaware Settlements.

#### THE ENGLISH

In 1664, King Charles II. of England, issued to his brother James, Duke of York, a Patent covering the entire limits of the New Netherlands, and the Duke proceeded forthwith to enforce his grant by the seizure of the Dutch and Swedish Colonies. A fleet under command of Richard Nicolls, with whom Royal Commissioners were asso-



CHARLES II.



ciated, was sent to New Amsterdam, and Stuyvesant was forced to surrender. The River Delaware and its settlements were reduced by Sir Robert Carr, one of the Commissioners, with a fleet of two or three vessels. He captured New Amstel, where the first blood was shed in any European contest in the Delaware Territory. The colony at Whorekill was also captured, and Dutch dominion in America utterly extinguished.

Although the seizures by the English were violent, all magistrates were continued in office for six months, if they would take an oath of allegiance, and retain the existing laws; "to the administration of right and justice." The inhabitants were promised liberty of conscience, and their land tenures, as they then existed. New Amstel was thereafter called "New Castle."

In 1667, Governor Nicolls was succeeded by Sir Francis Lovelace, who established a Council at New Castle under his Deputy, Captain John Carr. It was composed of Captain John Carr, the Schout, and five others, who were required to swear allegiance to the Duke of York. Over this Council, the English Governor at New York maintained supervisory power. Dutch and Swedish usages and laws were probably suspended, until they were gradually supplanted by the "Book of Lawes", established by the Duke of York. These "Lawes" were recommended to be "showed and frequently communicated to the said Councillors and all others, to the end that being therewith acquainted, the practice of them may also in convenient time be established." The Duke's "Lawes" were a compilation of those in force in other Colonies. They were entitled: "Lawes Establish<sup>t</sup> by the Authority of his Majesties Letters patents, granted to his Royall Highnes James Duke of Yorke and Albany; Bearing Date the 12th Day of March in the Sixteenth year of the Raigne of our Sovereigne Lord Kinge Charles the Second. Digested into one Volume for the publicke use of the Territoryes in America under the Government of his Royall Highnesse. Collected out of the Severall Laws now in force in his

Majesties American Colonyes and Plantations. Published March the 1st Anno Domini 1664 at a General meeting at Hemsted upon Longe Island by virtue of a Commission from his Royall Highness James Duke of Yorke and Albany given to Colonell Richard Nicolls Deputy Gouverneur, bearing date the Second day of Aprill 1664."

According to Onderdonk's "Annals of Hempstead", there is still preserved among the town records, a copy of these laws. The copy is in manuscript, and according to the preface of the publication of the "Charter to William Penn and Laws of the Province of Pennsylvania" (Harrisburg 1879), are in a much mutilated condition. A certified copy of the manuscript, was secured by the New York Historical Society in 1798, and published in their records in 1809.

The Town of New Castle was incorporated under the Duke of York's Lawes in 1672, by the Governor and Council at New York, and the Duke's Laws and the common and statute laws of England, so far as they were applicable, extended to it. The order of Council was: "English laws \* \* \* to be established both in the town" and river, "the office of Schout be converted into a sheriffalty" for the corporation and river, and the sheriff to be chosen annually. (Duke of York's Laws, pp. 447-451.)

#### THE DUTCH ONCE MORE

In 1673, the Dutch regained their possessions in America, but their authority was of short duration.

When the Dutch Fleet under Admiral Evertsen, appeared before New York, 30 July 1673, no defense had been attempted, and the magistrates and constables of "New York and dependencies", took an oath of allegiance to the States-General and the Prince of Orange. Governor Lovelace was ordered to leave the country, though subsequently permitted to remain.

Peter Alrichs, Baliff General of New Castle and the Delaware, promptly paid his respects to the new Governor.

## THE ENGLISH AGAIN

When the treaty of peace, of 9 February 1674, was signed between England and Holland, at Westminster, all conquests upon either side were nullified, and New York and the Delaware reverted to the possession of the Duke of York, and English Rule was restored.

Sir Edmund Andros, reappointed the magistrates who held office at the time of the Dutch reconquest.

Three judicial districts had been organized by the Dutch during their short return to power, or rather they had continued the districts already existing. One was for the settlers dwelling at Whorekill between Cape Henlopen and "Boomtjes" (Bombay) Hook; one at New Amstel for settlers between "Boomtjes Hook" and "Kristina" Kill; and the third at Upland, for those between "Kristina" Kill "and upwards into the head of the river." (Documents relative to Colonial History of N. Y. II., 605.)

Under Colonel Nicolls, first Governor of the settlements on the Delaware, in succession to Sir Robert Carr, who had reduced the territory to the Duke's authority, judicial power seems to have been reserved solely to the Governor himself, but after the transmission of the rule of Colonel Nicolls, in May 1667, when he was succeeded by Sir Francis Lovelace, the Governor and Council at New York passed various ordinances for the rule of the Delaware Settlements. It was expressly provided that the laws of the Government established by His Royal Highness, "be established, which conduceth to the public welfare, and common justice." Other ordinances were passed from time to time, as circumstances required. At a meeting of the Council, 17 May 1672, an additional order relative to the government on the Delaware was promulgated, in which it was provided, "That the English laws, according to the desire of the inhabitants be established both in the town and all plantations upon Delaware River."

On 25 September 1676, the Duke of York's Laws were promulgated by Governor Andros, expressly providing, that as they were "practiced in New York, Long Island and dependancies, they should be likewise enforced and practiced in this River and precincts."

#### THE DUKE OF YORK'S LAWS

A careful examination of the Duke of York's Laws will show, that though containing some curious and probably ridiculous provisions, they were admirably suited for the "dependancies", and afforded ample protection to the rights of the inhabitants as subjects of England, and for the administration of prompt and speedy justice.

They provided, among other things that no Sheriff should execute any writ or warrant upon Sunday; that no person should be arrested for debt, till the debt was past due, unless it appeared upon oath that the debtor intended to defraud his creditors and was about to convey himself away upon purpose to avoid the action; that when persons had been arrested and imprisoned, if they were persons of estate, and had refused to pay their debts to beget strife, they should be kept at their own charge and not at that of the plaintiff, until surety should be given, but that no man's person should be kept in prison for debt longer than the second day of the next Sessions after the arrest, unless the plaintiff made it appear, upon oath, that the prisoner had some estate, which he concealed, and the Court should be satisfied of the truth of such statement.

The offenses punishable by death were:—denying the true God and his attributes by "direct exprest, impious or presumptious ways"; wilful and premeditated murder; slaying with sword or dagger one who had no weapon of defense; slaying by lying in wait or by poisoning "or any such wicked Conspiracy"; the commission of certain unnatural sexual acts; kidnapping; bearing false witness maliciously and on purpose to take away a man's life;



JAMES II., DUKE OF YORK



denying his Majesty's right and title to his "Crownes and Dominions" or raising armies to resist his authority, and conspiring and attempting to invade or surprise any town or fort within the Government. It was further provided that if any child or children, above sixteen years of age and of sufficient understanding should smite their natural father or mother, unless thereunto provoked and forced for their self preservation from death or maiming, at the complaint of the said father and mother, and not otherwise they being sufficient witnesses thereof, that child or those children so offending should be put to death.

Careful attention was given to the exact nature of criminal offenses. For example the laws provided, that assaults were made either by blows, offering of hurtful blows, or by threatening and menacing speeches. To rebuke an officer with foul words so that he departed with fear, "without doing his Office" should be taken for an assault.

No Justice of the Peace, whilst in commission, was permitted to act as an Attorney, and no Sheriff or other executive officer or clerk of the Court, was permitted to plead as an Attorney in any person's behalf in the Court where he officiated, provided that if any poor person was not able to plead his own cause, and made request therefor, the Court should assign him the High Sheriff, or under Sheriff, a High Constable, or Petty Constable, or the Clerk, to plead for him.

Bail was allowed as the means of saving or delivering a man from prison, before he had satisfied the law.

No person could act as a brewer of beer for sale, except those only who were known to have sufficient skill and knowledge in the art and mystery of the brewer.

The Laws also provided that "No Christian shall be kept in Bondslavery villenage or Captivity, Except Such who shall be Judged thereunto by Authority, or such as

willingly have sould, or shall sell themselves, in which Case a Record of such Servitude shall be entered in the Court of Sessions."

Burial places were provided, and the private burial of servants and others prohibited, lest undeservedly, some might be suspected of being guilty of their death, from which, if the person suspected were innocent, there could be no vindication, or if guilty, no punishment.

Births, marriages, and burials were to be registered, and penalties were imposed upon ministers or town clerks for failure to make true entry. No minister was permitted to refuse the Sacrament of Baptism to children of Christian parents, and ministers were required to perform the marriage service after publication and license. Chirurgeons mid-wives, and physicians, were prohibited from exercising or putting forth any act which was contrary to the known approved rules of art in each mystery or occupation, and if the advice and counsel of those skilled in the art was not to be obtained, the judgment of the wisest and gravest person at the time was to be followed and consent of the patient obtained.

The exact method was prescribed for the opening of Court:

"Silence Commanded Then let the Cryer or under Sheriffe make proclamation and Say O yes O yes O yes.

"Silence is Commanded in the Court whilst his Majesties Governor Counsel and Justices are Sitting upon pain of Imprisonment.

"After Silence is Commanded Lett the Cryer make Proclamation Saying; All manner of Persons that have anything to do at this Court, draw near and give Attendance; and if any one have any Plaint to Enter, or Suit to procecute, Lett them come forth and they shall be heard."

When silence was thus commanded and proclamation made, the cryer called for the plaintiff, "A.B, come forth and prosecute thy Action against C.D. or else thou wilt

be non Suited. And the Plaintiffe putting in his Declaration, the Cryer shall Call for the Defendant.

“C.D; come forth and save thee and thy Bayle, or else thou will forfeit thy Recognizance.”

Citizens were required to assist any constable in the execution of his office, and fined for neglect in doing so. “And that no man may plead Ignorance for such Neglect or Refusal, Every Constable shall have a Staff of about six feet long, with the Kings Armes on it as a badge of his Office which Staff shall be provided at the charge of the Town.”

Conveyances of land were required to be in writing, and to be recorded in order to have validity, and they were to be properly acknowledged by personal appearance before some Justice of the Peace or superior officer of the Government.

No man condemned to die, could be put to death within four days after his condemnation, and all persons executed must be buried near the place of execution.

No action for defamation was permitted, where the words were not actionable in themselves, and no words were actionable, but such as if true might have brought the person to suffer punishment by law.

The fees of Justices, Constables, Sheriffs, and other officers, were regulated with precision.

No person was permitted, “to be a Common Victuler keeper of A Cookes shopp, or House of Common entertainment, and publique Seller of wine Beare, Ale or strong waters by retail,” without a certificate of his good behavior from the constable and at least two overseers of the parish wherein he dwelt, and the license first had and obtained from the hand of two Justices of the Peace.

Persons licensed for common entertainment were required to have a sign “for direction of strangers”, and every licensed person shall always, “be provided of strong

and wholesome Beer, of four bushels of malt, at the least to a Hogshead which he shall not Sell at above two pence the quart", but it was permitted to any to sell beer out of doors at a penny, "the Ale quart or under." No licensed person could suffer any customer to drink excessively or at unseasonable hours after nine of the clock at night, and if a quarrel or disorder arose within the house, the owner must immediately notify the constable or one overseer, who should "cause the peace to be kept."

Injuries done to the Indians of what nature soever, were required, upon complaint and proof thereof, to be given speedy redress gratis against any Christian, in as full and ample a manner, as if the case had been betwixt Christian and Christian.

Jurors were to be summoned, and empaneled and sworn, and no jury should exceed the number of seven nor be under six, unless, in special causes of life and death, the Justices should think fit to appoint twelve.

This provision was doubtless due to the difficulty of getting a larger number to serve as jurors, in a sparsely settled community.

Verdicts were to be given by the foreman of the jury, and the verdict was the judgment of the major number of the jury, such judgment concluding the minor number, except in cases of life and death, when the whole jury must be unanimous in their verdict. Jurors were prohibited from revealing the dissenting votes of their fellows.

The form of oath for the jurors was as follows:—"You do Swear by the everliving God; That you will Conscientiously deliver your Verdict in the Cause, between A, B, and C, D, in this Court; According to the Evidence given you, and the Lawes of this Government So help you God."

Witnesses were sworn as follows:—

"You do swear by the Everlasting God, that the evidence you shall give into this Court, Concerning the

Cause or Person now in question, shall be the truth, the whole truth, and nothing but the truth; So help me God."

#### THE FIRST COURT AT NEW CASTLE

Edmond Andros, "Esq.", as he calls himself, and "Seigneur of Sauzmarez, Lieut. & Govern<sup>r</sup> Gen<sup>l</sup>. under his Royal Highness, James Duke of Yorke and Albany &c of all his territories in America", in the ordinances introducing the Duke of York's Laws and establishing Courts of Justice on the Delaware, 25 September 1676, said: "That the booke of lawes Establisht by his Royall Highnesse & practiced in New Yorke, Long Island, and Dependencies bee likewise in force, and practiced in this River and Precints, Except the Constables, Courts, County Rates, & some other things peculiar to Long Island, and the Militia as now ordered to remaine in y<sup>e</sup> King, but that a Constable in each place bee yearely chosen for the Preser-vacon of his Ma<sup>ties</sup> Peace with all other Power as directed by y<sup>e</sup> law." (Duke of York's Laws, pp. 455-456.)

In these instructions Governor Andros stated that the inhabitants represented "that my predecessor, Governor Lovelace had begun to make a Regulacon for due administracon of Justice." The instructions were in pursuance thereto.

Governor Andros directed: "That there bee three Courts held in y<sup>e</sup> several parts of the River & bay as formerly, To witt one in New Castle, one above att Uplands another below at the Whorkil."

The courts were to consist of Justices of the Peace, "whereof three to make a Coram;" to have the power of the Court of Sessions, and to decide all matters under twenty pounds without appeal,—above twenty pounds and for crime "to life, Limbo or Banishment," an appeal was admitted to the Court of Assizes. Matters under the value of five pounds were to "be determined by the Court without a jury," unless desired by the parties, "as also matters of Equity."

The Courts were empowered to make By-laws, not repugnant to the Laws of the Government, but they were to be reported to the Governor "by the first Convenience," and were to be "binding for the space of one whole year, in the severall places where made." No fines were to be imposed but by order of Court.

The Courts were also empowered to regulate fees, "not to exceed the Rates in the booke of Lawes, nor to bee under halfe the value therein exprest."

A high sheriff was to be appointed "for the Towne of New Castle, the River, and Bay", with power to appoint under sheriffs or marshalls, but the sheriff was to act "as a principall officer in the Execution of the Lawe, but not as a Justice of the Peace or Magistrate."

"fitting Books" were to be provided for the record of all judicial proceedings. "The said records to bee kept in English, To which all persons concerned may have free Recourse at due or seasonable times."

A clerk was to be appointed, writs and warrants were to issue "in his Ma<sup>ties</sup> Name. It having been practiced in y<sup>e</sup> Government ever Since the first writing of the Law booke, And being his Royall Highnesse Speciall pleasure & order."

The hasty and superficial review of the national status of the Delaware River Colonies at New Castle, and the laws successively in force, is necessary to realize the condition of affairs when justice came to be administered by duly constituted Courts of Record and their practice regulated. It is evident that a "pleading attorney" had a difficult task, and required infinite tact, endless patience and becoming modesty, and this especially as the judges were not learned in the law.

The Justices appointed by Governor Andros to hold the first Court at New Castle, were "Mr. John Moll; Mr. Henry Ward; Mr. William Tom; Mr. ffope outhout; Mr. John Paull Jacquet;" and "Mr. Gerret Otto." They

Tuesday 7<sup>th</sup> 3<sup>rd</sup> 1676.

19

*[Large decorative initial 'J']*

A Court held att. New Castle By the Authority of S<sup>r</sup>. Sovereigne King Charles the second by the Grace of God, of England Scotland, France, and Ireland King, Defender of the faith the 7<sup>th</sup> of November and in 4<sup>th</sup> 28<sup>th</sup> Yeare of his Majesty's Raigne Amongst Divers

*[Decorative initial 'S']* Sent.

- M<sup>r</sup>. John Holt -
  - M<sup>r</sup>. Henry Ward -
  - M<sup>r</sup>. William Tom -
  - M<sup>r</sup>. Jopp without -
  - M<sup>r</sup>. Jean Paul Jaquet -
  - M<sup>r</sup>. Gerret Otto -
- Capt<sup>n</sup>. Ed. Cantwell High Sher.

M<sup>r</sup>. Jean Paul Jaquet not being here Present when the oath was administered the other Justices in Commission was this day Sworne in Court to his P<sup>l</sup>. Place

*[Nota]* Justice Henry Ward was not present at the beginning of the Court but came in some time after;

Upon the Petition of Thomas Spry desiring that hee might be admitted to plead some Peoples Cases in Court &c. The W<sup>or</sup>sh<sup>p</sup>. Court have Granted him so long as the Petitioner Behaves himself well and Carrys himselfe answerable thereunto.

THE RECORDS OF THE COURT AT NEW CASTLE, 7 MARCH, 1676, SHOWING THE ADMISSION OF THOMAS SPRY TO PRACTICE



were evidently selected so that one or more of them could understand English, Dutch and Swedish, rather than for the euphony of their names. They were laymen not lawyers.

The Court met for organization 10, October, 1676 at New Castle. Justices Moll, Ward, Tom and Otto and the "Clarke" Ephraim Herman were "Sworne and Establisht in their s<sup>d</sup>: Places by Capt<sup>n</sup>: John Collier, and Capt<sup>n</sup>: Edmond Cantwell." The commissions from the Governor were "openly Read" and ordered to be recorded. Justices Outhout and Jacquet, not having been present at the organization of the Court, were sworn on 12 October, 1676 and 7 November 1676 respectively.

The first session of the Court for the transaction of business found all the Justices present. It was held at New Castle, "By the Authority of O<sup>r</sup>: Sovereigne Lord Charles The Secund by the Grace of God, of England Scotland, France and Ireland King, defendor of the faith The 7<sup>th</sup>: of November and in y<sup>e</sup>: 28<sup>th</sup>: Yeare of his S<sup>d</sup>: May<sup>ties</sup> Raigne Anno Dom Annoq: 1676;"

#### THOMAS SPRY ADMITTED TO PRACTICE

November 7, 1676, the minutes record, as the first business, the following:

"Uppon the Petition of Thomas Spry desiering that hee might bee admitted to plead some Peoples Cases in Court etc:—The Worpp<sup>l</sup> Court have Granted him License so Long as the Petitioner Behaves himself well and Carrys himselfe answerable thereunto." (Records of the Court of New Castle, *Liber A*, p. 9.)

#### THE FIRST CASE HEARD

Let us look at the business the Court transacted and we will get a better picture of the times than we can obtain in any other way.

The first case heard was that of "Mounes Powelss P<sup>l</sup>:" vs. "Hans Piertersen Def<sup>t</sup>:"

“The P<sup>l</sup>t: declares that this def<sup>t</sup>: about one Jeare Sence was the occasion that he the P<sup>l</sup>t: Lost the use of his Boddy, so that he was & is not able to worke for his wyfe & family, & therefore Humbly Craves, that the Def<sup>t</sup>: may be ordered to hire a Servant for him until he bee Restored to health;”

This was the whole statement of claim. It leaves but little unsaid, though its words are few indeed. The record further says:

“The Court haveing heard the answer of the def<sup>t</sup>: and finding by the Evidences Sworne in Court, as also by the P<sup>l</sup>ts: owne Confession, that itt was an Accidentall mischange, doo order that the def<sup>t</sup>: shall Pay the Curing to the doctors, till this date and moreover Pay unto the P<sup>l</sup>t: in Regard of his Smart and Payne<sup>w<sup>ch</sup></sup> the P<sup>l</sup>t: hath suffered, the Sume of one hundered and fifty Gilders, and Pay Costs of Sute.” (*Ibid.* p. 10.) A gilder was worth at that time six pence in English currency (Upland Court Records p. 164.; Smith’s History of Delaware County, p. 108.)

It is not clear but that the plaintiff had been guilty of contributory negligence, nor is it clear whether the phrase “accidentall mischange”, meant that the defendant was guilty of negligence or not. The Court probably acted upon the maxim, that where one of two innocent persons must suffer, he must bear the loss whose act occasioned it. Note that the case was tried without a jury.

This was the first recorded legal proceeding under English Law, in the Delaware River Territory, included within the limits of the present States of Pennsylvania, New Jersey and Delaware, a negligence case, to be followed in time by thousands and tens of thousands of other negligence cases which should be the chief source of many lawyers’ income.

Another called, was by “Vicessimus Nettleshipp” against “Justice John Moll.” The record does not show what it was about, nor whether Justice Moll sat while it was tried, but several witnesses were sworn, and the Jury charged, “who went out and brought in their verdict,

viz<sup>t</sup>: do find for the P<sup>l</sup>: Billa Vera w<sup>th</sup>: Costs of Sute.”  
What this means, does not appear, but we read:

“M<sup>r</sup> John Moll Entered a demur & declares against the Insufficiency of the verdict, &, w<sup>th</sup> all Proffers Bayle to prosecute his s<sup>d</sup>: demurr.” (*Ibid.* p. 10.)

Note that Moll did not do this until the Jury found against him. The case was probably settled—the verdict of a “true bill” in a civil procedure, seems to have been too much for Moll’s judicial dignity. We will hear a great deal about Moll, and some of it may not be to his credit, though he was “President Judge” of the Court.

In a suit by “Johannes De Haes, P<sup>l</sup>:” vs. “Anthony Hendricx Deceased Def<sup>t</sup>:” Execution was issued against the defendant, who was indebted to the plaintiff for 64 guilders “for Rom delivered”, and praying the condemnation of a horse of the defendant, which the plaintiff had attached. The Court ordered the sheriff to sell the horse by outcry and to pay the plaintiff for his debt with costs. (*Ibid.* p. 11.)

Another plaintiff, Jacob Joung Sued “Margret Pennory, dec<sup>d</sup>,” and declared that the defendant was indebted to him to the extent of 800 pounds of tobacco for one steer delivered; that he had attached a horse now within this jurisdiction “and Craves Condemnation”, but the Court found that the ownership of the horse in question was very much in question, because it “did as well belong to the def<sup>t</sup>: as to Antony Hendricx”, the defendant in the preceding case. Thereupon an order was made that Johannes De Haes, the plaintiff in the preceding case, having laid the first attachment, “should first bee paid, and the Remainder to this P<sup>l</sup>” (*Ibid.* p. 11.)

In another case, “ffopp” Outhout was the plaintiff and Lasse Hendrick and Matthias Bartelsen, defendants. The plaintiff was also one of the justices. The suit was about a house which the defendants had pulled down and destroyed and which had stood at the east side of the River on the plaintiff’s land. “The Court haveing Examined

the Case and heard the def<sup>s</sup>: owne Confession did take the matter into their Conclideracon," but before judgment was passed, the plaintiff and defendant mutually agreed, that the defendants would within one month, "build uppon the same Ground, where they destroyed the house, a better house then the other was, w<sup>th</sup>: windows and doors in the Same, and Pay Costs of Suite." (*Ibid.* p. 12.)

The time limit of one month to erect the house, is a pretty good indication of its size and conveniences.

Probably clients were slow in coming to Thomas Spry, because we find that upon, 9 November 1676, but two days after his admission to practice, he brought suit himself against Otto Wollegast. The record states that, "Uppon the Request M<sup>r</sup>: Wharton the def<sup>s</sup> Attorney, The Court Granted a Referrence untill next Courtday". (*Ibid.* p. 17.)

This does not mean that Mr. Wharton was a practicing lawyer, but merely that he was an attorney in fact, although his name has been borne many times since by honored practitioners at the Philadelphia Bar.

#### SPRY'S FIRST CASE AS COUNSEL

Thomas Spry appeared in Court the same day, and "Confessed Judgement to M<sup>r</sup>: Henry Ward in the behalfe of John Whyte and Lucas Ebell for the Sume of 460 lb of tobacco and Sixty and one Gilders Seawant w<sup>th</sup>: Cost." (*Ibid.* p. 20.)

Such considerations appear in obligations of the time and must have been reduced in some measure to a standard possible of execution.

Thomas Spry "Att a Rejorned Co<sup>t</sup>: held att New Castle", according to the resolutions of the justices, Saturday, 11 November 1676, appears as witness to the will of Peter Huff, and as Spry probably drew this will, its form is of interest, and especially so, because it is the

# Records

of the Court of New Castle -  
Begun the 31<sup>th</sup> Day of January  
In y<sup>e</sup> 30<sup>th</sup> Yeare of o<sup>r</sup> Soueraigne  
Lord King Charles the 2<sup>d</sup> etc:  
and by his S<sup>ts</sup> May<sup>ty</sup> Authority -  
Annoq<sup>ue</sup> Dom<sup>ini</sup>: 1678-9.

Liber<sup>us</sup> N<sup>o</sup>: B =

Soli Deo Gloria -



first will probated under English Law in the Delaware River Territory. (*Ibid.* p. 26.)

“Coppie of Peter Huffs will & Testament,—

“In the name of God Amen, this 30<sup>th</sup>: day of September in y<sup>e</sup>: Jeare of o<sup>r</sup>: Lord God 1676 I: Peter Huff now a sujer-ner in New Castle on delowar, being Sik and weake in Boddy butt of perfect mind & memory thenkes bee Given Unto God therefore Calling unto mind the mortality of my Boddy & knowing that itt is appointed for all men once to dye do make and Ordaine this my Last will & Testament in manner & forme following—that is to Say, first and Principly I: give my Soule unto the hands of God that gave itt mee, and for my Boddy I Comend itt to the Earth, to bee Burried in Christian & decent manner nothing doubting butt at the Gener<sup>l</sup>: Resurrection I: shall Receive the same againe by the mighty Pouwer of God;—

“and as touching Such wordly Estate wherewith itt hath pleased God to blesse mee in this Lyfe I: Give devyse bequeath, and dispose the same in manner & forme following, first I: give and bequeath unto my dearly beloved wyfe Ellinor Huff and my Little daughter Elliner Living in S<sup>t</sup>: Martins in the fields in the County of middlesex, all my wordly Estate, as goods Chattles moveables and Inmovveables, both in the Land of England as alsoo in New Castle on delowar or any other part in America, to use occupy and dispose of as shee my S<sup>d</sup>: wyfe shall see necessary and convenient for the use of hur selfe and my Little daughter; In the next place if itt please God to call mee outt of this world in the Towne of New Castle, I: do ordaine and appoint my beloved frinds M<sup>r</sup>: James Wallian & M<sup>r</sup>: Samuell Land, to bee Execut<sup>rs</sup>: of what worldly Estate, I: shall here Leave behind mee, and to use the best of their Indeavours that Either itt or the Effects thereof may be Sent to England for the use of my beloved wyfe & daughter, w<sup>th</sup>: all that they both pay all debts due from mee to others and Receive all debts due from others to mee, and hereby I: do utterly disallow Revoake and annull all and Every other former Testaments, wills

Legacies, bequeaths and Execut<sup>rs</sup>: by mee in any wyse before this tyme, named willed or bequeathed;—Ratifying & Confirming this & none other to bee my Last will and Testament; In wittnesse whereof I: have hereunto Sett my hand & Seale the day & Jeare above written.

(Signed)

Signed, Sealed Published Pronounced  
and declared by the s<sup>d</sup>: Peter Huff as his  
Last will & Testament in the p<sup>r</sup>sence of  
us;

Peter Huff

[S. L.]

(Signed)  
Will Tom,  
Tho: Spry.”

Spry or Huff, or both, must have been very religious, judging from the wording of this simple but impressive document.

At a Court held, 5 December 1676, the case of Thomas Spry against Otto Wollegast was called. “The P<sup>lt</sup>: declares that this def<sup>t</sup>: haveing married the widdow of Michill Grace and as his Successor, is Indebted unto him as p<sup>r</sup>: acc<sup>t</sup>: the Sume of 65 gilders; for w<sup>ch</sup>: hee Craves Judgem<sup>t</sup>: w<sup>th</sup> Costs.” (*Ibid.* p. 28.)

The Court entered judgment against the defendant by default.

Marrying a widow seems to have had drawbacks at that time. The second husband assumed the burden of the widow, her debts, and the debts of the late departed.

In one case at least, the Court sympathized with a defendant who had married a widow.

“Broer Sinnexe the husband whoe married the widdow & Relict of Andries Juriansen deceased”, appeared in Court, 8 May 1678, at New Castle, and showed by his Petition that the “s<sup>d</sup> Relict \* \* \* had, & still has fyve small Childeren, of hur s<sup>d</sup> first husband whom to maintaine the Peticon<sup>r</sup> will willingly doe so far forth as hee is

able", but that Andries Juriansen, at his decease, was in debt, that his Estate could hardly pay the same, that the "Peticon<sup>r</sup> has paid y<sup>e</sup> same for the most part, and that there is Little else Left of y<sup>e</sup> said \* \* \* estate" than the land "whereon the Peticon<sup>r</sup> now Liveth on w<sup>ch</sup> the Peticon<sup>r</sup> is not willing to bestow any more Costs and Charges (w<sup>th</sup>out w<sup>ch</sup> itt will in short tyme bee worth Little;) unless hee the peticon<sup>r</sup> can have the s<sup>d</sup> Land for himselfe & heirs forever, hee being willing to bestow on & give to y<sup>e</sup> s<sup>d</sup> Childeren when they Come to adge sutch a Consideration As should bee thought fitt".

The Court was moved: "to agree & doe hereby Covenant & agree to and w<sup>th</sup> The S<sup>d</sup>: Broer Sinnexe" that he shall bring up and maintain the five children and when they become of age or marry, will give them the sum of 2500 gilders, "in Merchandable pay In the River", to be equally divided among them, in consideration of which, he is have and hold the land "to him and his heirs & assigns for Ever." (*Ibid.* pp. 261, 262.)

The old English Law made the widow responsible for her husband's debts to the extent only of the value of the goods and chattels she inherited from him, or the clothing she actually had upon her person at the time of her second marriage. Hence arose a custom—probably more honored in the breach than the observance—for widows to marry in their shifts. The widow sometimes went from her former house to that of her second husband in her chemise. Number 2 met her half way, and threw his cloak around her.

The settlers were encouraged to have children. Jurian Bootsman was granted 200 acres of land to be annexed to his present pasture, "for that hee hath a great family of Childeren". (*Ibid.* Book B p. 263.)

#### SPRY HARD UP

Thomas Spry, like many other lawyers since his age and generation, was often, notwithstanding his monopoly

in the leadership of the Bar, more or less short of funds. Upon, 5 December 1676, John Adams, for his master Dervall, sued Thomas, for "the sune of 45 gilders in wheat att 5 gild<sup>r</sup>: p<sup>r</sup>: skipple w<sup>th</sup>: Cost."

Execution was issued, but the record states that the defendant acknowledged the debt, and "desiered butt twelve dayes Respitt for payment", and the Court ordered judgment to be entered for the plaintiff, but no execution was to be issued, until after the twelve days had expired. (*Ibid.*, *Liber A*, p. 30.)

The amount involved was less than the equivalent of \$20.00. Thomas evidently hoped to take in that much in fees within the time limit.

#### THE COURT DOCKETS

The Records of the Court at New Castle are preserved in two precious books. The proceedings from 10 October 1676, to the end of December, 1678 are recorded in *Liber A*, and those from 7 January 1678/9, to 12 December 1681 in *Liber B*.

During the period covered by these two books, there are over one hundred references to Thomas Spry.

Reviewing these Records, is like looking through the large end of a spy-glass. Everything seems very small, our ancestors not excepted.

Official records, made contemporaneously, show not only what Spry's practice was, but also what our forefathers did with themselves and with each other. They seem very far away.

#### THOMAS SPRY'S PRACTICE

We will trace his career at the Bar with particularity.

Upon, 2 June 1675, Peteronella Carr, of Elk River, Maryland, "haueing Receaued full power from my husband John Carr," for selling real estate, appoints Thomas

Spry, "my true and trusty Attorney," to sell the same. This power, Spry produced in Court, 8 February 1676/7.

Captain Carr was one of the most prominent men at New Castle. He executed, 10 April 1675, a power of attorney "unto my welbeloved wyfe Peteronela Carr", to sell all his real and personal estate on Delaware River, provided she paid his debts. (Records of New Castle, *Liber A*, pp. 66, 67, 68.) She afterwards married George Oldfield, sometime prior to, 9 November 1676, because upon that date she appears as his wife, "Executr of John Carr," in the suit against James Sandelands. Carr must have been wealthy for his time. His real estate was sold by public "outcry", 12 June 1675, "pay to bee, in wheat, porke in Caske, Tobbacco, or Sewant or peltery price Currant." Carr's house was called "Statsherbergh". He also owned a "greate house w<sup>th</sup>: the blokhuse and Kitching," and other real estate, all amounting to a total "of gilders 8450."

Thomas Spry appears in Court again, 3 April 1677, in a case by "Caspares Herman, P<sup>t</sup>." vs. "Ralph Hutchinson, Def<sup>t</sup>:" in which he alleged that "hee cannot at p<sup>r</sup>sent make any defence for want of his papers, w<sup>ch</sup>: by order of the Last Court hee was to bring in this Court," but the Court entered judgment for the plaintiff, upon condition, that if Spry would bring his papers into the next Court, the execution would be stayed till then, but the record shows that execution was taken out, 3 October 1677, so Spry did not, and probably could not, produce his papers. (*Ibid.* p. 76.)

As hereafter appears, he was well named, especially in getting delays and continuances.

At a court held, 5 June 1677, it is recorded:

"Uppon The Peticon of John Matthews desiering to bee Admitted as an Attorney in this Court etc; The Court did admit the Peticon<sup>r</sup>; as an attorney and was sworne accordingly;—You doe Sware by the Everliving God That you will According to Law truely Plead all Cases wherein

you shall bee Employed by yo<sup>r</sup>: Clyant that you will not Exact in yo<sup>r</sup>: fees above what shall bee allowed by the Governo<sup>r</sup>: & Court That you will not in one and the same action take fees both of the P<sup>t</sup>: and def<sup>t</sup>: That you will not take any Apparent unjust Case in hand, but In all Respects behave yo<sup>r</sup>:Selve as all Attorneys are oblided to by the Lawes of this Governm<sup>t</sup>." (*Ibid.* p. 96.)

#### THOMAS SPRY RESWORN AND READMITTED

For some unknown reason, probably because Spry liked this oath, or imagined he ought to be resworn at the new Session of Court, or more likely because the Court itself wanted him resworn, "Thomas Spry upon his Request was admitted & Sworne an attorney for this Court of New Castle." (Record of New Castle, *Liber A*, p. 96).

It is manifest that the Court needed at least two "pleading attorneys", or the business might get onesided.

#### THE SCARCITY OF LAWYERS

Pleading lawyers were undoubtedly scarce. Let us digress for a moment to see why this was so.

They were unknown in the earliest Colonial days, and this scarcity was doubtless due to an inheritance of English prejudice. Before and after Shakespeare's time, the prejudice is apparent in English literature and even in English legislation. For instance, "At the second Session of Parliament begun and holden by Prorogation at Westminster the fifth day of Nouember, in the third yeere of the raigne of our most gracious Soueraigne Lord James, by the grace of God of England, France and Ireland King; Defender of the Faith, &c. And of Scotland the 39." published in 1606, we find "An act to reforme the multitudes and misdemeanors of Attourneys, and Sollicitors at Law, and to avoyd sundry vnnecessary suits and charges in Law."

A copy of this act, printed in black letters, was advertised for sale by a well-known book dealer as follows:

“Lawyers and other Skinners”, the Act being contemporaneous with another Act for the “Relief of poor Skinners which was printed in the same volume.”

The Act prohibited any attorney or solicitor, from willingly delaying his client's suites to work his own “gaine” \* \* \* and none were to be thereafter admitted to practice as attorneys, “but such as haue been brought up in the same Courts, or otherwise well practized in Solliciting of causes, and haue been found by their dealings to be skilfull, and of honest disposition.”

This prejudice existed in all of the Colonies and Provinces of America. The Beards say in (“The Rise of American Civilization” Vol. 1, p. 100), “In the early days there was no place for them; indeed, they were not viewed with favor by pioneers engaged in the rough work of clearing the wilderness. The authors of the Massachusetts Body of Libertie adopted in 1641, besides expressly permitting every litigant to plead his own cause, were careful to provide that, if unable to help himself and forced to employ an assistant, he was to give his counsel ‘noe fee or reward for his paines’.”

“In the founding years of Maryland, a local chronicler rendered thanks that there were no lawyers in that coloney and no business to occupy such factious members of a community.”

Hardly six months had passed after Thomas Spry's admission to practice, before the Governor and Council at Fort James, 19 May 1677, it was “Resolved and ordered that pleading Attorneys bee no Longer allowed to practice in y<sup>e</sup> Governm<sup>t</sup> but for y<sup>e</sup>: depending Causes.” (Rec. of Court of New Castle, *Liber A*, p. 133.)

And afterwards, under Penn's Government, neither lawyers nor doctors seem to have been individually esteemed. Gabriel Thomas, a prominent historian, wrote in 1698 after a residence of fifteen years in Pennsylvania: “Of *Lawyers* and *Physicians* I shall say nothing, because this Countrey is very Peaceable and Healt[h]y; long may it

so continue and never have occasion for the Tongue of the one, or the" Pill "of the other, both equally destructive to Men's Estates and Lives." (History of Pennsylvania, p. 32.)

In Hening's Statutes at Large, of Virginia, Vol. I., strict regulations are referred to for controlling attorneys. In 1642 (pp. 274, *et seq.*) it was provided that they must be licensed and sworn, their fees were fixed, and penalties imposed for taking greater fees; they could not refuse to be retained unless retained on the other side.

In 1643 (p. 313) the licensing of lawyers was repealed and in 1647 (p. 349) they were actually forbidden directly or indirectly to take any fees at all.

Acts against "Mercenary Attorneys" were passed (p. 482), and in 1658, it was proposed: Whether a "regulation or totall ejection of lawyers" be adopted and it was resolved by the first vote, "An ejection." (p. 495.) Attornies out of England" were required "to putt in securitie." All acts against "mercenary" attornies were afterwards repealed, and those only were to "be called councillors at law, who have alreadie been qualified thereunto by the lawes of England." (p. 419.)

In Massachusetts (1641), it was "Ordered and Decreed, and by this Court Declared; That if any man be proved and judged a common Barrater, vexing others with unjust, frequent and endless suits, it shall be in the power of the Court, both to reject his Cause, and to punish him for his Barratry."

In New Jersey a law was passed "that no attorney or other person be suffered to Practice or plead for fee or hire \* \* \* but such as are admitted to practice by license of the Governor" (1698). This followed an act of 1694, for "regulating" attorneys. "within this Province." (Grants and Concessions of New Jersey, 1664-1702, p. 343.)

In Maryland (Laws of Maryland 1692—1725) we find an act in 1714, (page 87), "rectifying the ill Practices of

Attornies." Fees are limited, and penalties imposed, for "extorting". Again, in 1725, (p. 283), an act was passed "to restrain ill Practices of attornies to prevent their taking money fees". The act of 1715 (Chapter 48, No. 7, 8) (Laws of Maryland 1637-1763), provided that attorneys demanding more than the law allowed, were to be incapable of practicing.

In Pennsylvania, the Act of, 28 February, 1710/11, repealed in Queen's Council, 30 February 1713/14, provided that the courts might admit any attorney to plead, but upon his "misbehavior," to suspend him. (Statutes at Large of Penna. vol. 2 p. 330.) By the Act of 28 May, 1715, (repealed in Council, 21 July 1719), it was provided: "That there may be a competent number of persons of honest disposition and learned in the law", admitted \* \* \* to practice \* \* \* "who shall behave themselves justly and faithfully" "by which said attorneys actions may be entered, and writs, process, declarations and other pleadings and records, in all such actions and suits as they shall respectively be concerned to prosecute or defend, from time to time, may be drawn, and with their names and proper hands signed". (*Ibid.* vol. 3, p. 72.)

The oath then required in Pennsylvania was about the same as at the present day: "Thou shalt behave thyself in the office of attorney, within the court, according to the best of thy learning and ability, and with all good fidelity, as well to the court as to the client. Thou shalt use no falsehood, nor delay any person's cause for lucre or malice." (*Ibid.* 379.)

It will be noted that some of these Colonial laws are really enabling statutes, but they all contemplate "dishonesty" and "misbehavior" by the attorney, and extortion and fraud.

The popular prejudice might have been due in part to the religious reform, which spread through England, and stimulated the reading of the Bible by the laity and familiarized them with the words of Jesus (St. Luke XI. 46)

“Woe unto you also, ye lawyers! for ye lade men with burdens grievous to be borne, and ye yourselves touch not the burdens with one of your fingers”.

#### MORE OF SPRY'S CASES

At the same Court Session at which Spry was sworn in the second time, “Edward Williams Attorney for Geo: Wells by Tho: Spry”, was a plaintiff and John Tarkinton, defendant, and “Uppon the desier of both partees (John Matheus on the Def<sup>ts</sup>: behalfe), This action is Continued untill next Court.” Matthews was attorney-in-fact, not at law. (Records of the Court of New Castle, *Liber A*, p. 99.)

“John Lawe, Plt:” sued “Thomas Spry, def<sup>t</sup>:” “withdrawne Justice Otto declaring to have heard y<sup>e</sup>: p<sup>l</sup>ts: say y<sup>t</sup>: hee was p<sup>d</sup>:” (*Ibid.* p. 100.)

The Court does not seem to have asked Spry himself what he had to say in the matter.

At the Session, 6 June 1677, “the Commander & Justices all P<sup>r</sup>sent.”

“Henry Ward, P<sup>l</sup>ts:” vs. “Anthony Bryant by Tho: Spry his attorn: Def<sup>t</sup>:”, “The P<sup>l</sup>ts: haveing made oath to his acc<sup>t</sup>:”, the Court gave him judgment, with costs. (*Ibid.* p. 103.)

Spry must have known the plaintiff would prove his account, and it looks as if Spry were sparring for time.

And at the same session, (*Ibid.* p. 109). “Justice Gerret Otto This day Shewed in Court a woolves Toung desiering that the same might bee taken notice of, & Recorded.”—a difficult entry to make. Probably the tongue was lodged with the Clerk.

Thomas Spry appeared as witness to the will of Barent Egbert, and letters were granted to Rebecca, the widow. Spry having proved the will, proved the widow. He married her.

The next we hear of Spry is as follows. (*Ibid.* pp. 121, 122.)

“Att a Court Caled by the Request of Capt<sup>n</sup>: John Colier In New Castle July ye: 12<sup>th</sup> A<sup>o</sup>: 1677;

P<sup>r</sup>sent                      Mr. John Moll  
                                 Mr. William Tom                      } Justices  
                                 Mr: Jean Paull Jacquet }

“Capt<sup>n</sup>: John Colier Complaynes & Sayes that Docto<sup>r</sup>: Thom: Spry on the 9<sup>th</sup>: of this Instant month of July in a most Shameful & unhandsome way, (w<sup>th</sup>:out any Case), hath abused him y<sup>e</sup>: said Colier, w<sup>th</sup>: dirty and uncivill Languadge; presuming further to strike him the S<sup>d</sup>: Colier, w<sup>th</sup>: a Caine uppon the head etc; The S<sup>d</sup>: Capt<sup>n</sup> Colier Leaueing the matter to the Co<sup>rt</sup> to Inflict Sutch punishment uppon the S<sup>d</sup>: Spry for his S<sup>d</sup>: offence as the Co<sup>rt</sup>: Shall Judge fitt;

“Thomas Spry makeing answer Sayes not to Remember That hee hath Committed the aboves<sup>d</sup>: offence; by reason that hee was verry mutch overcome w<sup>th</sup>: drinke, desiers forgivenessse for what hee hath done amis.

“M<sup>r</sup>: Johannes d’ haes Sworne in Co<sup>rt</sup>: declares that on y<sup>e</sup>: 9<sup>th</sup>: of this Instant month of July The deponant was uppon his Cart by his doore and did see Docto<sup>r</sup>: Spry stand before Capt<sup>n</sup>: Coliers house, and that Capt<sup>n</sup>: Colier came out of his doore, and Spoke twoo or three tymes to Docto<sup>r</sup>: Spry bidding him to bee gon, and the deponant stooping downe, when hee Looked up againe did see docto<sup>r</sup>: Spry and Capt<sup>n</sup>: Colier striking one the other w<sup>th</sup>: their Caines or stikes and after Severall Blowes on both sides Docto<sup>r</sup>: Spry broke his Caine uppon the head of y<sup>e</sup>: s<sup>d</sup>: Capt<sup>n</sup>: Colier, uppon w<sup>ch</sup>: Capt<sup>n</sup>: Colier Closed in and Colloring the S<sup>d</sup>: Spry threw him to the Ground—Commanding Brantie to bring the S<sup>d</sup>: Spry to prizon;

“Moses d’Gan Sworne declares the Same In substance, as is declared here above by Johannes d’haes;

“Whereuppon \* \* \* \* \* The humble peticon: of the s<sup>d</sup>: Spry to Capt<sup>n</sup>: Colier being Read; The Co<sup>rt</sup>: In Regard of the humble Submission of the S<sup>d</sup>: Spry (although the merrit

of the fact deserved a more Severer punnishment) doe order the s<sup>d</sup>: Spry publicqly In Court to Craue pardon and Aske forgivenessse of the s<sup>d</sup>: Capt<sup>n</sup>: Colier for his s<sup>d</sup>: offence, And doe Condemne the s<sup>d</sup>: Spry In a fyne of twoo hundred Guilders, to bee paid to Capt<sup>n</sup>: Coliers order, Together w<sup>th</sup> Costs;

“Thomas Spry in open Co<sup>rt</sup>: asked forgivenessse of Capt<sup>n</sup>: Colier for his s<sup>d</sup>: offence Committed, According to the aboves<sup>d</sup>: order Capt<sup>n</sup>: John Colier did thenke the Court for what they had done; and did in open Court Give the aboves<sup>d</sup>: 200 Guilders fyne To Amilius de Ring, The Reader of the t’ Church.”

This was a pretty good fine, under the circumstances, an equivalent of \$24.—the mill seems to have left no scars.

#### THOMAS SPRY—DOCTOR

In this proceeding Thomas Spry is called “doctor” for the first time in the New Castle Records, some indication that he was then practicing medicine. It seems that the year after Spry was admitted to practice as a lawyer, an order was made, that the “Cryer of the Court” was to have for every attorney admitted and sworn, “twelve Guilders or halfe a bever” (*Ibid.* p. 118). Spry escaped this imposition by his early admission, but soon afterwards, the Court at New Castle received and entered upon its records the resolution and order of the Governor and Council adopted at Fort James, 19 May 1677, “that pleading Attorneys bee no Longer allowed to practice in y<sup>e</sup> Governm<sup>t</sup>. but for y<sup>e</sup> depending Causes.” (*Ibid.* p. 133.)

Neither this prohibition nor any other kept Spry out of Court. By the mere assignment of a claim to him, he would appear in his own behalf, and he could represent any defendant as attorney in fact. (Smith’s History of Delaware Co., p. 503.)

Spry appeared at a Court Session, 4 September 1677, in the case of John Test vs. Tho. Morse, representing the defendant. “Thom: Spry haueing nothing to object,”

Judgment was ordered against the defendant with costs. (Records of the Court of New Castle, A, p. 137.)

This looks like another instance of sparring for time. The case involved but "49 gilders"—a gilder being worth about six pence. He must have been hard up since his marriage to the widow and his fine of 200 gilders.

At the same Session an interesting question was presented to the Court, and a decision asked in the nature of a "declaratory judgment", now coming into practice in Pennsylvania under the recent act of Assembly.

"Upon the Peticon of Mary Manning Complayning that Jeremy farrington had deluded hur from the house of Sara Thomas in Sevorn makeing hur beleeve hee had a good Estate att S<sup>t</sup>: Maries, and telling y<sup>e</sup>: Peticon<sup>r</sup>: hee would Carry hur there & marry hur, butt all that proved a meere t' Cheat and Instead of that the S<sup>d</sup>: farrington Carried y<sup>e</sup>: Peticon<sup>r</sup> up here to oppoquenemen, Calling hur by the way his wyfe etc: The peticon<sup>r</sup> therefore desiered this Co<sup>r</sup>t: to Cleare hur from y<sup>e</sup>: threats and future Scandall of y<sup>e</sup> s<sup>d</sup>: p<sup>r</sup>son:

"The Co<sup>r</sup>t: haueing heard the debates of both partees, did find that the s<sup>d</sup>: Mary Manning was not Ingaged in marriage to y<sup>e</sup>: said Jeremy farrington, and therefore Cleared the s<sup>d</sup>: Mary of y<sup>e</sup> same, and the s<sup>d</sup>: Mary swearing y<sup>e</sup> peace against the s<sup>d</sup>: Jeremy that shee was In danger of hur Lyfe threu the threats of him the s<sup>d</sup>: Jeremy; The Co<sup>r</sup>t: ordered the def<sup>t</sup>: to give Security and bee of y<sup>e</sup>: good behauior; or Els the Sherrife was ordered to take him into Custodie." (*Ibid.* p. 138.)

There was not much affection by either party to this romantic episode. The moral is that if you intend to get married, do so. Let the ceremony precede the bridal tour and honey-moon.

Spry now appears in Court in a more important case: (*Ibid.* p. 139). "Edward Williams Attorn<sup>y</sup>: for Geo. Wells", vs. "John Tarkinton"—an action of debt upon a judgment obtained against Tarkinton in Maryland.

How the judgment was certified or proved is not shown.

“Thomas Spry as attorney for the def<sup>t</sup>: appeared in Court, and Confessed Judgement for y<sup>e</sup> s<sup>d</sup>: Sume of 1927 lbs of Tobbacco w<sup>th</sup>: Costs and produced a warrant of Attorney for his soe doing.”

In confessing judgment, Spry probably relied upon the fact that defendant had nothing within the Court's jurisdiction, or that the defendant had already, upon Spry's advice, removed his personalty or conveyed away his realty.

#### STILL MORE OF SPRY'S CASES

At the same Court Session, Spry represented Jacob Jung in a suit against John Heyland:

“The Def<sup>t</sup>: still Remaining default notwithstanding Thomas Spry Certified to y<sup>e</sup> Co<sup>rt</sup>: that hee had given the s<sup>d</sup>: def<sup>t</sup>: notice of the Last order of this Court,” Judgment was given against the defendant. Execution was issued, 5 September 1677, and defendant's cattle were attached. (*Ibid.* p. 143.)

Spry appeared in Court the same day, in the case of “William Tom” vs. “John Broadborne,” an action of debt for 200 guilders. (*Ibid.* p. 146.) Spry acknowledged the debt, and judgment was ordered, with costs:

“Thomas Spry attorney as aboves<sup>d</sup>: promisses to pay M<sup>r</sup>: Will: Tom the 200 guilders aboves<sup>d</sup>: & t' Charges for y<sup>e</sup>: s<sup>d</sup>: J<sup>o</sup>: Brodborne, out of y<sup>e</sup>: Bill of harmen Jansen now in his hands”.

#### SPRY AS PLAINTIFF HIMSELF

The next case was that by Thomas Spry vs. Harmen Johnson (Jansen). The defendant alleged he had paid Spry “sundry things uppon his acc<sup>t</sup>: ordered that the def<sup>t</sup>: att y<sup>e</sup>: next Court bring in his Contra acc<sup>t</sup>: and if not Judgement to passe ag<sup>st</sup>: y<sup>e</sup> def<sup>t</sup>:” (*Ibid.* p. 146.)

These two cases look as if Spry had been doing some bill shaving, on his own account, and that after buying

up Jansen's debt, at a discount, used it to pay Broadborne and got fees going and coming, but maybe not.

#### SPRY IN ACTIVE PRACTICE AS A LAWYER

Spry seems to have done a great deal of business at this Session of the Court.

He sued Philip Huggan, on an action of debt. (*Ibid.* p. 149.) Suits were also brought against Huggan, at the same time, by "Robberd huthinson" and "Eph. Herman", respectively. Herman was the Clerk of the Court, but the Justices seem to have been dissatisfied with what was going on.

"The Co<sup>rt</sup>: ordered doct<sup>r</sup>: Spry whoe has y<sup>e</sup> booke of what y<sup>e</sup>: s<sup>d</sup>: Phil: Huggan Earned, to post and state the s<sup>d</sup>: booke against the next Court and then to bring the ballance to Court, as when the Court will Give further order therein."

The case of John Broadborne against John Tarkinton turns up again: "withdrawn: by Thomas Spry the p<sup>l</sup><sup>ts</sup>: attorney." (*Ibid.* p. 152.) Also a case by "Roberd Williams, Attorney for Thom: Taylor" vs. "James Crawford," also "withdraw[n]" by Spry. He evidently saved costs by withdrawing the suits. It may have been cheaper than our "discontinuances."

#### EAR MARKING HOGS

An important part of the business of the Courts at New Castle and at Upland in the early Colonial days was the ear marking of hogs to prove ownership, the animals being allowed to run at large. Owners would petition the Court to have the ear marks of their hogs registered to prevent theft. (*Ibid.* p. 86.)

It would be a great blessing if the Courts of Common Pleas of the present day had some method of ear marking hogs, especially road hogs, who are permitted to run at large; end seat hogs, who stick fast when they ought to

move on; and racketeer hogs, who have become a distinct order of hogs in the underworld.

#### ECCLESIASTICAL MATTERS

Ecclesiastical matters were also at times given the Court's attention. We read that Amilius De Ringh "Reader in the t' Church" exhibited a list of persons who promised "to Contribute towards his maintenance" and the Court ordered "the Sherife to Levy monny of the unwilling by distresse". (*Ibid.* p. 84.)

The Court also exercised jurisdiction in the election of Church Wardens. (*Ibid.* p. 88.)

#### ECCLESIASTICAL PROVISIONS OF THE DUKE OF YORK'S LAWS

The provisions concerning ecclesiastical affairs were numerous. They are of particular interest in view of the liberty of conscience soon afterwards established by William Penn.

After reciting that the public worship of God was much discredited "for want of painful & able Ministers to Instruct the people in the true Religion and for want of Convenient places Capable to receive any Number or Assembly of people in a decent manner for Celebrating Gods holy Ordinances," it was provided that certain laws be observed.

In each Parish within the Government, a church, capable of accommodating two hundred persons, should be built in the most convenient place and that for making and proportioning the levies and assessments for building and repairing the churches, providing for the poor and for the maintenance of the Minister, as well as for the more orderly managing of all parochial affairs, eight of the most able men of each Parish should be chosen Overseers, by the major part of the householders of the Parish. The Constable and Overseers should yearly choose two of the

Overseers to be Church wardens. Each Overseer was required to take the oath of allegiance, in addition to the oath of office.

To prevent scandalous and ignorant pretenders to the ministry from intruding themselves as teachers, no Minister should be admitted to officiate, but such as should produce testimonials to the Governor that he had received ordination either from some Protestant Bishop or Minister within some part of His Majesty's Dominions or within the Dominions of any foreign Prince of the Reformed Religion, upon which testimony, the Governor should induct the said Minister into the Parish to which he had been elected by the major part of the inhabitant householders.

The Minister of each Parish should "Preach constantly every Sunday" and should also pray for the King, Queen, Duke of York and the royal family.

Sundays were not to be profaned by travelers, laborers or vicious persons and every Constable had full power to apprehend without warrant such as were overtaken with drink, and swearing, Sabbath breaking or vagrant persons or night walkers, provided they be taken in the act, either by the sight of the Constable or by present information from others.

In accordance with the terms of certain Acts of Parliament, the Fifth day of November should be annually observed for the great deliverance from the "Gunpowder Treason"; the Thirtieth day of January should be annually observed with fasting and prayer "to shew a hearty and serious Repentance and Detestation of that Barbarous Murther Committed upon the Person of our late King Charles the first, thereby to divert Gods heavy Judgment from falling upon the whole Nation" and the people were enjoined thankfully to acknowledge the providence of God upon the 29th day of May for His Majesty's birth and restoration to the throne of his royal ancestors, whereby peace and unity had been established in all His Majesty's

dominions. Upon these three days, every Minister, within his several Parish, was to pray and preach and all other persons were to abstain from their ordinary labor and calling.

Every person affronting or disturbing any congregation on the Lord's Day, or on such public days of fast and thanksgiving as were appointed to be observed, should be punished, upon conviction thereof, by fine or imprisonment according to the merit and nature of the offense. No congregations should be disturbed in their private meetings in the time of prayer, preaching or other Divine service, nor should any person, who professed Christianity be molested, fined or imprisoned for differing in judgment in matters of religion. Every Minister should, under penalty of loss of preferment unless he be restrained in point of conscience, publicly administer the Sacrament of the Lord's Supper at least once a year in his Parish Church, not denying the private benefit thereof to persons who for want of health should require the same in their houses, but no person of scandalous or vicious life should be admitted to the holy Sacrament, who had not given satisfaction therein to the Minister. No Minister should, under penalty of loss of preferment, refuse the Sacrament of Baptism to the children of Christian parents.

MINISTERS, OVERSEERS AND SOME OTHERS WERE  
EXEMPTED FROM SERVICE IN THE MILITIA

Church wardens should, twice every year, on the Second days of the Sessions to be held in June and December, in open Sessions, deliver a true presentment in writing of all such misdemeanors as by their knowledge had been committed and not punished while they had been Church wardens. The misdemeanors to be presented beingswearing, profaneness, Sabbath breaking, drunkenness, fornication, adultery "and all such abominable Sinnes". The Church wardens were empowered also to cause any person upon whose report they grounded their present-

ment to appear at the Sessions and give evidence, those who refused to appear being liable to fine.

Constables and Overseers were strictly required frequently to admonish the inhabitants to instruct their children and servants in matters of religion and the laws of the country. Should any children or servants become rude, stubborn or unruly, refusing to harken to the voice of their parents or masters, the Constables and Overseers (where no Justice of the Peace should happen to dwell within ten miles) should have power upon the complaint of the parents or masters, to call such offenders before them and to inflict such corporal punishment, not excepting ten stripes, as in their judgment should be deserved, provided that such children and servants be of sixteen years of age.

Denying "the true God and his Attributes" "by direct exprest, impious or presumptuous ways" was a capital offense punishable by the death of the offender.

No Indian whatsoever should at any time be suffered to powwow or perform outward worship to the Devil in any Town within the Government. The testimony of Indians could, under certain circumstances, be received against accused persons, "although the testimony of Hethens against Christians may not altogether be allowed."

In regard to marriages, it was recited that all the formality required by the Law of England could not be duly practised in these parts, yet to the end that a decent rule therein might be preserved it was ordained that from thenceforth the names and surnames of each party who should sue for marriage should be publicly read in their Parish Church, or place of usual Meeting, three several Lord's days successively; that where there was no Church or Meeting place a publication in writing should be (posted) upon the doors of the Constable and two of the Overseers of each Parish in which the parties lived, for fourteen days before the marriage, unless they produced a license from the Governor, in either of which cases, and

not otherwise, it should be lawful for any Minister or Justice of the Peace to join the parties in marriage; provided that the said parties should purge themselves by oath before the Minister or Justice that they were not married to any other living person. Should it afterwards be proved that either or both of the parties committed perjury and thereby attained a double marriage, the offending party or parties should be bored through the tongue with a red hot iron and proceeded against as was provided in case of adultery. If either party should be proven innocent as to him or her self and ignorant of the other's wicked fraud, the innocent party should recover damages against the innocent and be set at liberty as though no marriage had been made. Should any one thereafter presume to marry contrary to these laws, the person so offending should be proceeded against as for adultery or fornication as the case might be. Any children so begotten should be reputed bastards and the parents should suffer such pains and penalties, by fines or punishment, as they deserved. The Justice of the Peace or Minister who should presume to marry, without a special license for his so doing under the hand and seal of the Governor, any person who had not been thrice asked in the Church or usual Meeting place or who had not complied with the other provisions for publication of notice of the intended marriage, or who should marry a daughter or maid without the consent of her parents, if living, or a servant without the consent of his or her master or dame, should forfeit twenty pounds and be put out of office.

There were no provisions for divorce as we know it, but, if either the man or woman should be convicted of falsifying the (marriage) oath, the other party was free to marry; if sufficient certificates should be brought from foreign parts, which agreed with allowable circumstances, that the man or woman was dead, the time, place and manner being specified under the hand and seal of some creditable person and known magistrate, the other person was free; and if either the man or woman, having traveled

by sea or land into foreign parts, which voyage should by common computation be perfected in one year's time or less, or in a few days, and no certain knowledge or news of such person, or of any that accompanied him or her in the voyage, should be had within five years after the departure, it might justly be presumed that such person was dead and after the expiration of five complete years the other person was free to marry, provided that if either the man or woman after the expiration of five years should return and bring full testimony that he or she had endeavored to make known to the other spouse by writings or messages that he or she were living, or if the absent person, by reason of bond slavery or imprisonment with the Turks or other heathen, had been hindered from giving such information, then it should be lawful for the returning person to "Challenge his or her premarriage" and obtain an order for "their Cohabiting as formerly", but if neither should sue for such an order, they might by mutual agreement enter a release to each other in the office of Records and both remain free from their former obligations, the father of such children only as were born in lawful marriage was to provide for them as should be adjudged in the Court of Assizes only.

Every inhabitant within the Government was required to contribute to all common charges, both civil and ecclesiastical, and in order that the laws as to parochial churches should be duly observed, it was provided "that although divers persons may bee of Different Judgments, yett all shall contribute to the Minister Establisht and allowed of, which is noe way judged to bee an Infringment of the Liberty of Conscience to which they may pretend."

Assessments were to be made by the Constable and Overseers of the Parish in proportion to so much of the estate of the inhabitants as laid within the Town or Parish. Every inhabitant who did not contribute his share, should be compelled to do so by attachment or levy upon his property and if no such property could be found he was liable to arrest.

Justices of the Peace were exempted from paying public assessments in the places where they lived during their terms of office, payments to the Church only excepted.

AN IMPORTANT AND AMUSING CASE

“Att a Spetiall Court Called by Capt<sup>n</sup>: Xtopher Billop in New Castle this 26<sup>th</sup>: day of Septemb<sup>r</sup> A<sup>o</sup>: 1677;

P <sup>r</sup> sent	M <sup>r</sup> : John Moll M <sup>r</sup> : William Tom M <sup>r</sup> : Fopp Outhout Capt <sup>n</sup> : Edm: Cantwell	}	Justices High Sherrife
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“There being no Comittment for y<sup>e</sup>: P<sup>r</sup>soner francis Jackson (for whoes Case the Court was Called) after debates, The Court did not Judge y<sup>e</sup>: Verball Comittment Lawfull w<sup>ch</sup>: Capt<sup>n</sup>: Billop had done of his owne authority, hee not haueing a Comission for y<sup>e</sup> Same, nor acquainted any magistrat therewithall; Capt<sup>n</sup>: Billop makes answer that hee thinkes hee hath power to Comitt any man to prison, etc. The Court notw<sup>th</sup>standing no Comittment, after Capt<sup>n</sup>: Billop had submitted to ye Co<sup>rt</sup>: in that particular, Did proceed to Examin the Buisnesse in hand, Capt<sup>n</sup>: Billop delivering In Court a declaration in Wryting, Vizt.

“Capt<sup>n</sup>: Xtopher Billop Comand<sup>r</sup> of New Castle upon delowar, declares that upon monday Last one francis Jackson being att y<sup>e</sup>: fort of New Castle aforesaid, did after hee had done most part of his worke send for drink and was verry disturbative to Capt<sup>n</sup>: Billop and others w<sup>ch</sup>: were then in the s<sup>d</sup>: forte by Singing and making a noyse. The s<sup>d</sup>: Capt<sup>n</sup>: Billop went downe to y<sup>e</sup> said francis, and did Civilly Intreat him to bee quiet and not to make such a noyse, hee returned y<sup>e</sup> s<sup>d</sup>: Capt<sup>n</sup>: Billop affrontive Language, w<sup>ch</sup>: Capt<sup>n</sup>: Billop tooke Little notice of but againe desiered him to bee more Civill, and soe went up Staires, hee P<sup>r</sup>sisting in the s<sup>d</sup>: disturbance, y<sup>e</sup> s<sup>d</sup>: Capt<sup>n</sup>: Billop went downe to him y<sup>e</sup> secund tyme & Endeavourd by all good words to p<sup>r</sup>suaide him to be gon and hee y<sup>e</sup> s<sup>d</sup>:

francis, did call him Son of a whoor and son of a Bitch, w<sup>th</sup>: other afrontive & scurrelous Language, Capt<sup>n</sup>: Billop still tooke no notice of his Scurroulus words but went up Staires the second tyme, hee quarreling w<sup>th</sup>: all people There, tending to a Riot, the s<sup>d</sup>: Capt<sup>n</sup>: Billop went downe the third tyme and told him if hee would not bee quiet hee would take a Course to make him, he Returning verry ill Language and Lifting his hand to strike att and Swearing (By God) he would fight mee, y<sup>e</sup> s<sup>d</sup>: Capt<sup>n</sup>: Billop put him into y<sup>e</sup> Stokes, w<sup>ch</sup>: were not verry Strong, he Endeavoured to breake them, takeing of him out to put him into prison Capt<sup>n</sup>: Billop standing w<sup>th</sup>: in Reach of his arme, hee catched hold of his haire, and pulled him after him, Capt<sup>n</sup>: Billop haueing a Key in his hand Gave him a Knock on y<sup>e</sup> forehead to make him Loose his hold, hee seeing y<sup>e</sup> bloud come did againe [catch] Capt<sup>n</sup>: Billop by ye haire, and gaue him three or four severe Stroakes w<sup>th</sup>: his fist on y<sup>e</sup> head & face, after w<sup>ch</sup>: the s<sup>d</sup>: Capt<sup>n</sup>: Billop caused him to bee putt in y<sup>e</sup> hold, hee still p<sup>r</sup>sisting in his sd Rudnesse, raeveing and Calling y<sup>e</sup> s<sup>d</sup>: Capt<sup>n</sup>: Billop many ugly names, soe Capt<sup>n</sup>: Billop Left him Raeveing as aboves<sup>d</sup>: In Witnesse of y<sup>e</sup> Afores<sup>d</sup>: allegations the s<sup>d</sup>: Capt<sup>n</sup>: Billop hath hereunto set his hand this 26<sup>th</sup>: of September 1677:

(Signed) CHRIST: BILLOP

“Capt<sup>n</sup>: John Colier haueing heard y<sup>e</sup>: Accusation of Capt<sup>n</sup>: Billop ag<sup>st</sup>: francis Jackson Read in Court, did afirme y<sup>e</sup> same to bee Thruth;

“Richard hinton Sworne in Court declares that hee y<sup>e</sup> deponant was in y<sup>e</sup> forte and did heare fran: Jeckson singing & makeing a noyse & Capt<sup>n</sup>: Billop going downe to him desiered him Severall Tymes to be quiet & to goe home if hee had done his worke & the s<sup>d</sup>: francis haueing a bottle of beare or other Licqo<sup>r</sup>: in his hand, asked Capt<sup>n</sup>: Billop if hee would drink, whoe seemed to bee willing on Condition hee would bee gon but y<sup>e</sup> s<sup>d</sup>: francis afterward Lauwring and Jearing att y<sup>e</sup> s<sup>d</sup>: Capt<sup>n</sup>: Billop, hee asked y<sup>e</sup>: second tyme whether hee would drinke w<sup>th</sup>: him, but

Capt<sup>n</sup>: Billop Refused y<sup>e</sup> same, and y<sup>e</sup>: said francis Keeping still in y<sup>e</sup> same Posture of Lauging & Jearing Capt<sup>n</sup>: Billop Left him & desiered him to bee quiet & to make no noyse, and further Sayeth nott:

“Samuell Wheeler Sworne In Court declares y<sup>t</sup>: Last munday the deponant was in y<sup>e</sup>: forte above staires, and one francis Jeckson being below whoe Keeping a Lauging & Singing, Capt<sup>n</sup>: Billop went downe to him, (whome the deponant followed,) Endeavored to pacify y<sup>e</sup> s<sup>d</sup>: francis Jeckson and to make him quiet, but hee not being quiet Capt<sup>n</sup>: Billop came downe the second tyme; but the s<sup>d</sup>: Jeckson not as yet keeping quiet—Capt<sup>n</sup>: Billop threatned to putt him in y<sup>e</sup> stokes, and the s<sup>d</sup>: Jeckson Remayning in y<sup>e</sup>: same Posture of singing & keeping a noyse Capt<sup>n</sup>: Billop came downe the third tyme, and then putt him in y<sup>e</sup>: stokes, but before hee was put in, hee called Capt<sup>n</sup>: Billop ill names Vizt Son of a whoore, son of a bitts, Rascall and y<sup>e</sup> Lyke, and when y<sup>e</sup> s<sup>d</sup>: Capt<sup>n</sup>: went to Lett Jackson out of y<sup>e</sup>: stokes againe, hee pulled Capt<sup>n</sup>: Billop by y<sup>e</sup> haire, and so y<sup>e</sup> deponant threw y<sup>e</sup> s<sup>d</sup>: Jackson bakwards into y<sup>e</sup> prison hole, where y<sup>e</sup>: deponant Left y<sup>e</sup> s<sup>d</sup>: Jackson in a Great Radge; and further sayeth nott,

“Claes Daniells Sworne in Court declares that Last munday hee was att worke in y<sup>e</sup> forte, and did see Capt<sup>n</sup>: Billop come downe from abovestairs severall tymes, & y<sup>e</sup>: deponant heard y<sup>e</sup> s<sup>d</sup>: Capt<sup>n</sup>: Billop speake to one francis Jackson, whoe was singing & Keeping a noys below, to bee quiet, & att Last y<sup>e</sup> s<sup>d</sup>: Capt<sup>n</sup>: Billop Comanded the deponant from his worke to putt the s<sup>d</sup>: Jackson into the Stokes; whoe when hee was put in making such a great noys and Endeavoring to breake y<sup>e</sup> stokes, Capt<sup>n</sup>: Billop Comanded y<sup>e</sup> deponant to help to take him out of y<sup>e</sup> stokes againe, and to put him into the Prizon hole, but before hee came to the hole or dungeon hee tooke Capt<sup>n</sup>: Billop by a Loke of his haire and Capt<sup>n</sup>: Billop thereuppon w<sup>th</sup>. a key w<sup>ch</sup>: hee had in his hand strooke the s<sup>d</sup>: francis on y<sup>e</sup> forehead for to make him Let goe his hould, and afterwards, the deponant did see the s<sup>d</sup>: francis strike Capt<sup>n</sup>: Billop

again two or three tymes, and so w<sup>th</sup>: the help of Samuel Wheeler, got y<sup>e</sup> s<sup>d</sup>: Jeckson in y<sup>e</sup> prison hole, and further sayeth not;

“Evert Brantie Sworne in Court declares in substance y<sup>e</sup> same as is declared before by y<sup>e</sup>: other Wittnesses.

“The Prisoner francis Jackson haueing heard his accusations Read and also what the hereafter written witnesses did declare, made answer that hee did not owne or disowne y<sup>e</sup> fact But Left and Referred it wholly to y<sup>e</sup> Censure of y<sup>e</sup> Court;

“The Court haueing taken the buisnesse into Consideracon doe Condemne y<sup>e</sup>: prisoner to bee whipt w<sup>th</sup>: twenty and one Lashes att y<sup>e</sup>: next Court to bee held in this Towne of New Castle, on y<sup>e</sup>: first Teusday of the month of October next and in y<sup>e</sup> meam Tyme Remaine a Prizoner in Close prison.” (Rec. of the Court of New Castle, *Liber A, Ibid.* pp. 154-158.)

#### SPRY IS NOW GETTING A BETTER CLASS OF CLIENTS

An important case of his was heard, 2 October 1677. (*Ibid.* p. 160.)

“Capt<sup>n</sup>: Xtopher Billop (in y<sup>e</sup>: behalfe of his Most Excellent May<sup>tie</sup>;) subcollector in delowar Complaines ag<sup>st</sup>: M<sup>r</sup>: Edmond Gibbon Merchant that hee the s<sup>d</sup>: Gibbon of y<sup>e</sup>: 13<sup>th</sup>: of y<sup>e</sup> month of September 1677 did Contrary to y<sup>e</sup>: Regulacons and orders of y<sup>e</sup>: Governm<sup>t</sup>: Carry up this River of Delowar above y<sup>e</sup>: Towne of New Castle in y<sup>e</sup>: Sloope of Dirk Smith, w<sup>th</sup>:out Entring or haueing paid the 3 p<sup>r</sup>: C<sup>to</sup>: Custome for y<sup>e</sup>: same, therteen Yards of broad Cloath and twenty two and a halfe yards of duffills w<sup>ch</sup>: s<sup>d</sup>: goods being by y<sup>e</sup> s<sup>d</sup>: Sub Collector found in y<sup>e</sup> s<sup>d</sup>: Sloope as above, were by him seized att upland and afterward brought downe to this Towne of New Castle were they still remaine.

“The said Sub Collecto<sup>r</sup>: therefore in y<sup>e</sup> behalfe of his may<sup>tie</sup>: abovesaid, desiers that the s<sup>d</sup>: goods as haueing

ben Carried up Contrary to orders and Regulations w<sup>th</sup>: an Intent of defrauding y<sup>e</sup> dutys, and w<sup>th</sup>: out Entring, may therefore bee Condemned to the use as in such Cases is practicable.”

The names of the jury are interesting: “Tho: harwood; W<sup>m</sup>, hamelton; John Adams; Peter Alrichs; Jos: Cheu; Gysbert dirks; Ralph hutchinson; Rob: Morton; James William; Geo. More; Peter Jegou; John Ogle,” a total of twelve.

“Docto<sup>r</sup>: Thom: Spry attorney for y<sup>e</sup>: s<sup>d</sup>: M<sup>r</sup>: Edmond Gibbon pleads that the s<sup>d</sup>: M<sup>r</sup>: Gibbon did not Intend to put y<sup>e</sup>: goods to sale in this River, but had Left them on board w<sup>th</sup>: a Charge to dirk Smit to Carry them bake to New Yorke, and produces the s<sup>d</sup>: Masters Testimony; The s<sup>d</sup>: docto<sup>r</sup> Spry being willing to Joyne Issue, and desiering a Jury a Jury was Impanneled Accordingly whoe being Sworne, and after they had heard y<sup>e</sup>: debates, went out and brought in their Verdict w<sup>ch</sup>: was viz<sup>t</sup>: The Cause depending in this Court Betweene his May<sup>tie</sup>: and Edmond Gibbon, wee doe find for y<sup>e</sup> P<sup>lt</sup>:”

Spry’s defense, almost smells of alcohol, it is so much like the defense set up in a “Bootlegging” case of the day. He relied on the difficulty of the Government to prove knowledge and intent, but the jury made short work of it.

On 3 October 1677, Anthony Bryant, petitioned that he might have the land on which he lived surveyed, and a Patent granted him, Bryant having bought the land of George Oldfield. “Docto<sup>r</sup>: Thomas Spry Ingaged in Court, in y<sup>e</sup>: Behalfe of the s<sup>d</sup>: George Oldfield & Pieternella his wyfe Execut<sup>x</sup>: of y<sup>e</sup> Last will & Testament of Capt<sup>n</sup>: John Car deceas<sup>d</sup> by vertue of his Letter of Attorney”, to give Bryant a sufficient “Tytle” upon payment of “y<sup>e</sup> sume Contracted.”

The court ordered the agreement to be recorded—thus avoiding the Statute of Frauds, Spry agreeing to pay the debt of another. (*Ibid.* p. 171.)

On 7 November 1677, Spry entered suit against Andries Sinnexe "for worke done by mathias the Smit the sume of therty twoo gilders w<sup>th</sup>: Costs." (*Ibid.* p. 187.) "The Court find uppon Examination of y<sup>e</sup>: Case that the p<sup>l</sup>': hath no Just Cause of action."

It is to be hoped that the then leader of the Bar, was not getting too litigious personally or trying to bluff defendants to pay up by the use of the Court's process.

#### SPRY AS A TAX PAYER

Spry appears among a list "of Tydable p<sup>r</sup>sons Living in this Courts Jurisdiction," (*Ibid.* p. 199), the list having been made up by the Court's order, to collect from every person on the list, "Twelve gilders and ten styvers," to meet the public charges. The government was paying at this time, forty gilders for every wolf's head brought in. At the Session, 9 November 1677, fifty-five wolves' heads were tendered, and it seems as if the officers of the Government, bought up the heads at a discount, in order to get the bounty. It is beyond belief that Mr. John Moll, who was President of the Court, should have personally shot sixteen wolves for whose heads, he claimed bounty; or that Captain Collier, the Commander of the Fort at New Castle, shot ten. (*Ibid.* p. 195.) It looks as if Moll were using his public office for his private gain, and Collier using the soldiers under him to shoot wolves whose heads he returned for bounty.

The depredation by wolves was a serious matter in the Colony. At a Court held, 3 January 1677/8, it was ordered:

"The Court takeing in Conciederation the dayly & Continuall Spoyle & damadge w<sup>ch</sup>: y<sup>e</sup> woolves Committ uppon the Stockes of the Inhabitants," that "woolfe pitts or houses wherein the said varmin may bee Caught & destroyed," be made by the listed inhabitants, under a penalty of seventy-five gilders upon each party neglecting the same. The pitts were to "bee in good order well bayted & tended." The Court reports that the bounty at forty

gilders for each wolfe head, had not decreased the peril, and that the order is made "for the good of the Country In Gennerall." (*Ibid.* p. 222.)

#### SPRY AS A BAIL GOER

Spry seems to have been quite a bailgoer. A number of court entries exist, where he violated the modern rule against lawyers becoming surety. However he might have claimed that he had signed the bail bonds as doctor, and avoid the rule.

On 2 January 1677/8, "Johannes De Haes desiered In Court that hee might haue Judgem<sup>t</sup>: Granted him against Docto<sup>r</sup>: Thom: Spry attorney & bayle of Geo: Oldfield, Upon the agreem<sup>t</sup>: made before the Court the 2<sup>d</sup>: of Octob<sup>r</sup> Laest past." The Court ordered Spry to pay up according to the agreement. Upon 17 January 1677/8, "execut: ag<sup>st</sup>: ye Boddy" was issued, but whether Spry was locked up, or paid up, does not appear. (*Ibid.* p. 211.)

#### THE FIRST NUNCUPATIVE WILL

The Records of New Castle, 7 June, 1677, allege; (*Ibid.* p. 112).

"Whereas Dirck Albertse Late of this Towne of New Castle dyed w<sup>th</sup>:out makeing any formall Will in wryting, Yet as a nuncupative will did before Sufficent Testimony, some Short tyme before his decease nominate and appoint Capt<sup>n</sup>: Edm: Cantwell M<sup>r</sup>: Peter Alrichs & M<sup>r</sup>: Johannes de Haes to bee his Executo<sup>rs</sup>;" they make application to the Court and letters of administration were granted to them.

This is the first nuncupative will admitted to probate in the Delaware River Territory.

#### SPRY IS LIVING IN NEW CASTLE

In this connection, it is interesting to read:

"Justice Peter Alrichs & Justice Johannes De haes, declare that on y<sup>e</sup>: 23<sup>r</sup>d: of this Instant month of March,

Justice Peter Alricks & Justice  
 Johannes Dehaes, declare that on  
 4<sup>th</sup> of this Instant month of March  
 they were sent for by John English  
 of Cecil County in y<sup>e</sup> Province of  
 Maryland, whoe was then sick on  
 bed at the house of doctor Thomas  
 Spry w<sup>ch</sup> in this Towne of New Castle  
 and Comming to him y<sup>e</sup> said John  
 English, hee declared unto them that  
 havinge no<sup>r</sup> Relacions in this Country  
 and for other Reasons him therunto  
 movinge, that hee y<sup>e</sup> John English  
 therefore had nominated & appointed  
 his Countryman Capt: Edmund  
 Cantwell to be his only heir & Executor  
 of all his Estate in these Countries  
 and that hee the s<sup>d</sup> Capt: Cantwell was  
 to have all his Estate paying his  
 debts In witness & Confirmation  
 whereof the aboves<sup>d</sup> M<sup>r</sup> Alricks & Dehaes  
 have herunto set their hands In New  
 Castle In Felowar the 27<sup>th</sup> of March  
 Annoq<sup>ue</sup> Dom: 1679

This is a true and correct copy  
 of the original as it stands in  
 the original book of the  
 records of the County of Cecil  
 in the Province of Maryland  
 the 27<sup>th</sup> of March 1679  
 J. M.

I sworn before me the day  
 and year above written

*J. Moll*

Peter Alricks

Dehaes

I <sup>sworn</sup> ~~sworn~~ <sup>for</sup> ~~for~~ <sup>him</sup> ~~him~~ declares that hee was present  
 & did heare John English now deceased  
 declare what above by Justice Alricks &  
 Dehaes, is declared in the ~~presence~~ <sup>presence</sup>, dated as  
 above

I swore before me the day  
 & year above written

*J. Moll*



They were sent for by John English of Cecill County in y<sup>e</sup> Province of Maryland, whoe was then Sike on bed att the house of doctor Thomas Spry, w<sup>th</sup>:in this Towne of New Castle”.

English declared that he had no relations in this Country, and “appointed his Countryman Capt<sup>n</sup>: Edmund Cantwell, to bee his only heir, & Executo<sup>r</sup> of all his Estate in these Countrys”.

The declaration of the Justices was made “In New Castle In Delowar the 27<sup>th</sup> of March” 1679. On the same day Swen Mounsen (alias Lom) declared that he had been present and heard John English, the deceased, “declare what above by Justice Alrichs and Dehaes, is declared”. And we read further that on the same day “Doctor Thomas Spry & John Brike do declare y<sup>t</sup>. one y<sup>e</sup>. 23 day of this Instant month march: 1678/9 John English of Cecill County planter Lying in y<sup>e</sup> house of y<sup>e</sup> said Spry very sike & weake butt in his perfectt memory: did off his owne accord desire y<sup>e</sup> said Spry to send for Cap<sup>t</sup> Edmond Cantwell Reply wass made him y<sup>t</sup> Cap<sup>t</sup> Cantwell was up y<sup>e</sup> River, then said hee. send for m<sup>r</sup> Johannus Dehause who is his Brotherlaw & Lett him in y<sup>e</sup> behalfe of my Contry mann I having no relations nor freinds nor any in these parts y<sup>t</sup> I am aquanted with butt him & he is Likewise a Relation of one of my Cheifest friends att S<sup>tt</sup> maryes y<sup>t</sup> is Cap<sup>t</sup>. quidly, I do desire therefore y<sup>t</sup>. as I am now here In a condittion nott knowing whether I shall Live or dye: for you to beare wittness y<sup>t</sup> I do give & bequeath all y<sup>t</sup> I have unto my Loving Contryman Cap<sup>t</sup>. Cantwell he for to take all & to pay all. further Declaring y<sup>t</sup>. my Debts I owe ar nott greatt nott Exceding above five hogsheds of Tobakow in maryland besids whatt I owe y<sup>e</sup> Docter meaning Thomas Spry: & further this Deponent sayth nott:” —From the original will in Cecil County Court House, Elkton, Maryland; also recorded in Will Book AA, No. 1, pp. 81-82.

## SPRY AS A DEFENDANT

Spry, about this time and even earlier, must have been very hard pressed for money. We read, that John Edmonds by Mr. John Moll, his attorney, entered suit against him for "86 Bushells of winter wheat for the payment of 42 Bushells," as by Spry's bond, dated, 2 June 1675, duly appeared.

Judgment was entered against Spry, but why he paid eighty six bushels for forty two is unexplainable. Evidently there was no rule against usury. (Rec. of Court of New Castle, *Liber A*, p. 213.)

We read later: "M<sup>r</sup> John Moll" (who was President Justice), "desiering Execution against Thomas Spry as the Bayle of Geo: Oldfield in the twoo Judgements by him the said M<sup>r</sup>: Moll obtained y<sup>e</sup> 5<sup>th</sup>: of September Laest past against said Oldfield, Tho: Spry sheweing no Lawfull Cause to the Contrary, The Co<sup>r</sup>ts: granted the same," and it is recorded further: 5th January 1677/8 "Execut<sup>s</sup>: taken out ag<sup>st</sup>: Tho: Sprys boddys in the 2 actions." (*Ibid.* p. 217.)

## SPRY OFTEN SERVES AS A JUROR

Curiously enough, the next page of the old Record shows: Thomas Spry, the foreman of a jury to try a case in which Moll was the plaintiff against John Roode, to recover 4000 lbs. of Tobacco.

The Court gave judgment for Moll, "But as to the damadge the same was Referred to a Jury", whose verdict was for only 1500 lbs. of Tobacco.

It looks as if Spry was getting back at Moll for issuing execution against his "boddy".

## SPRY "WITHDRAWS" MORE CASES

Spry, the same day, withdrew his suit against Symon Gibson, and acting as attorney for plaintiff, withdrew another suit, by Joseph Houlding against John Anter. (*Ibid.* p. 220.) Spry was doubtless paid his claims with costs.

1692  
John English  
Wm. Hill

Doctor Thomas Spry & John Burke  
do declare y<sup>e</sup> one y<sup>e</sup> 23 day of this Instant month  
march: 1679<sup>2</sup> John English of Cecil County planter  
lying in y<sup>e</sup> house of y<sup>e</sup> said Spry very sick & weak  
but in his perfectt memory: in the presence of  
desire y<sup>e</sup> said Spry to send for Capt. Emond Cantwell  
Reply was made y<sup>e</sup> said Capt. Cantwell was  
Baron, John saw he send for Mr. Johannes DeKoege  
who is his brother in law & sett him in y<sup>e</sup> behalfe of my  
contr. manne I having no relations nor friends nor  
any in these parts I am acquainted with but he & his  
y<sup>e</sup> said wife abolition of one of my Christen friends att  
y<sup>e</sup> said marriage y<sup>e</sup> y<sup>e</sup> said Spry I do give herefore y<sup>e</sup>  
as I am now sett in a condition nott knowing what  
I have done or by what way you do have witness y<sup>e</sup>  
do here & seal at all y<sup>e</sup> I have unto my loving  
Countryman Cap. Cantwell he for to take all y<sup>e</sup> to  
pay all further declaring by my self I owe ar  
nott greatt neither owing above five p<sup>o</sup>unds or  
to be how in maryland besides what I owe y<sup>e</sup>  
Doctor meaning Thomas Spry further his  
deponent says to wit:

I Wm. Hill  
doe here certifye this 23 day  
of March 1679: in N. Castle  
John English  
John & Burke  
Mark:

Witness the hand of the said  
John English  
John English

WILL OF JOHN ENGLISH, 1679  
The First Nuncupative Will in the Delaware Territory.  
Signature of Thomas Spry



### SPRY CALLED SURGEON

On 8 October 1679, "Thomas Spry, surgeon", claims a colt seized and sold by Captain Billopp.

On 11 February 1680, he writes a letter to Sarah Shakerly, relating to the debts due him by her late husband. (Calendar of N. Y. Historical Manuscripts. Delaware Papers pp. 356-360.) Albany, N. Y., 1865.

On 28 October 1679, Spry witnessed the will of "Edmond Cantwell of New Castle on Delaware". The other witnesses were: Jno. Moll; & John Harmes. The will refers to, "that small Estate was given me by John English which Lyeth in Elke river in Mary Land." (Will Book A 78-79, New Castle Co.) These references merely enable us to follow Spry's footsteps.

### A DELICATE QUESTION

A puzzling question arose at about this time, 9 January 1678/9. The record speaks for itself. (Records of Court of New Castle, *Liber B*, p. 31.)

"Engelbert Lott one of the Church wardens of this Towne of New Castle, p<sup>r</sup>senting Evert hendriks fin at Crainhoek for haueing twoo wyves now both alyve att Crainhoek; Ordered that Evert hendriks bee sumoned to apeare at the next Court."

On March 4<sup>th</sup>, the Record says:

"Evert hendriks fin being Laest Co<sup>r</sup>t: p<sup>r</sup>sented, & ordered to appeare att this Court to answer for haueing twoo wyves, And hee the s<sup>d</sup>: Evert accordingly this day appearing, & producing from under y<sup>e</sup> hand of y<sup>e</sup> former dutch Commander & Co<sup>r</sup>t: as also of the English that his s<sup>d</sup>: marriadge was w<sup>th</sup>: Consent of them etc; hee y<sup>e</sup> s<sup>d</sup>: Evert hendriks was thereupon dismiss." (*Ibid.* p. 53.)

Why- is not shown. There may have been extenuating circumstances. We can only guess. He was not entitled to have "two wyves" merely because he was a Finn. The case is unique. Hendriks seems to have been a good citizen and

hardworking farmer. He is credited with "six wolfs heads", in the County list in which Moll sought payment for sixteen. Hendriks probably shot or trapped the "varmin" himself. He is on the Court list of "Tydable" persons.

In a resurvey of twenty eight acres of land on a small neck or point on the west side of the Delaware northward of Crainhook, he is called "Captain".

#### SPRY AGAIN CALLED ON THE JURY

Probably Justice Moll wanted Spry to earn fees as a juror which he was not then earning as a lawyer. The more fees the better the chance of getting something out of the execution against Sprys "boddy". To be fair to Moll and Spry both, it is not clear from the old Record, that the Justices or Jurors were actually paid for their services. At any rate we have Spry as a Juror again. It was at a court held, 4 June 1678, Abram Man was Plaintiff and Walter Wharton, defendant. Here is the record:

"The P<sup>l</sup>: declares that this def<sup>t</sup>: on y<sup>e</sup>: 10<sup>th</sup>: day of Jannuary Laest past did Borrow of y<sup>e</sup> P<sup>l</sup>: a Boate & Riggins for to Returne y<sup>e</sup> same againe y<sup>e</sup>: next day, Yett notwithstanding The def<sup>t</sup>: hath detayned & kept y<sup>e</sup> Boate to this day and hath suffered y<sup>e</sup> Riggings thereof to bee burnt, for y<sup>e</sup> want of w<sup>ch</sup>: s<sup>d</sup>: boate, ye P<sup>l</sup>: is Really damnified y<sup>e</sup> sume of Sixpound; Ittem y<sup>e</sup> P<sup>l</sup>: did w<sup>th</sup>: his boate alsoe Lend y<sup>e</sup> def<sup>t</sup>: his man Servant named Will: Burd for to bee Returned & brought home y<sup>e</sup> next day w<sup>th</sup>: y<sup>e</sup> boate, whome this def<sup>t</sup>: instead of sending home hath kept from y<sup>e</sup> 10<sup>th</sup>: of Jann untill y<sup>e</sup>: 22 day of y<sup>e</sup> month of february Laest during w<sup>ch</sup>: tyme y<sup>e</sup> def<sup>t</sup>: w<sup>th</sup>:out any order or Cause hath mutch abused this def<sup>t</sup>: \*said Servant beating abusing & breaking his Leggs, so y<sup>t</sup>: y<sup>e</sup> s<sup>d</sup>: servant was not able to goe & doe his Mast<sup>r</sup>:s: Buisnesse; alsoe the P<sup>l</sup>: demands of the def<sup>t</sup>: by Acc<sup>tt</sup>: for sundry Goods & wares Delivered y<sup>e</sup> sume of fourthy Six Guilders for all w<sup>ch</sup>: y<sup>e</sup> P<sup>l</sup>: brings his Suite & humbly Craues of this Worp<sup>l</sup>: Court, (viz<sup>t</sup>:) That

\*The original record says "defts", but it was the plaintiff's servant who was abused.

y<sup>e</sup> defend<sup>t</sup>: may pay y<sup>e</sup>: s<sup>d</sup>: six pound damadge for y<sup>e</sup>: use of y<sup>e</sup> boate; That alsoe hee pay for the Tyme hee detayned & Kept the Servant, as alsoe for y<sup>e</sup> Cure of his Leggs, and Laestly that y<sup>e</sup> def<sup>t</sup>: pay y<sup>e</sup> s<sup>d</sup>: 46 gilders due on acc<sup>t</sup>: together w<sup>th</sup> all Costs.”

The Court “Did think fitt to putt y<sup>e</sup> buisnesse of y<sup>e</sup> boate and Servant to a Jury, whoe brought in their Verdict as followeth Viz<sup>t</sup>: The Jury finds for the P<sup>l</sup>t: foure pound ten shillings in merchandable pay of this River for a Boat delivered by the P<sup>l</sup>t: to y<sup>e</sup> def<sup>t</sup>: as alsoe twenty shillings damadge for y<sup>e</sup> want of y<sup>e</sup> s<sup>d</sup>: boate, as Lykewyse Twenty shill: for y<sup>e</sup> tyme he detayned the P<sup>l</sup>ts. man from y<sup>e</sup> Service of y<sup>e</sup> P<sup>l</sup>t: w<sup>th</sup>: y<sup>e</sup>: Costs, of Suite.”

The defendant was in default—did not appear—and the Court ordered judgment according to the verdict, and 46 gilders for plaintiff’s account, “hee haueing made oath to y<sup>e</sup> same”. (*Liber A*, p. 271–272.)

The record does not show whether the action was in debt or in case, but the declaration is a cover-all.

The same day Spry sued Harman Jansen, for 267 gilders and 16 styvers: “The def<sup>t</sup>: sayes to haue formerly agreed w<sup>th</sup>: the P<sup>l</sup>t: to pay him no more for the whole then 4 Schipple of wheat and a Joung Sowe, and sayes that hee can prove the same, Ordered that hee prove the same att y<sup>e</sup> next Court.” (*Liber A*, p. 275.)

On 5 June 1678, Spry is again on a Jury—“Hendrik Williams, P<sup>l</sup>t:” vs. “Walter Wharton, Def<sup>t</sup>:”.

The action had been continued before, by reason of the defendant’s absence, and the Court now referred the case to a Jury. (*Ibid.* p. 277.)

Walter Wharton was official surveyor, but had fallen from the true course of the compass. Under date of, 4 June 1678, we read (*Ibid.* p. 270.)

“M<sup>r</sup>. Walter Wharton being heretofore by the Minister, Reader, & t’ Church wardens p<sup>r</sup>sented for marrying himselfe or being married directly Contrary to the Knowne

Lawes of England and alsoe Contrary to y<sup>e</sup> Lawes & Customes of this place & Province, as alsoe for promissing of Lands and Entering the same in his booke before y<sup>t</sup>: the p<sup>r</sup>sons for whome hee did itt had any Grant or order of Court for the same; & y<sup>e</sup>: s<sup>d</sup>: M<sup>r</sup>. Walter Wharton not appearing in three following Court:dayes, and to the End the Reproach may bee taken away from the River and that such notorius Breatches of the Lawes and disorders may for the future not passe unpunished, Especially in p<sup>r</sup>sons of Lesser qualitys whoe if this of M<sup>r</sup>: Whartons (:whoe is in Commission and beares the office of a Justice of y<sup>e</sup> Peace ought to Give good Examples to others;) had not ben Reguarded, might att all tymes hereafter bee held for a Bad p<sup>r</sup>sident The Court doe therefore thinke itt necessary humbly for to offer the p<sup>r</sup>misses to y<sup>e</sup> Judgement of his hono<sup>r</sup>: the Governo<sup>r</sup>:” [at New York] “for to Inflict such punishment as his hono<sup>r</sup>: in his wisdome shall thinke fitt & Expedient.”

The Court upon, 4 June 1678, fined Wharton ten pounds for his failure “to doe and attend ye publicq & Country buisness as others y<sup>e</sup> Justices & members of this Court from tyme to tyme to doe.” (*Ibid.* p. 276.)

He had been appointed in 1671 by Governor Lovelace,” Surveyor General on the west side of the Delaware.” Besides being one of the Justices at New Castle, he was one of the appraisers of the Island of Tinicum, in the famous suit of Armego Printz Papegoja against Carr. He lived at Upland (Upland Court Records, 130). He died about the end of 1678, and got his deserts from a Higher Court before the Governor at New York could pass on his delinquencies.

#### AN EARLY TARIFF CASE

The following is of special interest as an early customs or tariff case:

“Att a Meeting of the Justices held In the Towne of New Castle y<sup>e</sup>: 8<sup>th</sup>: of March 1677/8.

P <sup>r</sup> sent	M <sup>r</sup> : John Moll	}	Justices
	M <sup>r</sup> : Peter Alrichs		
	M <sup>r</sup> : fop Outhout		
	M <sup>r</sup> : Gerret Otto		
	Capt <sup>n</sup> : Edm: Cantwell	}	High Sherrife.

“The Co<sup>rt</sup>: haue desiered and Authorized the Clercq Ephraim Herman to put y<sup>e</sup> papers and Small Consernes of Henry Stanbrooke deceased in good order & forme by way of accompt (and if hee can) or thinks fitt to Receive the debts due unto the s<sup>d</sup>: Stanbrooke in these parts, and to bee accomptable for what hee might Receive allowing him the s<sup>d</sup>: Eph: herman of the whole w<sup>ch</sup>: hee shall put in order after y<sup>e</sup>: Rate of Eight p<sup>r</sup>: Cento and haue further in all Respects allowed him soe much as the Executo<sup>rs</sup>: of Dirk albertsen deceased haue agreed w<sup>th</sup>: y<sup>e</sup> s<sup>d</sup>: herman.

“The Co<sup>rt</sup>: taking into Consideracon y<sup>e</sup> Gener<sup>ll</sup>: Complaints, of y<sup>e</sup>. Inhabitants for y<sup>e</sup> Severall straynes & usuall Actions of Capt<sup>n</sup>: Christoph<sup>r</sup>: Billop Commander sence his being here in severall particulars; viz<sup>t</sup>:

“That y<sup>e</sup> s<sup>d</sup>: Commander most part of this whole winter & still makes use of y<sup>e</sup> Towne forte where y<sup>e</sup> watch on occasion was kept for a stable to put in his horses, That hee keepes y<sup>e</sup> Co<sup>rt</sup>: Roome above in the forte and keepes the same filled w<sup>th</sup>: hay & fother, That hee kept hoghs w<sup>th</sup>:in y<sup>e</sup> forte Walls and by that meanes Keepes y<sup>e</sup> Gates Continually Lockt up, That hee hath & doth still denys & debarrs this Court from Sitting in their usuall place in the forte, That hee makes use of ye Souldier (whoe is in pay and is kept for to Look to y<sup>e</sup> forte and to keepe itt Klean) about his owne Pryvat affayres sending him y<sup>e</sup> most part or a Long whyle from home. That, hee had denyed & forbidden the Sherrife to put any Prizoners in y<sup>e</sup> Usuall prizon In the forte, That to y<sup>e</sup> Great discouradgem<sup>t</sup>: of all Inhabitants Contrary to former practice and the Priviledges of this Towne hee hath forced y<sup>e</sup> people whoe are Livers w<sup>th</sup>:in the Jurisdiction of this Court to pay Custome for Inconsiderable quantitys of goods by them

bought In Towne for their Necessity. The Co<sup>rt</sup>: takeing all y<sup>e</sup> aboves<sup>d</sup>: & other the Lyke Actions Into Consideracon thought itt Convenient to Reason w<sup>th</sup>: the said Commander, and to warne him of the dainger hee did Incurr by acting as hee did, The more & Especially by Reason the Indians begun to make disturbance In the Neighbouring Collony of Maryland, w<sup>ch</sup>: might quikly Reatch heither, and y<sup>e</sup> forte being as itt is could not serve for a place of Refudge on Occasion.

“The s<sup>d</sup>: Capt<sup>n</sup>: Billop comming In Court Answered upon y<sup>e</sup> aboves<sup>d</sup>: perticulars, That hee had only to doe w<sup>th</sup>: y<sup>e</sup> forte & militia, and that the Co<sup>rt</sup>: should not sitt in the forte, and that itt not Conserved the Court; and as to the Customes hee answered that although his predecessors had not taken Customes of such small matters bought by Inhabitants for their necessity, that the same was According to the Regulacons & hee would nott Remitt the same unless the Governo<sup>r</sup> would send him such order etc.

“But after a Long dispute the s<sup>d</sup>: Capt<sup>n</sup>: Billop promised to Remoove his horses etc out of y<sup>e</sup> forte and to Cause the same to bee made Clean, and hee said that the Court might sitt there againe, Lykewyse that the Sherrife might again make use of y<sup>e</sup>: Country Prizon as formerly, And as to the Customes that hee would Remitt small things bought by Inhabitants for their maintainance.

“The Court ordered the above to bee Soe Recorded.”  
(Rec. of the Court of New Castle, *Liber A*, pp. 246-248.)

#### JUDGMENT AGAINST SPRY

The case of Thomas Spry vs. Harman Jansen turns up again on the Record.

“The P<sup>l</sup>”: nott prooveing what hee proffered to proove the Laest Courtday;” the Court ordered judgment against him. (*Ibid.* p. 322.)

Thomas Spry and others were called the same day as witnesses in an action of debt by “Robberd Williams by his

attorney James Williams" against "George Moore", to recover 200 gilders by bill, and it is hoped that Spry got witness fees, although he may not upon the theory that lawyers being officers of the Court, are expected to be always in attendance. (*Ibid.* p. 322.)

#### SPRY AS SURETY FOR JEAN ERSKIN

Spry must have ultimately cleared himself of debt. He is accepted by the Court as Surety. At a Session, 3 December 1678, he, together with John Ogle, bound themselves "Joyntly & Severally" for Jean Erskin, widow of John, as administratrix of her husband's estate. He seems to have been a little chary about the widow, because he only bound himself, "to bee Responsible for hur so far forth as assets & ye Estate shall come to.", and probably took the assets, as well as the widow, under his protection. (*Ibid.* p. 333.)

Spry deserves credit for standing by Jane Erskin, whether his conduct was personal or professional. She had a hard time of it. She lodged a complaint, through Captain Nicolls, Secretary to the Governor, in which she alleged in behalf of herself and children, that "suddenly" after the death of her husband, Sergeant John Erskin, before any account could be taken of his Estate, he dying intestate, Mr. John Moll, one of the Justices of the Court, seized by attachment, a forty-foot house of tobacco, which was struck and lay in bulk, but not "stripped," and that Moll neglected it, "the widow not daring to medle therewith (the broad A R being put on the house) untill the greater part was Lost, being rotten and the remainder apprizd at a small value, was Received by the said M<sup>r</sup> Moll, w<sup>th</sup>: divers household Goods and utensills, belonging to a plantation, taken in Execution, and upon another Execution obtayned by William Semple her Cowes were Lykewyse taken away." Nicolls informed the Court that these proceedings had been very irregular, the administration belonging to the widow, and asked the Court to appoint a time for the creditors to make their claims, so

that care might be taken for the payment of the debts equally, according to law, which directed judgments and specialities to be first paid, and other debts and accounts afterwards. Nicolls admonished the Court, that "if any damadge hath hapned to the Tabbacco" by the neglect of Moll or the Sheriff, it must be made good, and that it was supposed there was enough for all the creditors, and a competence over for the widow and children, and further, that in reference to a small lot in the town, for which her husband had a patent, and which he had been in possession of for nearly fourteen years, she could not be ejected out of her husband's rights, by any pretence of former title, but only by due course of law. "This being all I: haue to Recomend to you I: rest; Gent. Yo<sup>r</sup>: very humble Servt  
(subscribed) Matthias Nicolls.

New York—Novemb<sup>r</sup> 4<sup>th</sup>: 1678." (*Ibid.* pp. 331, 332, 333.)

Moll's record is not altogether satisfactory. The judicial ermine he was expected to wear has the color and odor of skunk. He must have felt cheap when the Complaint was read in open court. Even if Moll received no regular salary as President Justice, he seems to have had an eye single to his own advantage. He asked for a copy of the Complaint, and proceedings were stayed "till hee could make his hono<sup>r</sup> acquainted w<sup>th</sup> y<sup>e</sup> buisnesse."

All praise to Stry for going Jane's security.

#### FIRST MARRIAGE CONTRACT ON RECORD

At this same Court a "matrimoniall Contract" was spread on the Minutes—the first time such a contract was recorded in the Delaware Territory.

It is dated 19 October 1676. The parties to it were Jan Siericksen, bachelor, of Oppoquenemen, born at Holstein, and Wybreggh Jansen, also of Oppoquenemen, born at Ditmarsen, widow of Barent Hendricks. The contract was received and recorded as the *will* of the said Jan Siericksen who was then dead, and the Court appointed Wybreggh as administratrix of the estate of her deceased husband.

On 5 February 1678/9, the widow having married John Walker, an appraisement of the estate of Jan Siericksen was filed and the Court ordered distribution in accordance with the terms of the marriage contract. John Walker, the new husband, mortgaged and bound the decedent's real estate to secure the children's share of the property. (*Ibid.*, *Liber A*, pp. 335, 336, 337, *Liber B*, p. 44.)

#### SPRY BINDS OUT HIS STEP DAUGHTERS

At this same Session, Henrietta, the daughter of the late Barent Egbertsen, whose widow Spry had married, appeared in Court, and "w<sup>th</sup>: hur owne free & voluntary will", and the consent of the Court, "as alsoe of hur father in Lawe doctor Thomas Spry & his wyfe," was "put out unto Peter Claassen of Christina Creeke" for four years, to serve him "truely and faithfully,"—Peter and Swaentie, his wife, promising "to find hur the said henrieta, sufficient meat drinke apparrill washing & Lodgeing, and att the Expiracon of the 4 Jears Peter Claassen is to give hur the s<sup>d</sup>: henrieta a Cowe and Calfe." (*Ibid.* p. 346.)

This indenture of his stepdaughter, seems to indicate that Spry was not as well off as he might have been, unless the girl was unruly, or was being apprenticed to learn some trade.

Thomas Spry and Rebecca, his wife, at a Court, 5 February 1678/9, bound Anna, another daughter of Barent Egbertsen, to William Grant for six years in the same way as Henrietta had been bound by, and he "to give hur as good Cloaths (if not better) as shee now brings, as alsoe twoo heifers w<sup>th</sup>: twoo Calves, and a Sowe w<sup>th</sup>: Pigg or w<sup>th</sup>: Piggs by hur syde." (*Liber B*, p. 39.)

#### SPRY OPEN TO CRITICISM

In *Liber B*, of the Court Records, which cover the period from 7 January 1678/9, to 12 December 1681, frequent mention of Spry occurs, and at times his conduct seems open to criticism. It looks like the conduct of a shyster.

On 8 January 1678/9, he "withdrew" his suit against Jacob Jansen (p. 16). In an action of debt for 50 gilders which he had brought against Charles Rumsey, it was "proved in Court by Two wittnesses that y<sup>e</sup>: def<sup>t</sup>: Charles Rumsey hath proffered to come to acc<sup>t</sup>: w<sup>th</sup>: and pay the P<sup>l</sup>t: his ballance, w<sup>ch</sup>: prooves to bee but 7 gilders The Court Judge that this is but a vexatius suite, and therefore doe order a nonsuite to bee Entered ag<sup>st</sup>: the P<sup>l</sup>t: w<sup>th</sup>: Costs." (*Ibid.* p. 16.)

As the gilder was worth but twelve cents—Spry's conduct seems as small as the amount involved. He evidently intended to collect from Rumsey, costs and fees, but the Court stopped him.

He sued John Test at the same Session, for 74 gilders—a balance of an account, and the Court gave him judgment after he had proved his "acc<sup>t</sup> by oath."

#### BASTARDY CASES

Rebecca Spry (Thomas's wife), appeared in Court, at this time, with Jane Erskin and Mary Wharton, and declared upon oath that they were present with Mary, the maid servant to Ralph Hutchinson, and that in the "Extreamity of hur Trauill strictly Examining hur after the father of the Chyld, and w<sup>th</sup>: all swearing hur, Shee declared then that Jarvis Marshall and noe p<sup>r</sup>son Else was the father of the Chyld and that shee Knew noe other p<sup>r</sup>son but him." (*Ibid.* p. 17.)

Spry himself appeared at the same Court, with Rebecca Egbertson, his wife, and being sworn declared that "on the 24<sup>th</sup>: of august Laest past they the deponants, were p<sup>r</sup>sent w<sup>th</sup>: one Margret Lee in hur Trauill of hur Bastard Chyld; w<sup>th</sup>: in this Towne of New Castle, and haueing strictly Examined hur, she in hur greatest Extreamity did declare that Will. Pryce of Elke River in Maryland & none but hee was the father of the said Chyld."

These two entries are suspicious. Surely Spry and his wife were not in the game of blackmail. What was their

motive? How can the coincidence be explained that the Sprys were present at both events. Thomas Spry may have been the "doctor" and Rebecca the midwife. One thing is certain, that "bars sinister" may exist in two of our oldest genealogies.

Poor Margret Lee again turns up, 9 January 1678/9, when the clerk records "The Court being made acquainted y<sup>t</sup>: one Margrett Lee for some tyme past was come out of Maryland to this Towne of New Castle, big w<sup>th</sup>: Chyld; and as hath ben proved off a Bastard, on purpose to Lye in, here, and soe to Escape the punnishment in Maryland; and the s<sup>d</sup>: Margret Lee being brought before the Court and Examined The Court ordered hur the said Margret Lee & M<sup>r</sup>: Peter Jegou did Ingage, That shee the s<sup>d</sup>: Margret should depart out of this Governm<sup>t</sup>: w<sup>th</sup>:in y<sup>e</sup> space of 8 days, upon penalty of seuerer punnishment In case shee stay Longer & bee found w<sup>th</sup>in the p<sup>r</sup>cints of this Court; Mr: Peter Jegou alsoe did [agree] in Court to Pay y<sup>e</sup> Costs,

"And to y<sup>e</sup> End that for the future noe such p<sup>r</sup>sons may bee here harboured, and that this place may not serve & be counted a shelter for whoores; The Court doe strictly forbid all Inhabitants dwelling in their district not to harbour or Intertayne any woomen bigg w<sup>th</sup>: Chyld (:and come from any place w<sup>th</sup>:out y<sup>e</sup> Jurisdiction of this Court) without giving notice first thereof to a magistrate, Those acting Contrary to this order to bee seuerely punnisht or fyned att y<sup>e</sup>: discretion of y<sup>e</sup> Court." (*Ibid.* p. 30.)

How a citizen was to obtain knowledge of the fact is not published. Appearances might deceive.

Upon 5 March 1678/9, Spry again "withdraws" an action. It was against Daniel Makerty. These are his own cases he is withdrawing, not those of clients. (*Ibid.* p. 58.)

#### SPRY'S PRACTICE AS A DOCTOR

Thomas Spry is now evidently in active practice as a doctor. He is often called "doctor" in the court records since the case against him by Captain John Collier for

assult and battery, 12 July 1677. There are but few recorded cases of his practice as a "doctor". He was probably acting as such when he got mixed up with the delivery of the bastard children. On 3 December 1678, a public sale was had of the effects of a certain "doctor John Disjardins", and the record shows that "Doctor Thomas Spry" purchased for 100 guilders: "7 Gelly Potts & 2 small boxes w<sup>th</sup>: medsons \* \* \* and one paper w<sup>th</sup>: Saffran". The "Gelly Potts" were probably filled with salves or ointments which he needed in his practice. The purchase was not expensive. The price he paid was the same as Ephraim Herman, the Court Clerk paid at the sale for: "one gray bever hatt 1 Rayser a Case w<sup>th</sup>: . . . & a small silver Earpicker." (*Liber A*, p. 349.)

On 2 April 1679, Spry prefers "a Peticon & acc<sup>t</sup>: against the Estate of Walter Wharton deceased, for Phisicq administered unto him the said Walter Wharton" (*Liber B*, p. 72). Spry's claim was for 262 guilders and the Court gave him judgment against the estate for the amount. It is significant that Wharton died.

Spry may have been doing considerable business in the matter of bastard children, of which the Delaware Territory at this time was not alone prolific. Much of this business originated with Agnieta Hendriks whose name appears often of record.

On 3, December 1678, Spry petitioned the Court to bind over Sybrant Jansen who "had Carnall \* \* \* w<sup>th</sup>: y<sup>e</sup> s<sup>d</sup>: agnita & has gott hur [with child]" and the court bound over both to appear and abide by the Court's order. (*Liber A*, p. 345.) It was represented to the Court that she "is brought to bed of hur bastard chyld, w<sup>ch</sup>: came dead into the world."

The Court examined those present at her delivery: "Mistris Mary Blocq, Elizabeth the wyfe of John Darby, Barbara the wyfe of Peter Maesland, and Carie the wfy of hendrik Jansen whoe has acted as midwyfe." They testified that while she was in "Travell, and y<sup>t</sup>: Before they would help hur" she declared that Sybrant Jansen

was its father. She gave other distressing details too sad to relate. (*Liber B*, pp. 9, 10.)

On 3 April 1679, Agnita Hendricks was again presented for "haueing had three Bastard children one after another,"

The Court ordered that she should "bee publicqly whipt twenty seven Lashies".

Claes Andriessen came to her rescue and petitioned the Court for "Leaue to marry w<sup>th</sup>: Agnieta hendriks, & that shee y<sup>e</sup> s<sup>d</sup>: Agnieta might bee Excused from punishm<sup>t</sup> The Co<sup>rt</sup>: doe grant him Leaue to marry hur y<sup>e</sup> s<sup>d</sup>: Agnieta hendriks *after* shee shall haue Received hur much deserved Correction."

President Justice Moll was sitting, and the poor soul was given the lashes: "att y<sup>e</sup>: forte Gate In New Castle." (*Liber B*, p. 78.) It is to be hoped that Claes married her, but of that fact there is no record.

At this same Court, Ralph Hutchinson was fined 150 guilders, for failing to bring before the Court, Mary his maid servant, as he had theretofore been ordered to do, "for the weldeserved punnishment w<sup>ch</sup>: otherwayes should haue ben Inflicted upon hur y<sup>e</sup> s<sup>d</sup>: Mary for hur haueing a Bastard" (*Ibid.* p. 78.)

Agnieta Hendriks turns up in Court again having a bastard child whereupon the Constable presented her, and the Court ordered her "publicqly whipt 31 Lashes" and banished her from the Country for five years—she to depart within three days after her punishment was received. (*Liber B*, p. 273.) Poor soul! This is the last we know of her. May God's mercy be with her.

Notwithstanding the Court's attitude towards these unfortunate women, the population of the Delaware Territory rapidly increased.

#### SPRY AGAIN A DEFENDANT

The next we hear of Thomas Spry, is a suit against him by "William Darvall, to recover 358 gilder" "in mer-

chandable Tobbacco and Caske". Spry acknowledged the debt and judgment was entered against him. (*Liber B*, p. 99.)

Immediately thereafter the suit was heard of the Executors of Dirk Albertsen against Spry, in which Spry alleged "hee had an acc<sup>t</sup>: in Contra, to bring ag<sup>st</sup>: the P<sup>ts</sup> acc<sup>t</sup>:" and the case was continued. (*Ibid.* p. 100.)

#### MORE CASES AGAINST SPRY

Then two cases turn up: Spry against John Street, and Spry against Daniel Makerty (*Ibid.* p. 107). Spry "withdraws" both. There is nothing to show what the suits were about, whether for "physiq" or legal advice.

On 1 July 1679, the case of the Executor of Dirk Albertsen against Thomas Spry was called for trial.

"The def<sup>t</sup>: being Verry Sike, & not able to apeare, this action is therefore Continued till next Co<sup>rt</sup>:"

Possibly Spry was really sick. The Town was small, and the Court doubtless knew the fact, without a doctor's certificate. This case was called again. 3 December 1679, the plaintiff demanded 301 gilders and 9- $\frac{1}{2}$  styvers, "part thereof being vendu monny & part thereof booke debts."

"The def<sup>t</sup> Thom: Spry Saying as att severall Courts before hee had done that hee had some acc<sup>t</sup>: in Contra to bring in, w<sup>ch</sup>: hetherto is not by him done;" the Court gave judgment against him for the full amount, but there was to be deducted such sum as he could "make Evidently apeare, to have paid." (*Ibid.* p. 135.)

At the same Court Spry was called and acted as foreman of a jury. He made a rapid recovery from "being verry sike" as soon as the Albertsen case was safely continued.

Then the case of Spry vs. the Estate of John Shackerly deceased, was continued, because no administrator had

been appointed, and an attachment had been laid against defendant's effects in the hands of John Darby. (*Ibid.* p. 139.)

On 6 January 1679/80, the suit of Hans Petersen against Pelle Hendricks was, at defendant's desire "Continued til next Co<sup>rt</sup>: & then to bee determined." (*Ibid.* p. 149.)

The case of Spry against the Estate of John Shackerly was also "Continued", as also the case of Spry vs. Robb. Hutchinson "this being y<sup>e</sup>: 1<sup>st</sup>: Co<sup>rt</sup>: y<sup>e</sup> action is Continued"—all of which seems like the calling of the Trial List at the present day in the Court of Common Pleas. While some plaintiffs are ready for trial, every defendant is ready for a continuance. (*Ibid.* pp. 151, 152.)

At the Court's Session, 3 February 1679/80: "a new question turned up. "Complaint being made in Court ag<sup>st</sup>: doctor Tho. Spry; that hee Keeps a daingerous hurtful dogh; for man & beasts Its ordered & doctor Spry was by y<sup>e</sup> Co<sup>rt</sup>: forwarned, not to Keepe y<sup>e</sup> s<sup>d</sup>: dogh any Longer, otherwayes; whatsoever mischiefe y<sup>e</sup> s<sup>d</sup>: dogh shall happen to doe hee to make good, & the dogh to be Imediatly Kild." (*Ibid.* p. 164.) The word "immediately" is spelled with a large "I", thus threatening capital punishment. A dog "hurtful to man and beast" may have been useful at times to keep away process servers.

#### SPRY CALLED "CHIRURGEON"

On the next day, Captain Edmund Cantwell, administrator of Walter Wharton, was ordered to pay "unto Thom: Spry Chirurgon", 262 guilders.

The case of Spry vs. Shackerly was again continued. The same record says:

"Apeared In Co<sup>rt</sup>: Thom: Spry of New Castle Chirurgon, whoe acknowledged the Transporting and makeing ouer unto Jacob Joung of S<sup>t</sup>: Georges Creeke of a Certayne parcel of Land of 160 acres Lying in S<sup>t</sup>: Georges Creeke togeather w<sup>th</sup>: y<sup>e</sup> plantation thereuppon, w<sup>ch</sup>: s<sup>d</sup>: transport

bears date 2<sup>d</sup>: february 1679/80 and is Recorded att Large in y<sup>e</sup> Records of Pattents." (*Ibid.* p. 176.)

#### SPRY AGAIN ON THE JURY

Spry is again on the Jury, 2 March 1679/80. Later on he petitions the Court to take up "twoo hundered acres of Land" within the precincts of the Court, not heretofore granted, "taken up or Improoved by others hee Seating & Improoveing the same Land, according to Lawe Regulacons and orders." (*Ibid.* p. 192.)

One of the requirements of Patentees was, "that within three years after" their "survey", they "must plant, Seat or inhabit" their land or forfeit it. ("Lawes": "Land", Collections New York Historical Society, Vol. I. p. 360. (A.D. 1811.)

The case of Spry against the estate of John Shackerly was again continued. Spry was probably getting old and feeble. We read of continuance after continuance.

The case of Spry vs. John Taylor is continued, also his case against the Estate of Shackerly. In this case the continuance was "untill y<sup>e</sup> arryvall of Joh: Kip y<sup>e</sup> attorn: of y<sup>e</sup> administ of y<sup>e</sup> Estate of J<sup>o</sup>: Shackerly whoe is dayly Expected." (Rec. of the Court of New Castle, *Liber B*, p. 217.)

On 4 May 1680, Spry is again on the Jury. He is usually foreman, and must have had the Court's confidence as a juror. He returned a verdict for the plaintiffs, Justa Andries and Aeltie, his wife, for 12 pence damages in a suit against "Jan Andriess Staalcop & Christina his wyfe" for slander. The parties were at a wedding. Staalcop asked Justa "why doe you goe by my house & doe not Come in," Justa answered "because you haue Accused my wyfe for a theefe, Jan Staalcop sayed So if o<sup>r</sup> wyves haue trouble togeather Let us bee frinds & drinke for wee are Come heither to bee merry," (*Ibid.* pp. 221-222). The verdict justified Justa.

AN ATTACK ON THE COURT FROM THE SAME SOURCE

A slander against the Justices:

“Att a Speciall Court held in the Towne of New Castle  
July the 16<sup>th</sup>: 1678.

P <sup>r</sup> sent	Mr. Peter Alrichs	} Justices
	Mr. fopp Outhout	
	Mr. Jean Paul Jacquet	
	Mr: Gerret Otto	
	Capt <sup>n</sup> : Edmund Cantwell	

“Edmund Cantwell High Sherrife in the Behalfe of o<sup>r</sup> Soueraigne Lord the Kingh, Indytes Justa Andries and Aeltie his wyfe for that they the said Justa and Aeltie, not haueing the feare of God before their Eys and forgetting all Civility and the Respect due unto the Court and Justices, whoe so neerly Represent the p<sup>r</sup>son of o<sup>r</sup> Soueraigne Lord the King, haue on the 28<sup>th</sup>: of June Laest past in a most Slainderous absurd threathning and menacing manner by their ill dirty Language Slaundered this Court and their officers, Saying God dam the Court they bee all t<sup>r</sup> Cheating Rogues—Should I: bee tryed by such Rogues as John Moll and a thief and high stealer as Gerret otto they haue Given away a Cowe from mee I: am sure to Loose all as comes to the Court, I: will beat and make them fly all To the Devill Iff I: come to the Court in Earnest, saying further that hee would an other bout for the Cowe and hee would arrest Robberd Morton againe to y<sup>e</sup> Court and that then hee would See whether they meaning the Court had the hart to give away the Cowe w<sup>th</sup>: a Great many more dirty Scandalous words & Expressions against the Court and their officers, and on y<sup>e</sup> same day Aeltie the wyfe of y<sup>e</sup>: s<sup>d</sup> Justa Andries fell Lykewyse a Raling Cursing and Swaring against the Court and their officers in these and y<sup>e</sup>: Lyke words, God dam that Moll, they are all a Lyke Cheating Rogues, God dame the Sherrifs & Clarkes etc all w<sup>ch</sup>: aboves<sup>d</sup>: words were used & spoken to the undersherrife of this Towne of New Castle w<sup>ch</sup>: so amazed the s<sup>d</sup>: undersherrife that hee departed

w<sup>th</sup>: feare not haueing Executed his office, moreouer they the said Justa and Aeltie his wyfe pursuing & following the Evill Intent and Immagination of their harts on the first day of July Laest past att w<sup>ch</sup>: tyme the Constable of this Towne came att their house in Christina w<sup>th</sup>: a warrant of Justice Peter Alrichs in Search of y<sup>e</sup> boy Servant to Emilius de Ring, the son in Lawe to y<sup>e</sup> said Justa hath in the p<sup>r</sup>sence of Justice John Moll who hapned to bee there att that same tyme w<sup>th</sup>: force and armes & foull menacing words & Expressions opposed Rebuked hindered & assaulted the said Constable Refusing to obey the said warrant, and Justice John Moll then fairly Intreating the said Justa to obey Authority, using many Civill arguments to Induce him thereunto, all w<sup>ch</sup>: not aualing w<sup>th</sup>: him the said Justa Andries. The said Justice Moll was forced to Command the Standers by in his May<sup>tis</sup>: Name to bee aiding & assisting to the Constable in the doing of his duty att w<sup>ch</sup>: hee the s<sup>d</sup>: Justa Andries Grew so Inraged that hee tooke up a Cleft stike of wood and Stepping w<sup>th</sup>: itt up to the said M<sup>r</sup>. Moll Lifted itt up threathning therewith to strike him the said Justice Moll and a small tyme after, Justice Moll & ye Constable departing w<sup>th</sup>: feare and being come on this syde of Christina Creeke going humwards, hee the said Justa Andries and Aeltie his wyfe still following the Evill Intent of their harts amongst other his foull Slaunderous words and menacing Speeches, to Justice Moll and the Constable, spake and acted as followeth—are you a Justice of the Peace you are a devill and not worthy to sitt upon y<sup>e</sup> bench you haue Sworne to Ruine mee & myne and M<sup>r</sup> Moll keeping his pace being on horsbake going humwards Justa Andries said in a fury now will I: haue & take yo<sup>r</sup> hors from you, and w<sup>th</sup> that Run furiously to ketch the said horse w<sup>ch</sup>: forced both him the said Justice Moll and the Constable to fly for their safety, in wich said actions Aeltie the wyfe of the said Justa was alsoe acting Yeelding and w<sup>th</sup>: foull words part takeing w<sup>th</sup>: hur husband all wich premisses are directly Contrary to the Lawes and Statutes of England as well as of this Government, and are alsoe of a bad Consequence and an Ex-

treame ill p<sup>r</sup>sident to others, Insomutch that itt is a derision of y<sup>e</sup> Kings May<sup>t</sup>is: Authority, and noe well Settled Governm<sup>t</sup>: can bee Establisht and maintayned where such notorius offences are past by and y<sup>e</sup> offenders thereof not severely punnisht and an Example made to others; of w<sup>ch</sup>: Contempt of Authority Slaunder assault & breach of the Peace are you both guilty or noe:

“To wich abovesaid Indytment Justa Andries and Aeltie his wyfe pleaded not Guilty; but after the hereafter menconed wittnesses were all Sworne and Examined in Court; They the s<sup>d</sup>: Justa & Aeltie said that they would not stand out upon their Vindication, but humbly threw themselves upon y<sup>e</sup> mercy of the Court w<sup>ch</sup>: being taken into Consideracon;

“The Court (haueing Regard to their Submission) Doe order and Sentence as followeth—That they the s<sup>d</sup>: Justa Andries and Aeltie his wyfe, doe both upon their Knees in Court aske forgiveness for their s<sup>d</sup>: offences, and that Justa Andries bee of the good behavior (and give Security for the same) during the Courts pleasure, and Laestly that they pay a fyne of six hundered Guilders and give security for y<sup>e</sup> paymen<sup>t</sup> thereof together w<sup>th</sup>: the Costs.”  
(*Liber A*, pp. 292-295.)

#### SPRY CURES BRANTIE'S LEG

The same Court record says:

“Docto<sup>r</sup>: Thomas Spry haueing often before and now againe Earnestly desiering that y<sup>e</sup> Court would bee pleased to order y<sup>e</sup> Deakons or Pooremasters of this Church of New Castle, to pay him y<sup>e</sup> s<sup>d</sup>: Spry y<sup>e</sup> sume of Three hundered guilders, Due to him for Curing Evert Branties Legg etc The Court takeing the buisnesse in Consideration, haue thought fitt to order; That y<sup>e</sup> s<sup>d</sup>: Deakons shall Deliver unto s<sup>d</sup>: Doctor Spry y<sup>e</sup> Cowe belonging to y<sup>e</sup> Poore att p<sup>r</sup>sent upon halfe Increase w<sup>th</sup>: hans Schier after y<sup>e</sup> tyme shall bee Expiered for 200 guilders; and y<sup>t</sup> the vendu master Eph: Herman shall pay y<sup>e</sup> remaining 100 guilders to y<sup>e</sup>: s<sup>d</sup>

Spry out of y<sup>e</sup> Cowe sould in vendu unto m<sup>r</sup>: Peter alrichs.”  
(*Liber B*, p. 223.)

It looks as if medicine were more profitable than law. Money seems to have been as hard to raise then for the relief of the poor, as it is today. Spry had been successful with his patient and patient with the bill.

#### SEVERAL OF SPRY'S CASES

He withdraws his suit against John Taylor. It may have been, like some others, brought by Spry to recover for his services as a doctor. (*Ibid.* p. 224.)

Upon 19 May 1680, “John Cocx by Thom: Spry his attorn:” sues Johannes Kipp, attorney of “M<sup>r</sup>: Corn: Steenwyk Administrato<sup>r</sup>: of y<sup>e</sup> Estate of John Shackerly deceased”, to recover “The full number of seven Yeos,” and the “debt was prooved & owned.” (*Ibid.* p. 229.)

Again “Thom: Spry” sues “Corn: Steenwyck the adm: as Above”, to recover “307 gild<sup>rs</sup> & 5 styvers to y<sup>e</sup> Justnesse whereof the P<sup>lt</sup>: made oath in Court.”

This was probably another bill against the estate of a dead patient.

We find this entry:

“Nov<sup>r</sup> y<sup>e</sup> 3<sup>d</sup>, The Co<sup>rt</sup> sate and were Compleat as before”, meaning of course, that the court was full.

Two suits are called by Spry, against Justa Andries & Aeltie his wyfe, of whom we have heard.

The suits were doubtless for professional services, but as lawyer or doctor does not appear.

“Upon y<sup>e</sup> P<sup>lts</sup>: desire y<sup>e</sup> Def<sup>ts</sup>: wyfe being not in a Capacity to apeare y<sup>e</sup>: action is Continued.” (*Ibid.* p. 264.)

The same day an order was made by the Court, that Capt<sup>ain</sup> Edmond Cantwell pay to Spry, out of the estate of Walter Wharton, deceased, 262 guilders, in accordance with a former order of the Court. (*Ibid.* p. 273.)

The same day Spry was granted 100 acres of land as an addition to his former grant of 200 acres, "upon Condition & Settlement & Improvement". The improvement required by the New Castle Court seems to have been, to fell some trees, erect a log cabin and proceed to raise crops. Evidently Spry was farming at this time and probably before, which may account for his being poor. (*Ibid.* p. 273.)

Mr. Justice Moll, he of the sixteen wolves's heads bounty, seems to have gotten back at Spry for various grudges he had against him. He got an order of Court (he being President Justice thereof) directing "Spry & huybert Hendriks shall open y<sup>e</sup> Streets w<sup>ch</sup>: by them are att p<sup>r</sup>sent closed up, betweene this & next Court." (*Ibid.* p. 274.)

Spry sues Hendrik Jansen Van Bream, another new name, for the balance of an account, an attachment having been levied "upon y<sup>e</sup> def<sup>ts</sup>: Corne now att y<sup>e</sup> house of Pella Mathiassen att Swanwyke", and the defendant having suffered three defaults, judgment is given the plaintiff after he had proved his account under oath. (*Ibid.* p. 291.) What a mass of information we could get if the Court's files were preserved in addition to the minutes.

JOHN YEO PRESENTED.  
WILLIAM PENN REFERRED TO

Edmond Cantwell, High Sheriff, against John Yeo, a very important case, was heard at a Court held, 5 April 1680. The record follows (*Ibid.* pp. 313, 314, 315).

"John Yeo being p<sup>r</sup>esented by Capt<sup>n</sup>: Edmund Cantwell High Sherrife of this Towne and County of New Castle, for haueing spoken declared and divulged on y<sup>e</sup> 13<sup>th</sup>: day of march Laest w<sup>th</sup>:in this Towne of New Castle att y<sup>e</sup> house of Thom: Spry, in a most seditious mutinous & Tumultuous manner that this Towne and County of New Castle was not within y<sup>e</sup> Gouvern<sup>t</sup>: or under y<sup>e</sup> Jurisdiction pprietary of his Roy<sup>ll</sup>: Highnesse and further that this

Co<sup>rt</sup>: of Justices althoug appointed authorized & Commissionated by his hono<sup>r</sup>: (his May<sup>ties</sup>: & Roy<sup>ll</sup>: Highnesses Governo<sup>r</sup>:) were no Lawfull Court nor would hee himselfe in noe wayes obey y<sup>e</sup> same, etc. of w<sup>ch</sup>: Capt<sup>n</sup>: John Lewin being p<sup>r</sup>sent and Informed, s<sup>d</sup>: John Yeo was questioned, whoe denying and Contradicting y<sup>e</sup> s<sup>d</sup>: Indyt<sup>m</sup>: The depositions of Joseph Burnham Rebecca Spry and Edward Hudson taken before Justice Peter Alrichs, Justice Joh: d'haes & Justice Will Sempill y<sup>e</sup>: 2<sup>d</sup>: of April Instant were publicqly read and by y<sup>e</sup> deponants owned againe in Court. Upon w<sup>ch</sup>: after y<sup>e</sup> Case had ben Lookt into & debated and y<sup>e</sup> s<sup>d</sup>: John Yeo not Submitting himselfe to acknowledge his Cryme, but desiering a Jury and that y<sup>e</sup> witnesses might bee Sworne againe de Novo, Itt was Granted, and a Jury Impanneled, Viz<sup>t</sup>: M<sup>r</sup>: James Sanderlin M<sup>r</sup>: henry Riggs, M<sup>r</sup>: Geo: Moore, M<sup>r</sup>: John Can M<sup>r</sup>: John Darby M<sup>r</sup>: John Kerby, M<sup>r</sup>: John Biscus M<sup>r</sup>: John Wattkins M<sup>r</sup>: Ambroos Backer M<sup>r</sup>: oele Raesen M<sup>r</sup>: henry Rennolds, M<sup>r</sup>. Tho: harris. The Jury being sworne and y<sup>e</sup> p<sup>r</sup>sentm<sup>t</sup>: Read, y<sup>e</sup>: def<sup>t</sup>: J<sup>o</sup>: Yeo pleaded not Gilty.

“Joseph Burnham Sworne in Court declareth that un Sunday y<sup>e</sup> 13<sup>th</sup>: day of y<sup>e</sup> month of march Laest past hee was p<sup>r</sup>sent by the house of Doctor Spry and did heare, when M<sup>r</sup>: John Yeo was speakeing, w<sup>th</sup>: Cornelis the Brewer about y<sup>e</sup> Chest, hee y<sup>e</sup> s<sup>d</sup>: John Yeo Sayed from whoome haue the Court their Commission and in Substance disowned y<sup>e</sup> power and Legality of y<sup>e</sup> Co<sup>rt</sup>: above-mentioned.

“Rebecca Spry Sworne in Court declareth that Shee was p<sup>r</sup>sent and did heare when M<sup>r</sup>: Yeo was Speaking to Cornelis Jansen about his Chest, That M<sup>r</sup>: Yeo replied I: denye y<sup>e</sup> power of y<sup>e</sup> Court and further sayeth nott;

“Edward Hudson Sworne in Court Sayeth that hee was also present and did heare M<sup>r</sup>: John Yeo Say to Cornelis Jansen that this Court was noe Court of Equity and that therefore hee would not obey itt;

“Joseph Barnes Sworne in Court declareth that being in Maryland some tyme past did heare M<sup>r</sup>: John Yeo discoursing w<sup>th</sup>: M<sup>r</sup>: Man about William Pens haueing a Grant from y<sup>e</sup> King for part of this River, S<sup>d</sup>: M<sup>r</sup>: Yeo sayed then, if that bee true then wee shall bee free, and they Say here that New Castle belongs, to Maryland, and if that bee true I: question whether New Castle Court bee a Lawfull Court and further Sayeth nott;

“The Jury Receiving their Charge went out and Returning brought in their Verdict, Wee find y<sup>e</sup> def<sup>t</sup>: not Guilty.”

John Yeo was quite a character. He owned 800 acres on Christina Creek which he bought from John Edmunds in 1677. (*Liber A*, p. 208.) He was a clergyman, a preacher, and seems to have dealt in tobacco on the side. He bought 2000 lbs. of tobacco from Arthur Carelton of Cecil County, Md. in 1677 (*Ibid.* p. 221). He obtained a grant of 400 acres in addition to his 800 (*Ibid.* p. 226) because the land if “taken up by any others will proove mutch to his detriment,”—the exact position of a suburban farm buyer nowadays. Protection can be secured only by buying up everything adjoining.

Yeo had “Latley come out of Maryland,” and appeared in Court, 7 March 1677/8, and “did Exhibitt & produce his Letters of orders & License to Read divine Service Administer the Holy Sacrements & preach y<sup>e</sup> word of God, According to y<sup>e</sup>: Lawes & Constitutions of the Church of England.” The Court accepted him, “hee to bee mayntayned by the Gifts of y<sup>e</sup> free willing Givers, wherew<sup>th</sup>: the S<sup>d</sup>: John Yeo declared to bee Contented.” (*Ibid.* p. 235.)

He appears forthwith as the attorney of James Clayland, to revive a judgment of Talbot Co., Md., 21 September 1675, against William Johnson Taylor, “for y<sup>e</sup> payment of one man or woomen Servant for 5 Jears Servitude,” and taking judgment, issued execution, 9 March 1677/78 against the body of the defendant. (*Liber A*, p. 243.)

Suit was afterwards entered against him by John Moll, attorney for John Edmundson, and upon, 2 April 1679, judgment was given against him on his bill for 2800 lbs. of tobacco to be paid in Talbot or Cecil County. He defended the action by alleging that John Edmundson had not performed his bargain with reference to certain land, and appealed to the Governor of New York, but being required to give double security, withdrew his appeal. (*Liber B*, p. 68.)

In the meantime, 4 March 1678/9, he alleged in a petition to the Court, that he came to New Castle in December 1677, and was "Received as minister to bee mayntayned by the Voluntary Subscription of y<sup>e</sup> Inhabitants, and y<sup>t</sup>: hee continued in y<sup>e</sup> ministeriall office, untill he was denyed y<sup>e</sup> same" by Capt<sup>n</sup>: Billop, the Then Commander of New Castle, without any "manifest proove of any Cryme" and he asked the Court to grant him "an order for a quantum meriut proportionable to the Tyme of his the s<sup>d</sup>: Peticon<sup>rs</sup>: Preaching to the people of this place being one third part of the Subscription, and alsoe for other perquisitts" for baptisms, marriages and burials. The Court found that he had "in open Congregation in y<sup>e</sup> Church Voluntarily out of his owne accord, throw up y<sup>e</sup> Paper of y<sup>e</sup> Peoples Subscription," and that therefore the Court could not charge them again, and that Captain Billop had given him back his subscription; that he had a remedy against Billop and he ought to be paid for marriages, baptisms and burials "which is Just & Equitable." (*Ibid.* pp. 47, 48.)

All of these events in the Reverend Yeo's life preceded his presentment by Sheriff Cantwell.

#### SOME MORE OF SPRY'S CASES

In a case brought by Spry against Laurentius Carolus, the "Parties agreed." No judgment ought to pass against a defendant with such a name.

Reynier Vander Coelen sued "Doctor Thom. Spry" for "2000 lbs. of good, sound, merchandable tobb." Spry

“owned the debt”, and judgment was given against him: “Reynier Vander Coelen, in Co<sup>rt</sup>: promised to Stay w<sup>th</sup>: y<sup>e</sup> def<sup>t</sup>: till octob<sup>r</sup>: or novemb<sup>r</sup>: next Ensuing before hee takes out Execution upon this Judgement.” (*Ibid.* p. 338.)

Spry was probably counting on the receipts from his farm, his patients, his clients, or his juror fees if any were payable.

Peter Maesland sued Spry, in an action of debt for 239 guilders, the defendant “ownes the debt but desires a refference till next Co<sup>rt</sup>: by reason hee has some small acc<sup>t</sup>: against itt; w<sup>ch</sup>: the Co<sup>rt</sup>: doe Grant.” (*Ibid.* p. 338.)

Spry appears to spar again for time, and as no interest seems to have been allowed on any awards of the court, delay was clearly to the defendant’s advantage.

The suit of Peter Maesland against Spry for 239 guilders was reached, 4 October 1681,

“The def<sup>t</sup>: being 3 tymes Called did not appeare, and in regard that itt was alledged that y<sup>e</sup> def<sup>t</sup>: was Sike and not able to appeare y<sup>e</sup> action was referred till next Court day.” (*Ibid.* p. 344.)

Spry was either really sick, or very shrewd, to avoid judgment by a plea of sickness.

Peter Maesland’s case was called again, 1 November 1681. Spry brought in an account and a set off, and the Court awarded plaintiff a judgment for a balance of 186 guilders, 14 stivers, with costs. Execution was issued, 8 November 1681. Spry doubtless paid up then.

#### AGAIN ON THE JURY

Doctor Thomas Spry was again appointed or drawn on the jury, “to attend the Co<sup>rt</sup>: and try all Cases” (*Ibid.* p. 356). As usual he was the foreman.

The last time his name appears in these existing Court Records of New Castle, was 12 December 1681, when he was called as a witness to prove that Abram Man, at the hand of Francis Jackson, his servant, fixed up at the

Court House door, an "abuesife & slaundrous paper", which he had sent to the Court, charging that John Moll, President Justice, had been found guilty by a Jury at the Court of Assizes, New York, upon an indictment charging certain offences, of which Moll had been in part convicted and in part acquitted, by the Jury but of which he had been completely exonerated by the Court, that body declaring that he had not been guilty of any crime, or breach of any known law. Spry had nothing to do with the case, other than to testify as a witness to the fact that Man wrote the paper and got Jackson to affix it to the door of the Court House. (*Ibid.* p. 382.)

It is significant however, that Spry was always around whenever there was a row on hand but kept himself safely out of it.

Abraham Man who slandered John Moll, President Justice, had been himself a justice of the New Castle Court and it was Moll who was one of those who suggested in a letter of 4 February, 1679/80 that as Man intended to go to Europe, someone else be put in his place.

Man knew that if the impending Charter to Penn included the New Castle Territory, the Court there would be superseded and Moll and his fellow justices would be out of office. This offered him an opportunity to go after his enemy Moll.

At the session of the New Castle Court held 12 December, 1681, at which Man was tried, the Brockholl letter of 21 June, 1681 was read. This letter told that the Charter had actually been granted and gave in detail a description of the Penn territory. When Man realized that he had guessed wrong and that the New Castle Court would not be within the Penn jurisdiction he "did declare to submit accordingly." (*Ibid.*, p. 179.)

#### SPRY'S PRACTICE AT UPLAND

So much for Thomas Spry's Court record at New Castle. It is amazing how often his name occurs in the

brief period covered by "*Liber A & B*", from the date of his admission to practice, 7 June 1676, to 12 December 1681, about five years, and it is also amazing how many times he is plaintiff himself and how many times defendant.

It is an interesting coincidence that his name appears in the last case recorded in *Liber "B"* and in the first business of the Court recorded in *Liber "A"*.

His record at the Court held at Upland is scant in comparison with that at New Castle.

In a suit, 12 March 1678/9, at Upland, by William Orian against Johannes De Haes, it is recorded that the defendant produced in Court, "y<sup>e</sup> old or former booke of y<sup>e</sup>: P<sup>lt</sup>: William Orian, and prooveing by the oath of doctor Thom: Spry (whoe had Laest Yeare posted y<sup>e</sup> s<sup>d</sup>: old booke, for y<sup>e</sup> s<sup>d</sup>: Orian into a new booke) That all what was more in y<sup>e</sup>: new booke, then was found in y<sup>e</sup> old, was Laest Jeare by him ye sd: Spry set downe att y<sup>e</sup> request of sd: Orian whoe then did tell him y<sup>e</sup> same by memory."

So Spry was an accountant also. (Record of the Court at Upland in Penna. 1676-1681 p. 110. Manuscript record at The Historical Society of Pennsylvania.)

On 14 November 1676, Spry himself brought suit at Upland against the Estate of "Hend: Johnson," deceased.

"The P<sup>lt</sup>: not appearing by himselfe or attorney, The Co<sup>rt</sup>: ordered a non suit to bee Entered against the P<sup>lt</sup>: w<sup>th</sup>. Costs." (*Ibid.* p. 9.)

#### THE UPLAND COURT AND SOME OF ITS CASES

The Upland Court consisted of Peter Cock, Peter Rambo, Israel Helm, Lasse Andries, Oele Swen and Otto Ernest Cock, quite a different body of men from those before whom Spry had been practicing at New Castle. They were all Swedes. Helm was an Indian interpreter; Rambo and Cock had met governor Stuyvesant at Tinicum in

1658, with a Petition for various privileges; and Swen or Swanson was one of the Patentees for the Wicaco tract which formed a part of South Philadelphia.

At a Court held at Upland, 13 June 1677, the following order was made: "That no p<sup>r</sup>son bee admitted to plead for any other p<sup>r</sup>son as an attorney In Co<sup>r</sup>t: w<sup>th</sup>:out hee first have his admittance of the Co<sup>r</sup>t:, or have a warrant of attorney for his so doing from his Clyant." (*Ibid.* p. 27.)

There can be little doubt but that Spry practiced at Upland, as an adviser or counsellor, and probably as a doctor, but he does not appear as a "pleading attorney".

The cases heard at Upland do not seem to have been as important as those heard at New Castle. One case, however, is amusing and interesting also, and is here quoted in full as the Clerk hath recorded it.

"Att a Co<sup>r</sup>t: held in the Towne of Upland in Delowar on Teusday November y<sup>e</sup>: 25<sup>th</sup>: & the 26<sup>th</sup>: 1679;

	M <sup>r</sup> . Peter Cock	} Justices
	M <sup>r</sup> . Israell helm	
P <sup>r</sup> sent	M <sup>r</sup> . Otto Ernest Coch	
	M <sup>r</sup> . Lasse Andries	
Peter Bacom P <sup>l</sup> t:		
Capt <sup>n</sup> Xtoph <sup>r</sup> Billop Def <sup>t</sup> :		

"The P<sup>l</sup>t: by his declaration declared as followeth viz<sup>t</sup>: That Capt<sup>n</sup>: Xtoph<sup>r</sup>: Billop, att or about the first day of August 1678 did ag<sup>st</sup> y<sup>e</sup> P<sup>l</sup>t: will by force Presse and take away a Certaine horse of your P<sup>l</sup>ts: then att Passayink which Said horse was Brought att the Said Billops Plantation on Staten Island where the Said horse was Detayned and kept the space of fower months and as the P<sup>l</sup>t: Is Informed he the said Capt: Billop did during s<sup>d</sup> terme, work and use your P<sup>l</sup>ts: Said horse and the 5<sup>th</sup> of December Last Past the S<sup>d</sup>: horse was deliuered back to your P<sup>l</sup>t: by Thomas Olyve att Burlington but In a Sad and a poore Condition as the P<sup>l</sup>t: Can make appeare.

"Now the P<sup>l</sup>t: haueing missed and bin In want of his Said horse the Space of att Least foure months during

which tyme The P<sup>l</sup>: hath made twoo Voyadges with a boat and a man from S<sup>t</sup>: Jones to Burlington Purposely for the S<sup>d</sup>: horse which has Occasioned great hindrances Excesesive Charges truble and Expenses to your P<sup>l</sup>: whoe likewise had write to his honor y<sup>e</sup> Govorner at new Yorke about Itt his S<sup>d</sup> honors answer was that the P<sup>l</sup> had his Remeddy by Course of Lawe open ag<sup>st</sup> the Said Billop.

“Your P<sup>l</sup>: for his Redress has Commenced this his action and humbly Craues your worpp<sup>s</sup>: to grant him an order ag<sup>st</sup> the Def<sup>t</sup>: as ffolloweth (viz<sup>t</sup>) first for the hier of the horse the Space of fower months att 3 gilders per Diem as the Custome here is y<sup>e</sup> Sume of 360 gilders as alsoe for twoo Voyadges made by the P<sup>l</sup>: and a man & a boate from s<sup>t</sup>: Jones to Burlington which is neer 150 myles In which S<sup>d</sup> voyad[g]les yo<sup>r</sup>: P<sup>l</sup> Spent Six weekes tyme the sume of 420 gild<sup>r</sup>s and Lastly for other Charges and Expenses which y<sup>e</sup> s<sup>d</sup> P<sup>l</sup>: and man haue binn out In the said twoo boyadges the Sume of 300 gild<sup>r</sup>s which amounts to In all to the Sume of 1080 gilders and y<sup>e</sup> P<sup>l</sup>: Crauves also that his attachm<sup>t</sup> In the hands of Lasse Cock may bee allowed with all Cost and Charges.

“The def<sup>t</sup>: being three tymes Called did not appeare; and this action haueing ben Continued 3 Court dayes; In w<sup>ch</sup>; tyme notwithstanding hee had due notice & did promise to appeare hee hath not appeared, and the P<sup>l</sup>: By James Sanderlins Pressing for Judgem<sup>t</sup>: The Court thereupon Examining the Case doe thinke fitt to passe Judgem<sup>t</sup>: against y<sup>e</sup> Def<sup>t</sup>: for 1080 gilders and doe allow of the Attachm<sup>t</sup>: by y<sup>e</sup> P<sup>l</sup>:; Laid on y<sup>e</sup> def<sup>ts</sup>: Servant Justa Justassen in y<sup>e</sup> hands of Lasse Cock; together w<sup>th</sup>: all Costs.

“Upon y<sup>e</sup> desire of y<sup>e</sup> undersherrife The Co<sup>rt</sup>: haue appointed & Sworne m<sup>r</sup>: John Test m<sup>r</sup>: Jam: Sanderlins & m<sup>r</sup>: William Orian Appraizers to appraize Justa Justassen Servant to Capt<sup>n</sup>: Billop; on y<sup>e</sup> Judgem<sup>t</sup>: & Execution of Peter Bacom ag<sup>st</sup>: y<sup>e</sup> s<sup>d</sup>: Billop;—

“The aboves<sup>d</sup>: appraizers returned for award y<sup>t</sup>: they Judged the tyme of his Service being Jeare worth 650 gilders.” (*Ibid.* pp. 123-125.)

Here is another Upland case of special interest, by reason of its reference to the Quakers who came to Pennsylvania before William Penn, 25 November 1679,

"Peter Jegou Thomas Wright & Godfrey Hancock	}	P <sup>l</sup> Def <sup>ts</sup> :	}	In an action of Trespasse upon y <sup>e</sup> Case
--	---	---------------------------------------	---	---

"The P<sup>l</sup>: declares that in y<sup>e</sup> Yeare 1668 hee obtayned a permit, & grant of Govern<sup>r</sup> Philip Cartret, to take up y<sup>e</sup> Land Called Leasy Point Lying and being ouer ag<sup>st</sup>: Mattinagcom Eyland & Burlington to Settle himselfe there & to build and Keepe a house of Entertaynment for y<sup>e</sup>: accommodation of Trauelors; all w<sup>ch</sup>: y<sup>e</sup>: P<sup>l</sup>: accordingly hath done; and morouer hath purchazed of Cornelis Jorissen, Jurian Marcellis & Jan Claessen, Each their houses and Lands at Leasy Point afores<sup>d</sup>: w<sup>ch</sup>: was Given them by the dutch Gouverno<sup>r</sup>: in y<sup>e</sup>: Jeare 1666 for all w<sup>ch</sup>: Gouverno<sup>r</sup>: Cartret promised yo<sup>r</sup> P<sup>l</sup>: a Pattent; all w<sup>ch</sup>: s<sup>d</sup>: houses and Lands y<sup>e</sup> P<sup>l</sup>: had in Lawfull possession until y<sup>e</sup> Jeare 1670; att w<sup>ch</sup>: tyme yo<sup>r</sup> P<sup>l</sup>: was plundered by the Indians, & by them utterly Ruined as is wel knowne to all y<sup>e</sup> world; so that y<sup>e</sup>: P<sup>l</sup>: then for a tyme was forced to Leaue his Land & possession afores<sup>d</sup>: and to Seek his Lyvelyhood & to repaire his Losse in other places; & to Leaue his Land as afores<sup>d</sup>: w<sup>th</sup>: Intention to returne when occasion should p<sup>r</sup>sent. But now Soe itt is may itt please Yo<sup>r</sup>: Worpp<sup>s</sup>: that w<sup>th</sup>: y<sup>e</sup> Arryvall of these New Commers Called quackers out of England These def<sup>ts</sup>: Thomas Wright & Godfrey hancock haue violently Entered upon yo<sup>r</sup> P<sup>l</sup>: s<sup>d</sup>: Land and there haue by force planted Corne, cut timber for houses, mowed hay & made fences, notwithstanding that they were forewarned by yo<sup>r</sup> P<sup>l</sup>: frind Henry Jacobs, in yo<sup>r</sup> P<sup>l</sup>: behalfe, in the Presents of Capt<sup>n</sup>: Edmund Cantwell; and afterwards by y<sup>e</sup> P<sup>l</sup>: Summoned before y<sup>e</sup> magistrates of Burlington, whoe makeing no End of itt; The Case was w<sup>th</sup>: s<sup>d</sup>: Magestrates & these Def<sup>ts</sup>: Consent remooved here before yo<sup>r</sup>: worpp<sup>s</sup>:; wherefore the P<sup>l</sup>: humbly Craues Yo<sup>r</sup> worpp<sup>s</sup>: to ord<sup>r</sup>: the

Def<sup>ts</sup>: and all others not to molest y<sup>e</sup> P<sup>lt</sup>: in y<sup>e</sup> quiet possession of his s<sup>d</sup>: Land; etc;

“The def<sup>ts</sup>: in Co<sup>rt</sup>: declared to bee Verry willing to Stand to y<sup>e</sup> Verdict & Judgem<sup>t</sup>: of this Co<sup>rt</sup>:; Whereupon the Co<sup>rt</sup>: (:haueing heard the debates of both partees and Examined all y<sup>e</sup> papers:) are of opinion that Sence M<sup>r</sup>: Peter Jegou had Governo<sup>r</sup>: Cartrets Grants & was in quit possession of y<sup>e</sup> Land, before Ever y<sup>e</sup> Land was could by S<sup>r</sup>: John Berckley unto Edward Billing and y<sup>t</sup>: hee y<sup>e</sup> s<sup>d</sup>: Jegou hath also bought y<sup>e</sup>: Land and paid y<sup>e</sup> Indians for y<sup>e</sup> same; That therefore m<sup>r</sup>: Peter Jegou ought peaceably & quietly to Injoy y<sup>e</sup> same Land & appurtenances, according to Grant & purchaze.” (Upland Court Records, pp. 126, 127.)

#### A SLANDER CASE AT KINGSESSING

Here is an early suit for slander and “a punishment which fits the crime.”

Claes Cram sues Hans Peterss “In an action of Slaunder & defamation.” The case was heard 13 October 1680.

“The P<sup>lt</sup>: Complaynes that this def<sup>t</sup>: hath Slaundered him, Saying that hee was a theefe etc:

“Lasse Dalbo and moens Janss Sworne declare that they heard y<sup>e</sup> def<sup>t</sup>: Say you are a theef you haue Stolen aboard of y<sup>e</sup> Shipp & Soo you haue Stolen all yo<sup>r</sup>: Riches here & further Say nott;

“The def<sup>t</sup>: not being able to proove what hee hath Said or any part thereof The Court ordered that y<sup>e</sup> def<sup>t</sup>: openly Shall declare him selfe a Lyar; & that hee Shall further declare y<sup>e</sup> P<sup>lt</sup>: to bee an honest man & pay 20 gilders to y<sup>e</sup> P<sup>lt</sup>: for his Losse of tyme, togeather w<sup>th</sup>: Costs of Suite.” (*Ibid.* p. 165.)

#### SPRY A JUROR AT KINGSESSING

At the same Court, a suit was called to try the title to a piece of land “Lying in ye Schuylcill” and Thomas Spry

was appointed chairman of a jury to try it. (*Ibid.* p. 171.) Probably his familiarity with land titles caused the Justices to subpoena him from New Castle.

Why not call lawyers on juries? If not interested as counsel they would make good jurors—better, certainly, than many the Courts are now getting.

The Upland Court, according to the Records, seems to have been constantly short of money to meet its expenses. On 10 March 1679/80, one reads, that “the Co<sup>rt</sup>: being in Great want of some meanes to pay & defray their necessary Charges of meat & drinke, etc.” they empowered the undersheriff to collect certain fees and fines. They had previously laid an assessment upon all “Tydable” persons, but had not realized sufficient for “their meat & drinke”—probably the latter in particular. (*Ibid.* p. 150.)

Feeding and lodging the Justices seems to have been precarious as far as reimbursement was concerned. At the conclusion of a session of the Court at New Castle, 4 June 1679 the record says:

“Upon the Peticon of Thomas Woollaston the Co<sup>rt</sup>: haue granted & allowed him twenty one gilders for y<sup>e</sup> Co<sup>rt</sup>ts: Sitting att his house 7 dayes in the winter 1677/8 w<sup>ch</sup>: is to bee payed unto him y<sup>e</sup> next Levy if any bee Layed.” (Records of the Court of New Castle. *Liber B*, p. 105.)

Twenty-one gilders at half a shilling each seems rather inadequate pay for housing seven or eight Justices seven days and then only to be paid from a levy, if any levy be laid.

#### AN EARLY SALOON LICENSE AT NEW CASTLE

The Court requirements are as follows:

“John Darby p<sup>r</sup>fferring in Court a Peticon, desiering to bee admitted to keep an ordinary as well for horse as men, and that none Else might bee suffered to sell Licquers by Retayle, etc.:

“The Court doe admitt him y<sup>e</sup>: Peticon<sup>r</sup>: to keepe an ordinary provyded hee performes what now hee promises, w<sup>ch</sup>: is Viz<sup>t</sup>: That, hee will keepe a good and orderly house, that hee will now begin w<sup>th</sup>: Six Beds, and w<sup>th</sup>:in one twelve month procure Six beds more, that hee will, provyde good & sufficient meat & beer as also wyne & strong Licq<sup>rs</sup>: sufficient for all Commers & goers, that hee will Provyde a good Stable for horses, as alsoe Sufficient hay & pasturadge and in Generall to give good & Civill Entertaynment to all Commers & goers; hee to haue for a meals meat & Table beer 2 gilders, for strong malt beare 2 gilders a gallon for syder 6 gilders a gallon Lesser measure accordingly a horse to pay a day & nigt for gras one gilder & for hay 2 gilders hee the s<sup>d</sup>: Darby p<sup>r</sup>forming the above, to haue only y<sup>e</sup> priviledge to sell drink by Retayle, In case none others bee admitted more by the Court, But In case of non p<sup>r</sup>formance to bee fyned att y<sup>e</sup>: discretion of y<sup>e</sup> Court.” (*Ibid.* p. 64.)

John Darby, like all saloon-keepers, was a more or less important person. Spry left him “razors” by will. He was a member of the Pennsylvania Assembly, 1682–1692.

#### THE UPLAND COURT ADJOURNED TO MEET AT KINGSESSING

The Court heretofore had been sitting at Upland and at the lower end of the County, but upon 8 June 1680, they resolved to “Sitt & meet Att y<sup>e</sup>: Towne of Kingesse in y<sup>e</sup> Schuylkills”, which was more convenient. It was near the old Blue Bell Tavern on the Darby Road. (Upland Court Records, p. 160.)

#### A CASE AGAINST A CONSTABLE AT KINGSESSING

On 13 October 1680, the case of “Andries Inckhooren” vs. “Andries homman ye Constable”, was tried at Kingse-  
essing.

“The Pl<sup>t</sup>: Complaines that this def<sup>t</sup>: hath pulled him by the Beard & twisted his neck, desires to know y<sup>e</sup> reason & that y<sup>e</sup> def<sup>t</sup>: may bee ordered to make him reparation.

“The def<sup>t</sup>: Replies that being Constable & hearing of a Hoore & a Roge w<sup>ch</sup>: kept att this p<sup>lts</sup>: house, hee was in pursuit of them & was obstructed & hindered of doing his office by this P<sup>l</sup>: whoome hee pusht from him, desires a nonsuit,

“The Court haueing heard & Examined y<sup>e</sup>: Case, doe order a nonsuit ag<sup>st</sup>: y<sup>e</sup> p<sup>l</sup>: and doe strictly forwarne him of harbouring y<sup>e</sup> whoore Anna Laers daughter & hur associates for y<sup>e</sup> future;” (*Ibid.* p. 169).

Cases of this character would be more appropriately heard if the court sat at “Whorekill”.

#### A SUMMARY OF SPRY'S PRACTICE

So much for the court records of Thomas Spry at Upland, as well as at New Castle.

The Early Records of the Court at Whorekill, seem to be lost forever. There are many records of Land Grants at Whorekill, but no litigation. In fact, it may be questioned whether any duly constituted Court of Record was ever held there earlier than 1681. On p. 20 of the New Castle Records, *Liber A*, one reads this statement: “It was Resolved by the Court to ajorne \* \* \* and then to meet att New Castle.” The record does not state *where* the Court had been sitting when they adjourned, and the entry seems to indicate that the Court had been sitting elsewhere, and it may be that the Justices sat at Whorekill informally.

In the Manuscript Room of The Historical Society of Pennsylvania the Court Records of Sussex County, Delaware, 1681 to 1709, are preserved and these cover Court Sessions held at Deal and Lewes. The first 51 pages are missing. The earliest record is in June 1681, but the first page (52 of the old numbering) on which this date is given does not state where the Court sat. The dates and places of the Court Sessions are given on subsequent pages, but no mention is made of Thomas Spry.

A fair opinion of Spry's practice as a lawyer and as a doctor, (it being difficult from the Court Records to correctly segregate his cases), may be formed by an examination of the New Castle Records alone. They show that in his first year after his admission to the bar, 7 November 1676, he was himself plaintiff in six cases and defendant in six, then he appeared in court as attorney for the plaintiff twice and as attorney for the defendant eleven times, occasionally going bail; then that he was sworn in as attorney the second time, 6 June 1677; that he confessed judgment in one suit; that he prepared and proved the will of Peter Huff; that he prepared and acted on a power of attorney from Petronella Carr to sell her house and real estate; and that he proved the will of Barent Egbertsen and married Barent's widow. This was all at New Castle alone and did not include preparing deeds and other legal papers, nor his practice at Upland—a pretty good volume of business for his first year at the Bar. To add a finishing touch to his first year's practice, he was hailed before the Court at New Castle for dirty and uncivil language to Captain John Collier, one of the most important men in the Settlement, Commander of the Militia and of the soldiers on the River, Subcollector of Customs and in charge of the Government fort.

During the period of five years, covered by the New Castle Records in "*Lifers A & B*," it is astonishing to find that Thomas Spry actually appeared in Court as a party plaintiff himself, thirty times and as a party defendant fourteen times. This does not include the ferocious dog case, nor any of his cases at Upland!

Fresh attorneys, just admitted to practice ought not to conclude, that when practice is dull they should sue or be sued to keep things moving.

#### THE GENERAL NATURE OF THE COURT BUSINESS

The cases heard by the Courts at New Castle and Upland are of the same general character, those at New Castle being the more important. They include suits upon

tobacco sales; fence disputes; the issuance of land patents, and the clearance of land titles; repairs to dykes; decedent's estates, including the probate of wills and the appointment of guardians; settlement of accounts—often very trivial; church matters; “levies by the pole”; rather few criminal cases, chiefly petty assaults and batteries; holding to bail to keep the peace and suits for slander. There was no murder case before either Court during the entire five years.

There were many cases of slander. The settlements were small; the settlers were probably bored for the want of movies and radios, and got some enjoyment from blackguarding each other.

Josyn Boeyer, wife of William Sempill, “was bound over” “for her unhandsome ill behaviour”. She had a loose tongue, and charged in open Court, “Rynier Vander Coelen a man w<sup>th</sup>: twoo fathers a Murtherer a Roug and a dogh” (Rec. of the Court of New Castle, *Liber A*, p. 324, *Liber B*, p. 266.)

Slander cases were heard and disposed of quickly and fittingly, the judgment requiring the defendant, if guilty, to apologize; to make humble confession in open Court; “to aske forgiveness upon his knees” (*Liber A*, p. 253.) or “to pay to the Poore a fyne and, for the future better to rule his tongh”. The language charged in the Slander suits is sometimes unprintable, often unique, and not inappropriate for modern use when its use is really needed.

The justice administered was of a rough and ready kind. It was rarely severe, always fitting, but sometimes difficult to understand. For example:

John Johnson was indicted by the High Sheriff for some crime not named. A jury was called, several witnesses sworn, and the verdict:

“That the prizoner is Guilty of the fact” . . . “we find not; but by the Evidences & whole Circumstance wee find his Intent to bee verry Evill,” and the Court consider-

ing "the whole matter & Circumstance, and weiging the Prisoners former ill behavior," ordered him "whipt twenty and one strokes or Lashes" and afterwards held for good behavior. (*Ibid.*, *Liber A*, p. 101.)

The Court Records often speak of a "Law Book" and the Justices asked the Governor at New York that one be sent them. At a meeting of the Justices at New Castle, 17 July 1678, they "Intreat his hono<sup>r</sup>: [the governor] to send us the New Corrected Lawbooke, and Seale for y<sup>e</sup> office as heretofore promised." (*Ibid.* p. 302.)

A case of gross injustice by the Court, would seem to be that of "Robberd Batty Servant to Morris Liston," (*Ibid.*, *Liber B*, p. 294). He ran away at sundry times for the space of five months and fifteen days and occasioned his master expenses in apprehending him and bringing him back, as well as the loss of a boat and the furniture—a total of 1326 guilders. The court referred the matter to a jury, who brought in a verdict, that any servant who absents "himsel<sup>f</sup> from their mast<sup>r</sup>: or dames Servis, Shall serve fower dayes for Every day he is absent." Adding the expense and other charges, poor "Robberd" was ordered to serve "Seven Yeare Six months & 15 dayes". He had probably been treated badly by his master. Hence his flight.

The servitude assumed by an immigrant, was usually four years to pay for his passage to America. The servitude was certainly near slavery. The servant however, had, in theory at least, the protection of the Court. Abram Man was presented by the Constable "for haueing Contrary to Lawe against the will & Consent of twoo Servants that Lived w<sup>th</sup>: him, (viz<sup>t</sup>:) one man named William Burd and a Joung maid Catherin Barnes dafter to Christopher Barnes, Sould and disposed of y<sup>e</sup> s<sup>d</sup>: twoo Servants into another or other Governments w<sup>th</sup>:out Just Cause Either heard or known" (*Liber B*, p. 300.) The Court ordered that Man produce at the next Court by what power, in what manner, and how he disposed of the two servants

out of the river. The sale was probably cancelled and the presentment dropped.

In an action upon the case by Humphry Guyn, as attorney for John Delawood versus Caspares Herman (*Ibid.* p. 202), the plaintiff alleged that his servant John Kallet, a lad about 16 years old, was taken up in Maryland, by the defendant and wrongfully detained and asked that cause be shown. The defendant replied that he was solicited by James Parker and others who were in pursuit of the runaway servants, to make an agreement that if he would go in pursuit of Kallet and other servants, he should have as his reward the choice of one of them for his pains; that he apprehended Thomas Ballard, but was entreated to take John Kallet instead, and thereupon John was delivered to him by the approbation of all the parties.

The Court believed the allegations of Caspares Herman, the truth being apparent in his clear defence, and judged that in equity John Kallet belonged to the defendant; but that if James Parker had no authority for his so doing, he should make reasonable satisfaction to Delawood.

In the case of Lasse Carolux vs. Hans Pietersen, "The def<sup>t</sup>: being an Illiterat p<sup>r</sup>son did humbly desier that Capt<sup>n</sup>: Cantwell might speake for him there being no other attorney but what the p<sup>l</sup>t: Imployes, w<sup>ch</sup>: y<sup>e</sup>: Court Grant;" A jury was empaneled and a verdict reached that the plaintiff had no cause of action. (*Ibid.*, *Liber A*, p. 80.)

While the record does not show that Spry appeared for the plaintiff, it is evident that there was but one lawyer available.

The Court Records contain a case in which the old English Law of Deodand was enforced.

The "daughter in Lawe of Ambros Baker of delowar was Lately killed by a horse w<sup>ch</sup>: is by Lawe forfeited & Excheated to his May<sup>tie</sup>., & taken into Custodie by y<sup>e</sup>

Sherrife as appears by the Peticon of y<sup>e</sup> s<sup>d</sup>: Ambros, but noe accompt or further proceedings thereon given by y<sup>e</sup> Sherrife, Ordered that y<sup>e</sup> s<sup>d</sup>: hors bee forthwith Killed and y<sup>e</sup> Sherrife, to haue noe fees in this matter for his Neglect therein." (*Ibid.*, *Liber B*, p. 270.)

#### THE BITER BITTEN

The case of Vicesimus Nettleship vs William Tom had some interesting features. It was tried 8 November, 1676. The plaintiff claimed that he had been violently assaulted, beaten to the ground and abused with scurrilous language by the defendant, who confessed the truth of the charges and threw himself upon the mercy of the Court. The plaintiff insisted upon a jury trial, which was had, and the jury found in his favor for five shillings damages with costs of suit. The Court ordered judgment for the plaintiff, but ordered him to pay the costs of the jury, because the jury went out upon his desire, the defendant having confessed the fact and referred himself to the Court. The plaintiff being dissatisfied with the judgment, asked for an appeal to the Court of Assizes in New York which the Court granted, provided he put in sufficient security according to law. (*Ibid.*, *Liber A*, p. 13.)

#### EQUITY UNDER COMMON LAW FORMS

The word "Equity" appears several times on the Court Records, but it is not quite clear that the Justices understood its real meaning. Governor Andros in a letter, 14 August 1677, advises the Justices at New Castle, that they may "Expect one of o<sup>r</sup>: Lawebookes. As to all penall bonds or such Like Cases of Equity itt is the Custome and practice of Co<sup>r</sup>ts: here to hear and Judge thereof according to Equity w<sup>ch</sup>: you may alsoe observe as allowed by Lawe." (*Ibid.*, *Liber A*, p. 134.)

In the Duke of York Laws p. 35, it is said.

"In regard it is almost impossible to provide Sufficient Lawes in all Cases, or proper Punishments for all Crimes

the Court of Sessions shall not take further Cognizance of any Case or Crimes, whereof there is not provition made in some Lawes but to remit the Case or Crime, with due examination and proof to the Next Court of Assizes where matters of *Equity* shall be decided, or Punishment awarded according to the discretion of the Bench and not Contrary to the known Laws of England."

*Ibid.* p. 61 (Amendments of Sep. 28, 29 and Oct 2, 3, 4, 1665 par. 3.) "Where the Original Point is matter of *equity*" &c proceedings to be "in like manner as is used in the Court of Chancery in England," etc.

*Ibid.* p. 66 (Amendment, par. 3.) "Matters of *Equity* under five pounds may be Tryed in Towne Courts, and if under twenty at the Sessions."

At the first business session of the Court held at New Castle, 7 November 1676, the case of Stephen Juriansen, Lasse Hendricx, Matthias Bartlesen and Eric Jurians against Peter Jegue was heard. The case probably arose from the sale of certain real estate by the defendant to the plaintiff, the title to which proved doubtful. At any rate the plaintiff claimed 1800 guilders from the defendant who produced a certificate under the hand and seal of Governor Carteret and alleged that he could obtain no other Patent by reason of the division of the Province. The Court, after hearing the parties, awarded judgment to the plaintiff for the amount claimed, with costs of suit. Two days later the defendant presented a petition to the Court "desiering that he might have a *Rehearing in Equity* before this Court of the case wherein the Peticoner is overthrowne in Common Law by Stephen Juriansen & the three other fins att Pompoen hoeck; The Worpp<sup>11</sup>: Court haueing weighed the Reasons by the Peticon<sup>r</sup>: brought forth; do Grant him a Rehearing in Equity" (Records of the Court at New Castle, *Liber A*, pp. 11, 20). No further proceedings in the matter are recorded. The parties may have reached a settlement or the case may have been sent to the superior court at New York.

As it is very unlikely that Peter Jegon knew the differences between common law proceedings and equity proceedings, it is a fair assumption that he had the benefit of competent legal advice, although no attorney's name appears on the records. Spry was probably his adviser. He had just been admitted to practice, and as a matter of fact subsequently appeared for Jegon.

The case of Groenendyke vs. Mary Block, widow, was on a bill dated 30 July 1677, for "the sune of one hundred fourthy & fyve Gilders & 4 Styvers wampum or y<sup>e</sup> Vallue thereof in winter wheat att 5 gilders & 8 styv<sup>rs</sup>: p<sup>r</sup>: skiple." The defendant acknowledged signing the bill "but sayes that shee was thereunto forced through the Treats of y<sup>e</sup> P<sup>lt</sup>: att New Yorke, and proffers to make apeare that the debt is no Just debt In case the Co<sup>rt</sup>: will bee pleased In hur Releefe to grant hur a hearing in Equity." The court ordered judgment according to the bill with stay of execution until the next court, when the court would grant her a "Rehearing," (*Ibid.*, *Liber A.*, p. 228.) at which it is recorded, that the Court heard witnesses, and "upon all y<sup>e</sup> above<sup>sd</sup>: Consideracons cannot find in Equity that Mistris Blocq is now Lyable to pay y<sup>e</sup> same." (*Ibid.*, p. 258.)

Peter Groenendyke later sought some of the Court's equity himself (*Ibid.*, *Liber B.*, p. 256). He preferred a petition that he "finds himselfe mutch agreeved; hee not haueing ben p<sup>r</sup>sent att y<sup>e</sup>: s<sup>d</sup>: Rehearing" of his case against Widow Block, and asked the Court to confirm the first order awarding him judgment against her on her Bill, but the Court answered, that as they had passed judgment and afterwards had had a rehearing they could not act further except by the "speciall order of his Excell<sup>e</sup> the Governo<sup>r</sup>:" (*Ibid.* p. 256.)

One defendant set the example, since many times followed in the sale of bales of cotton linters, of putting stones in the bale to make it weigh more. Jacob Vander Veer was charged by Thomas Harwood with having sold him a bag of feathers with a stone concealed therein, weigh-

ing "4 or 5 lb. waight w<sup>ch</sup>: s<sup>d</sup>: stone was waiged and delivered to him for fethers." He produced the stone in Court. The same difficulty was encountered then as is encountered today with bales of linters—inability to prove guilty knowledge and intent. The Court found that the stone was fraudulently put into the bag, and as the defendant had refused to appear at the last Court day "all w<sup>ch</sup>: & other his uncivil Carriadges doe merritt a seuere punnishment, Yett the Co<sup>rt</sup>: Considering the Poverty of him", condemned him only to pay a fine of 200 gilders. (*Ibid.* pp. 8, 50.)

#### SPRY'S PERSONAL HISTORY

Where was Spry born? Where did he come from? The earliest American record of Thomas Spry, as far as now known, is on the Court Minutes of New Amsterdam, Vol. 6, thus:

"Att a May<sup>rs</sup>. Court held at New Yorcke this 7th of June A<sup>o</sup>. 1670", "Thomas Sprey, Plt: v/s Evert duyckinge, def<sup>t</sup>: The Plt. remaining default, the Court ordered that a non suite should be entred ag<sup>st</sup>. the plt: & he to pay Cost" (p. 236); and later the same year:

"Att a Mayors Court held att New Yorke the 29<sup>th</sup>. of 9b<sup>r</sup> A<sup>o</sup>. 1670". Assur Levy, Plt. v/s Thomas Sprey, Def<sup>t</sup>. The Def<sup>t</sup>. remained y<sup>e</sup>. first Court day default" (p. 271).

Still later:

"Att a Mayors Court held att New York the 28<sup>th</sup>. day of March A<sup>o</sup>. 1671", "Nicolaes Bayard, Pl<sup>t</sup>. v/s Thomas Sprey, def<sup>t</sup>. the def<sup>t</sup>. default (p. 291).

We can only surmise as to the nature of these cases. Spry had not been formally admitted to practice as a lawyer, at this time, as far as known, and was probably engaged in agriculture; in trading with the Indians; acting as an accountant, scrivener or conveyancer, or, in general, living by his wits.

A further entry in reference to a suit of Bayard against Spry is found in the same record (p. 296).

“Att a Mayors Court held att New Yorck the 18<sup>th</sup>. day of April A<sup>o</sup> 1671.” “Nicolaes Bayard, Atturney of W<sup>m</sup>. Pattesson, P<sup>lt</sup>. v/s Thomas Sprey, def<sup>t</sup>. The P<sup>lt</sup> declares that def<sup>t</sup>. is Indebted unto the s<sup>d</sup> Pattisson for house rent as p<sup>r</sup>. account the summe of fl.——in zeawant, w<sup>ch</sup> summe the P<sup>lt</sup>. hath severall times demanded but could never receive it to this day; Wherefore this P<sup>lt</sup>. Craves Judgem<sup>t</sup>. against this Def<sup>t</sup>. for the s<sup>d</sup>. debt with Cost of Suit. The def<sup>t</sup>. remaining default three several Court dayes, the Court ordered that Judgem<sup>t</sup>. should be entred ag<sup>st</sup>. Def<sup>t</sup>. that the Def<sup>t</sup>. shall make Paiement of the s<sup>d</sup>. debt within the space of Six Weekes Next Ensuing the date hereof, together with Cost of Suit, provided the def<sup>t</sup>. shall deduct what he can make appeare he paid in part of the said rent.”

Sprey seems to have occasioned no further official record of himself for several years, but upon 20 October 1674, he witnessed the will of Barent Egbert, also called Egbertsen, whose widow he afterwards married. Egbert was a tailor of New Amsterdam. The two men were evidently friends, and Sprey must have been living there for some time prior to his admission to the Bar at New Castle.

We next hear of Sprey in a Confirmation granted unto him by Sir Edmond Andros, for a “parcell” of land called “Doctors Commons”, 5 November 1675 (Duke of York Records, p. 160) which settled Sprey’s title to 160 acres of land lying on the South side of St. Georges Creek, and which “by vertue of a warrant hath been layd out for Thomas Sprey.” As Sprey doubtless named his own place: “Doctors Commons,” he was probably practicing medicine at this time, 1675, or even earlier.

This confirmation was sent to Captain Cantrell, Surveyor at Delaware, 13 April 1676.

“Entr. Thomas Sprey, 160-1½ acres” (N. Y. Col. Documents, vol. XII., p. 543). It may be noted here that Sprey sold “Doctors Commons”, 2 February 1679/80 to Jacob Young (Deed Book, Wilmington A 1, p. 50). The

deed poll calls Spry, "Chirurgion", and the "Parcill of land"—the 160 acres—"Doctors Commons." Young is described as "of S. Georges Creeke on Delawar aforesaid, Planter". The deed gives the date of Spry's original survey as 28 May 1675.

It may be further noted, that Jacob Young sold "Doctors Commons" (New Castle Co. Deeds B 1, 4) to Hendrick Vandenburg of "Town New Castle", 16 February 1686 (which was after Spry's death), and finally that Hendrick Vandenburg sold "Doctors Commons" to John Cochs in 1700. (*Ibid.* G 1, 199.)

It is not difficult to identify Spry's plantation in terms of the modern surveys at New Castle. A deed, 6 August 1695, from John White of Philadelphia, to "John Lewden, of Christina Creek, New Castle County, weaver", for 435 acres, called "Fishing Place" on the Southeast side of the southern most main branch of Christina Creek, gives one of the running lines "to a Spanish oak at the head of Sprys run." (*Ibid.* B 1: 177.)

This must be the same run referred to (Conrad. Del. II., 541) as follows:

"Dr. Thomas Spry, \* \* \* had surveyed to him a tract of 160 acres called 'Doctor's Commons,' lying on a now dried up creek then known as 'Doctor's Run', being afterwards the property of William S. Lawrence, Z. A. Pool and others."

Returning to Spry's early record, it appears that on 9 November 1675, Spry and George Moore were witnesses to a deed, which Spry doubtless prepared, conveying land at New Castle from William Thom to James Sandelands (MS. Book N. Y. Patents, p. 36, Land Office, Harrisburg). Sandelands, being the purchaser, was evidently Spry's client. He was one of the most conspicuous men in the Upland Colony. He came from Scotland, and was a large land owner. He married Anna, daughter of Jöran Keen, and died, 12 April 1692, aged 56. His daughter

Catherine married Jasper Yeates, who was educated as a lawyer, became one of the Provincial Judges, and was the grandfather of Judge Yeates of the Supreme Court of Pennsylvania. Sandelands is buried in St. Pauls Church, Chester (Record of Upland, 167).

Upon 30 September, 1676, Spry prepared and witnessed the will of Peter Hough, as we have learned. An inventory was filed, 4 October 1676, amounting to "1283 gilders, mostly dry goods." Thomas Spry and J. Dirkson were the appraisers, but for some reason not apparent, Peter Jegou and Walter Wharton, "differ with the appraisers", and increase the value 100 gilders. Spry may have fixed a low appraisement to reduce taxes or the executor's commission. Hough is described in the will, as "now sujerner in New Castle," so Spry was probably living there when he witnessed the will. (Records of Court of New Castle, *Liber A*, p. 26.)

Letters of Administration, probably *de bonis non*, were granted John Maddock, of New Salem, yeoman, attorney "for the widow Eleanor Hough of White Cross Street, London", 30 May 1682. (N. J. Archives, XXIII., p. 241.) Salem was within the jurisdiction of the New Castle Court.

Thomas Spry and his friend Barent Egbert must have moved to New Castle, or been resident there, when their Patents were sent by Governor Andros to Surveyor Cantwell, 13 April 1676. Egbert had been granted the Burgher Right, 13 April 1657. He was living in New Amsterdam in 1658, according to the following entry:

"Schout Nicasius de Sille, pltf. v/s Barent Egbersen and wife, and Jan Smedinck and wife, defts.

"The pltf. states, that the defts. complained of each other to him, and that they kept a disorderly house, and beat each other, and that Jan Smedingh stated, he had hired half the house, they occupied from Barent Egbertsen and that Secretary van Ruyven released him from the hire; requesting that they may be separated.

“Barent Egbertsen answers, he rented half the house to Jan Smedinck by the month with liberty to leave it at any time; saying further, that the women had words together and that his wife [Rebecca] struck Jan Smedincks wife on the back, but that Jan Smedincks wife struck his wife more severely and Jan Smedinck also; and that his wife is near her time.

“The Court having heard parties order, that Jan Smedinck shall quit the house on condition of paying according to his promise” (Court Minutes of New Amsterdam, Monday, 6th May 1658, in the City Hall, Records of New Amsterdam, Vol. 2, 376.).

Egbert continued to live in New Amsterdam until 1674. His will dated, 20 October 1674, was produced in Court by his widow Rebecca, and proved by Thomas Spry, 7 June 1677. He may have been about the same age as Spry, who married Egbert's widow in 1677, or earlier. She is on record as his wife in that year, and unless she lied about her age, she was “about 40” on 20 July 1677 (Records of Court of New Castle, *Liber A*, p. 110). She did not wait long for her second helpmate and Thomas was Spry.

Egbert got into a row not long after coming to New Castle. He and others seem to have been dissatisfied with the New Castle authorities. Here is an account of it.

Letter from William Tom, Clerk of Court at New Castle to Gov. Andros June 8, 1675. “a number of the Inhabitants from w<sup>th</sup> out in such a mutinous and tumultuous manner being led on by ffabricius the preister Jacob van der Veere John Ogle Barnard Egbert, \* \* \* and severall others some having swords some pistolls other clubbs w<sup>th</sup> them w<sup>th</sup> such despitefull language saying they wont make neither the one nor the other, that they could not longer be forborne in so much that Capt. Cantwell, by our consente calling for the Constable layd hold of the preister and Ogle and sent them on board the Sloope w<sup>th</sup> intencon for New Yorke to yo<sup>r</sup> Hono<sup>r</sup> but the tumult there-

vpon arising vpon their going on board cursing and some crying 'fatt them on, fatt them on', being most drunk \* \* \* wee were inforced \* \* \* and discharge them." (New York Colonial Documents, Vol. 12, 1624-1682, Colonial Settlements on the Delaware, pp. 535-536.)

These early references throw but little light upon Spry's antecedents but some future scholar may see their importance.

Research has failed this far to reveal the date or place of Spry's birth, or the date or place of his burial.

#### THE SPRY FAMILY

The Spry family was an old one. Burke in his "History of the Commoners", Vol. 4, 691, says that the Sprys seated at an early period in the County of Devon, Parish of Spreyton; in the Hundred of Wonford. He gives various spellings of the name: Spry, De Spre, De Spray, De Sprey, Spreye, Sprie and Sprye. As Spray or Sprey it is found in the Parish of Maristow, in the Hundred of Lifton; and Sprye Comb is in the Parish of East Ashford, in the Hundred of Braxton.

Among the early wills of Devon is that of Thomas Spry of Lifton, 1595. Both the name and the locality seem to point to this Thomas as an ancestor of our leading lawyer.

#### LETTER OF ATTORNEY FROM ROBERT SPRY

A Letter of Attorney is of record at Wilmington, Delaware, (Deeds D II., p. 323,) dated 22 August 1777, given by Robert Spry, of the Parish of Lifton, in the County of Devon, nearly a century after Thomas Spry's death, reciting that: "Thomas Spry late of the County of New Castle on Delaware in North America did by his last Will and Testament bearing date on or about the sixth day of April in the year of our Lord 1685, amongst other things devise to his Daughter Sarah Spry Spinster, then resident at Plymouth in the County of Devon in

Great Britain since deceased", premises on Christina Creek "called Abiahs Refuge" and land in the Town of New Castle, and that such real estate "is descended to the said Robert Spry as Heir at law." John Lee is appointed Attorney in Fact to sell the same.

#### THOMAS SPRY'S WILL

Turning to Spry's will, which also is on record at Wilmington, we find that it devises,

"to my Daughter Sarah Spry of Plimouth", the very real estate described in the Letter of Attorney. Its preamble is quaint:

"In the name of God Amen I Thomas Spry being sick & weake in body but of perfect memory Goods name be prayed and calling to remembrance y<sup>t</sup> all men must certainly dye doe make my last will and testament in manner and form following Imprimis I bequeath my Soule unto ye Hands & tuition of Jesus Christ that gave it me hoping that it shall remain with him in heaven for evermore And my body I commit to the earth from whence it came to be buried in decent manner according to the discretion of my executors or Administrators and as for what worldly estate God hath been Pleased to endow me with I give and bequeath in manner and forme following:"

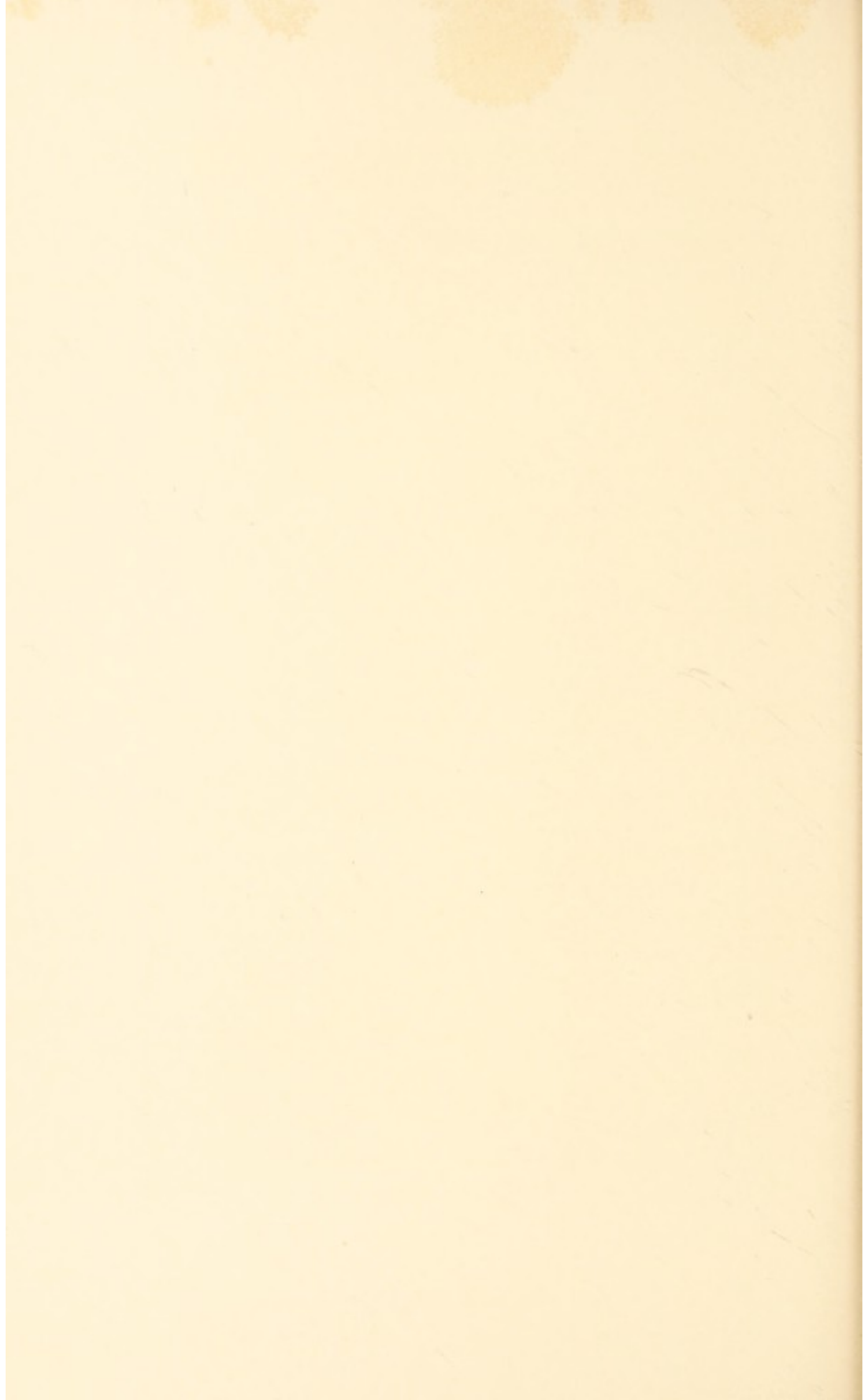
The will is of interest. It gives to "Annokey Egbert and Abiah Egbert three hundred acres of land cituate lying & being in St. Georges Creek pattent by Barns Egbert to be equally divided between them." (This was the 300 acres which he received directly from Governor Andros.)

He gave to his daughter Sarah Spry of "Plimouth", and to Abiah Egbert his "plantaton in Christina Creek called Abiahs Refuge equally to be divided between" them.

He also gave to Sarah, "all that parcell of land in the beavavrs [Beaver] Street in y<sup>e</sup> towne of New castle between y<sup>e</sup> land of Adam Hay and y<sup>e</sup> land I bought of Harry Jones."

In the name of Amen & Thomas Spry being out of his mind  
 of perfect memory Gods name be praised and willing to remain in his  
 all men must readmoly & see made my last will and testament  
 manner and forme following In witness whereof I have subscribed  
 handes & tution of Jesus Christ that gave it me together that it should  
 remaine with him in heave en for evermore Unto my body I have  
 by the death from whence it came to be buried in one of my  
 uncles to the destruction of my exorsors or their exorsors  
 and for what words by state Gods will have been pleased to endow me  
 with I give and bequeath in manner and forme following  
 Item I will that all my legall debts be fully content & satisfied  
 the remainder of what is left of lands goods & chattels in  
 of Solowaye or in any parts of y<sup>e</sup> Kings Dominion either in  
 England or in Ulster I do freely give and bequeath unto my  
 four Children (that is to say) to Amosby Robert and Abiah  
 Robert three hundred acres of land situate lying & being in  
 Georges Brooke adjacent by Burrows Robert to be equally divided  
 between them the all set out house and grounds situate  
 broadside on y<sup>e</sup> wide street from y<sup>e</sup> end of Down Lane & situate along  
 well and from thence along y<sup>e</sup> other street to a row of six windows  
 and set of equal breadth and length to y<sup>e</sup> first row of Down  
 Lane & situate broadside to my daughter Sarah & her heirs  
 Abiah Chylert my plantation in Christ Church street with y<sup>e</sup> houses  
 equally to be divided between y<sup>e</sup> sd Sarah & Abiah them & their heirs  
 also I give to my daughter Sarah they all that parcel of land in the  
 backes street in y<sup>e</sup> town of Newcastell betwixt y<sup>e</sup> King of Down  
 and y<sup>e</sup> Lane & length of Henry James for joining back to y<sup>e</sup> the  
 James to the parts of two parts all set & give and bequeath to my  
 sonne Joseph Chylert they all the two lots of ground & buildings  
 Henry James and to his heirs and y<sup>e</sup> remainder of y<sup>e</sup> goods & chat-  
 tels are to be equally divided among y<sup>e</sup> sd four Children  
 legall exorsors (vizt) to y<sup>e</sup> sd Amos and y<sup>e</sup> sd Mary wife of  
 George Chylert for 10<sup>th</sup> of 10000 about of out of y<sup>e</sup> y<sup>e</sup>  
 my exorsors John to John Garby & give my razor Item to Mr  
 Walliam I give my exorsary to y<sup>e</sup> sd John my wife of Anotary  
 and for y<sup>e</sup> intent & meaning of this my last will & testament  
 all other will or wills that are or shall be my trusty & beloved son  
 James Walliam & John Chylert to be my lawfull exorsors & done  
 to see this my will executed performed & fulfilled in witness whereof I have  
 subscribed my hand & Seale this sixth day of Aprile 1685  
 Thomas Spry  
 Witness  
 Amosby Robert  
 Abiah Chylert  
 Joseph Chylert

ORIGINAL WILL OF THOMAS SPRY, 1685, WITH HIS SIGNATURE



He gave to his "adopted son Joseph Biss als. Spry the two lotts of ground I bought of Mr. Henry Jones."

He gives a gray mare and his "Rapier" to John Mandy and to John Darby his "razors". To Mr. James Williams, "My Dixonary"; and to "Doct. Latroop," "My book of Anotamy".

The will is Recorded in Book A, 69-70. Spry's signature is a bold and handsome one, suggestive of his active and eventful self.

The language of his will, and he certainly wrote it himself, is that of an old man, probably 65, and as the will was proved, 7 December 1685, presumably a day after his death, Spry was probably born about 1620, and at Lipton, Parish of Mariston, Devon; the reference to his daughter Sarah, of Plymouth, makes it more than likely that Spry was "last from Plymouth" when coming to America. He probably left home about 1640, after the death of his first wife, to whom he had been married in England. He came to America, like all the other immigrants, to seek his fortune. He probably came to Virginia, to which many educated emigrants came during the 17th Century.

#### EARLY VIRGINIA AND MARYLAND RECORDS

In the early records of Virginia, there are many references to the Sprys, indicating that they came from England to that Old Dominion.

Captain Henry Spry signed the Second Charter in 1609.

Oliver Spry arrived in 1636, William in 1648.

In 1656 Mary Spry, widow of Captain Edward Spry, who lost his life in an Expedition to Jamaica, applied for the arrears of her husband's pay.

We find the names of Edward Spry, Frances Spry, Mary Spry, and William Spry in "Caribbeana", a publi-

cation respecting the British West Indies. Some or all of these persons were probably related to Thomas but the records do not prove it.

The most important of all the Sprys, as far as the records show, was Oliver. He moved into the Province of Maryland from Virginia, and settled at Town Neck on Severn River, in 1649, or 1650 (Maryland Patents, *Liber Q*, pp. 385-386). In a patent issued to him by Lord Baltimore, 27 January 1658, it is recited that "Oliver Spry, hath transported himself, Joan his wife, Oliver & Mary, his children, John Gibson & Thomas Phelps, his servants," in the year 1650, "into this Province to Inhabitant". By this Patent he was granted 600 acres on "Spryes Hill on the north side of Saxafras River adjoining land lately laid out for Godfrey Harmer, near Harmers Branch at the mouth of Spryes Creek." (*Ibid.* pp. 303, 304.) His daughter Mary, by his wife Johanna, married Godfrey Harmer. The Harmers and Sprys seem to have been neighbors in Delaware.

There are many references in the Virginia and Maryland Records to Oliver Spry. The death is noted, in 1663, of his daughter Mary, wife of Godfrey Harmer, "only child by wife Johanna" (Balto. Co. Records, *Liber R M.*, No. H. S. p. 4).

Oliver Spry died, between 1668 and 1670, as near as can be guessed. (Md. Mag. XIII. pp. 198, 200, 202.)

In 1654, among tobacco levies, is that of "Mr. [Oliver] Sprye, 1600 lbs." (Md. Arch. 1, p. 355.)

In 1657, it is recorded: "m<sup>r</sup>. Spry for his charge of Dyett & curing of wounded men," 2000 lbs tobacco." (*Ibid.* p. 363); and again the same year; "Due from the Publique to be paid at Kent" to Mr. Spry 1400 lbs. (*Ibid.* p. 364.) and in 1661, "the pet. of Oliver Sprye touching the charge of wounded men was sent to the lower howse." (*Ibid.* p. 397.)

Reference is made to Oliver Spry in 1667, (Md. Mag. XIII., p. 200) and to "Spry's Island." (*Ibid.* p. 202.)

These entries are significant because they suggest some connection between Oliver and Thomas. Oliver could have been Thomas's father, but was probably his uncle or his brother, and it was doubtless under the tuition of Oliver, that Thomas was taught to be a "chirurgion". Both Oliver and Thomas practiced as such, if we may judge from the scant records, and both were paid for their services out of the public funds.

Thomas probably moved into Maryland, when Oliver did, and then found his way to New Castle.

Travel between Maryland and Delaware, must have been easy either by land or water. Many of the New Castle inhabitants came from Maryland. Why they left Maryland is not clear. Probably the acquisition of land, its occupation, and maintenance, were easier in New Castle than under the rule of Lord Baltimore. Probably too, business conditions were unprofitable in Maryland. We are given some inkling of this in the New Castle Court Records (*Liber A*, p. 22) in the letter sent by the Justices of the New Castle Court to the Governor at New York, 1676, in which they say, among other things, that:

"Incuse Sloops and vessels bee henceforth p<sup>r</sup>mitted to go upp & downe the River traeding w<sup>th</sup>: the people & getting all the Reddy and best pay (as they now do) that this place will in short tyme bee deserted and Come to nothing (w<sup>ch</sup>: then will make this River as bad as Maryland)".

Exactly what this means from the standpoint of the settler is not clear, but it is clear that settlers did come from Maryland into Delaware.

Many other Sprys are referred to in the early records of Maryland and Virginia. There is recorded a will of Thomas Spry, Sr. of Maryland (H B 2 p. 455), dated 10 January 1741, proved, 18 April 1746, in which the Testator is described as of Talbot Co., Gentleman, and names his wife Elizabeth, a daughter Elizabeth, and also a son Thomas Spry, to whom he devises land on Chester River.

There is record also in 1687 of a Christopher Spry, of Spryley, now Queen Anne Co. (*Liber* 23 p. 314.) Christopher's will (Kent Co. Md.), is dated, 4 August 1706, proved 1 September 1707, and mentions a son Thomas, who is authorized to "sell Spryley (Md. Wills, III. p. 95) "for the benefit of the estate."

An examination of these records of the Spry family, is not helpful in revealing where Spry was born, or, with certainty, where he came from.

There is a will recorded of Johanna Spry of Talbot Co., Md. dated 6 October 1674, proved 21 May 1675, (Md. Wills I., 107) but she does not appear to be related to Thomas.

James Valliant, Talbot Co. Md., Carpenter, made a will, dated 25 October 1732, proved 8 November 1732, in which he names a sister Elizabeth Spry, and a cousin Thomas Sprye, joiner. (Md. Wills VI., 242.) This Thomas, Jr. may have been a nephew of the late Thomas, lawyer, but this is a mere guess.

A deed dated, 22 October 1706, by "William Redchester of the parts of Delaware Bay carpenter," to Thomas Spry of Talbot Co., Md., Planter, is on record, but while suggesting possible clues to Thomas, the lawyer, does not point with any certainty.

We can only hope that if none of these Sprys was a near relation of Thomas, they used the name of Thomas, after the interesting character, whose activities we have traced.

We are regretfully compelled to leave further search to future investigators.

These pages include all the information thus far obtained concerning Thomas Spry. Search has been made in all the printed histories of Delaware, and in the following original manuscript sources: early court records of the Counties of Talbot, Cecil, and other parts of Maryland; the records at Harrisburg relating to Delaware and early Pennsylvania; the early patents and deeds on record at

Philadelphia; the Delaware records which have been sent from Harrisburg to that State; early recorded wills and deeds and other public documents at Wilmington; the early records at Media relating to Delaware and Pennsylvania; pertinent records at the Delaware County Historical Society; at West Chester Court House, Chester County; the early records in the wonderful collections of The Historical Society of Pennsylvania and of The Genealogical Society of Pennsylvania; the New York Historical Society, and the New York Historical Records pertaining to Delaware and Pennsylvania. Search has also been made in the printed records of Devonshire and Cornwall, England.

The total sum of what has been discovered is meager. We have no knowledge whether Thomas Spry ever studied law or not—the probabilities are that he did not. He was a clerk—that is, he could read and write—and must have attended some village school in Devonshire before coming to America. He certainly possessed a natural aptitude for the acquisition of knowledge which enabled him to utilize his wits to his own advantage and the advantage of his clients or patients. He was probably the best educated man in his little community, which according to the "List of Tydables", 9 November 1677, comprised within the jurisdiction of the New Castle Court, 307 persons, including servants and slaves—slavery then existing in the Delaware territory—but not counting women and children. He was doubtless able to read and speak, in addition to his native tongue, Dutch and Swedish, and a fair inference from the records is that he knew a little Latin.

Of his knowledge of the law as a science and of his ability as a pleading attorney, we have no other information than such as we can draw from the Court's records, and of his knowledge as a doctor or surgeon we have practically no information whatever. He appears on his little stage and leaves it without visible entrance or exit, and the sidelights, which might have helped us in our quest, did not reach him when the curtain went down.

Nevertheless he is of interest and ought to be as the leader, in time at least, of all his successors, now numbering 8645 lawyers in the State of Pennsylvania; 6633 in the State of New Jersey and 206 in the State of Delaware, a grand total of 15,484, not counting the vast thousands and tens of thousands who have already joined Spry in the good or bad place to which all lawyers finally go.

We recall that in the case of *Armegot Printz Papegoja vs. Carr*, which determined the title of Tinicum Island, a Mr. Edsel appeared at the first session, as an assistant "to the attorney, John Sharp, 12 October 1672," before the Court of Assizes at New York, and it may be, that John Sharp was the first regularly sworn and admitted lawyer to practice in that great State. His name may have been a pseudonym. He either adopted it, or it adopted him, that is, he chose his profession to fit his name, but, however, that may be, it is rather significant that the first lawyer to practice in the Delaware Territory was named *Spry*, and the first, or one of the first, to practice in New York, was named *Sharp*. What a firm they could have formed—"Spry & Sharp, Attorneys and Counsellors at Law." "Ketcham & Cheatham" would be quite outclassed; and Comfort & Clipsham," the tailors; and the brokers, whose signs in years gone by enlightened old Third Street, Philadelphia, "Jonathan Schott & Gillingham Fell."

Surely, Thomas Spry should be of interest, as the first lawyer to practice on the Banks of the Delaware. His influence on the practice of the law must have continued for years after his death, and, to some extent, at least, must exist unconsciously at the present day. Hence it is that it has seemed worth while to resurrect him and have him play his part again. What we observe him do may seem unimportant to us, but was certainly of great importance to him.

## APPENDIX

### A

#### A CONFIRMATION GRANTED UNTO MR. THOMAS SPRY, FOR A PARCELL OF LAND AT DELAWARE

Edmund Andros, Esq. &c.

Whereas there is a certain parcell of land called Doctors Commons, scituate and being on ye W. side of Delaware ryver and which by vertue of a warrant hath been layd out for Thomas Spry the s<sup>d</sup> land lyeing on the South syde of St. Georges Creeke, bounded as followeth viz. begining at a corner marked white Oake tree standing close by ye creeke syde at ye first Fast landing within the said Creek, dividing this from the land of Anne Whale, and from the sd Oake runing West, South West by the said Anne Whales line of marked trees three hundred & eighty perches to a corner markt black Oake, standing by the side of a swamp called the Doctors swamp nigh unto the head thereof, and from the said Black Oake, downe the severall courses of the maine runn of the sd Swamp unto the aforesaid creek and then down the several courses of the creek, to the first mentioned white Oake, containing and layd out for one hundred and sixty acres of land, together with the marshes thereunto adjoyning as by the returne of the Survey under the hand of Capt. Edmund Cantwell, the Surveyor, doth and may appeare. Now for a confirmation of the same land, unto the said Thomas Spry Know yee &c. The Patent is dated ye 5th day of November 1675. The Quitt rent is 1 bushell and a halfe of Winter Wheate". (Recorded: Duke of York Rec., 221. Sent to Captain Cantwell, Surveyor at Delaware, 13 April 1676, p. 543).

NOTE: Thomas Spry sold "Doctors Commons", 22 February 1680, to Jacob Young (Deed Book A. Vol. 1, p. 50, A. D. 1679/80).

## B

## DEED POLL: THOMAS SPRY TO JACOB YOUNG

To all Xhian People to whom this present wryting shall come Thomas Spry of New Castle in Delawar Chirurgion sendith Greeting Know yee that I Thomas Spry for a Valluable Consideration before the ensigning and Delivery hereof to my full Satisfaction to me in Hand paid by Jacob Young of S<sup>t</sup> Georges Creeke in Delawar aforesaid Planter I have given granted Bargained Sold Aliened Assigned Transported and Made over & doe by these presents fully Clearly and Absolutely give Grant Bargain sell Alien Assigne Transporte & Make over unto the said Jacob Young his haiers and Assignes a Certaine Parcell of Land of one Hundred and Sixty Acres called Doctors Commons being Scituate on the Westward syde of Delawar River and on the South Ward syde of S<sup>t</sup> Georges Creeke being bounded as followith viz Beginning at a Corner Marked White Oake standing Close by the Creeke syde at the first firm Land within the said Creeke dividing this from the Land of M<sup>rs</sup>. Anne Whale and from the said Oake running West South West by anne Whales lyne of Marked Trees 380 Perches to a Coner Marked Black Oake Standing by the syde of a Swamp called the Doctors Swamp and Nigh to the head thereof and from the said Black Oake down the Severall Courses of the Main Run of the Swamp unto the afs<sup>d</sup>. Creeke and then down the Several Courses of the s<sup>d</sup>. Creeke to the first Mentioned White Oake as by the Surveigh of Capt. Edmund Cantwell the former Surveyed bearing date the 28<sup>th</sup> day of May 1675 doth Appeare together with the Marsh thereunto Adjoining To have & to hold the said Land Marshes and Premissis and Premissis together with all and Singular the Appurtenances as also all the Right Tytle and Interest of him the said Thomas Spry therin unto the said Jacob Young his heirs and Assigns unto the soale and Proper

use and behoofe of him the said Jacob Young his heirs  
and Assignes forever free and Clear of all Manner of  
former Bargains Sales or other Incumbrances whatsoever  
In witness and Confirmation whereof I have hereunto set  
my Hand and Seale at New Castle in Delawar this 2<sup>d</sup>.  
Day of February in the 22<sup>d</sup>. Year of his May<sup>is</sup>. Reigne  
Anno Domini 1679/80.

(was signed)

Sealed Delivered in the  
Presence of us

[L. S.]

Tho: Spry

Geo: Moore. Sam Land

Recorded at Wilmington, Delaware, Deed Book A. 1,  
p. 50.

## C

## WILL OF THOMAS SPRY

In the name of God Amen I Thomas Spry being Sick & weake in body but of perfect memory Gods name be praised and calling to remembrance y<sup>t</sup> all men must certainly dye doe make my last will and testament in manner and form following Imprimis I bequeath my Soule into y<sup>e</sup> hands & tuition of Jesus Christ that gave it me hoping that it shall remaine with him in heaven for evermore And my body I comit to the earth from whence it came to be buried in decent manner according to the discretion of my exectors or Administrators and as for what worldly estate God hath been pleased to endow me with I give and bequeath in manner and forme following Item I will that all my legall debts be fully content & Satisfied the remainder of w<sup>ch</sup> estate is left of lands goods & chattels in ye river of Delaware or in any parte of ye King's Dominions either in old England or in America I doe freely give and bequeath unto my foure Children (that is to Say) to Annekey Egbert and Abiah Egbert three hundred acres of land Scituat lying & being in S<sup>t</sup>: Georges Creek pattent by Barns Egbert to be equally divided between them As allsoe one house and ground Stretching for breadth on ye wood street from y<sup>e</sup> end of Adam Hays land along to well and from thence along ye Otters Street to a row of Six peare trees and soe of equall breadth and lenght to ye first poast of Adam Hays Allso I give and bequeath to my Daughter Sarah Spry of Plimouth and to Abiah Egbert my plantacon in Christeena Creek called Abiahs Refuge equally to be divided between ye s<sup>d</sup> Sarah & Abiah them & their heirs Allsoe I give to my daughter Sarah Spry all that parcell of land in the beavors Street in ye towne of Newcastle between y<sup>e</sup> land of Adam Hay and y<sup>e</sup> land I bought of Henry Jones Soe joyning backwards to y<sup>e</sup> long ffence w<sup>ch</sup> parts ye two Seats allsoe I give

and bequeath to my adopted Sonne Joseph Biss als Spry the two lotts of ground I bought of Mr. Henry Jones and to his heires and y<sup>e</sup> remainder of w<sup>t</sup> goods & chattles moneys and debts God hath been pleased to bestow upon me after my debts are paid to be equally divided amongst them, some certain legacys excepted (Viz<sup>t</sup>:) to John Mandy one gray mare y<sup>t</sup> I purchased of Georg Oldfeild for w<sup>ch</sup> I have a bill of sale alsoe I give unto him my rapier Item to John Darby I give my razors Item to M<sup>r</sup>. James Walliam I give my Dixonary to Doct<sup>r</sup> Latroop my book of Anotamy and for y<sup>e</sup> true intent & meaneing of this my last will and testam<sup>t</sup>. revoking all other will or wills I doe ordaine & appoint my trusty & beloved friends James Walliam & John Mandy to be my lawfull executors & Administrators to see this my will executed pformed & fullfilled. In witnes whereof I have hereunto sett my hand and Seale this Sixth day of Aprill 1685

Tho Spry

Signd Sealed & delivd in ye presence of us

[ Dark green  
wax seal with  
coat of arms ]

Gerardus Wessells

Reynier Vander Coelen

his

Ambrose X Baker

mark

(Recorded A. 69-70)

## D

## LETTER OF ATTORNEY FROM ROBERT SPRY TO JOHN LEE

To all to whom these presents shall come Robert Spry of the Parish of Liston in the County of Devon in Great Britain sendeth Greeting

Whereas Thomas Spry late of the County of New Castle on Delaware in North America did by his last Will and Testament bearing date on or about the sixth day of April in the year of our Lord sixteen hundred and eighty five, amongst other things devise to his Daughter Sarah Spry then resident at Plymouth in the County of Devon in Great Britain since deceased sundry Messuages Lands Tenements Hereditaments Lotts and Liberty Lands and premises situated and being on "Christeena Creek called Abiahs "Refuge and a parcel of Land in the Town of New Castle "in the County of New Castle on Delaware in North "America aforesaid and also one fourth part of all other "lands Goods and Chattles on the said Delaware River "or in any part of the Kings Dominions either in old "England or in America" And Whereas such real and personal Estate is descended to the said Robert Spry as Heir at law and next of Kin or otherwise, Now know Ye that the said Robert Spry for divers good Causes and Considerations him thereunto moving Hath made named ordained authorized constituted and appointed and by these presents Doth make name ordain and authorize constitute and appoint and in his place and stead put John Lee of the City of London Esquire his true and lawful Attorney for him and in his name to enter into and take possession of all and singular Messuages Lands Tenements Hereditaments Lotts and Liberty Lands and all and singular other premises whatsoever situat lying and being in the County of New Castle on Delaware aforesaid or elsewhere in America whereunto the said Robert Spry is entitled or whereunto he is interested in any manner whatsoever And to ask demand and sue for recover and

receive of and from all and every Person or Persons whomsoever who heretofore were or now are or at any time hereafter shall be Tenants or Occupiers of all or any part of the said Messuages Lands and Premises All such sum and sums of Money which now are or shall at any time hereafter be due owing payable or belonging to the said Robert Spry for rent or arrears or rents of the said Messuages Lands and Premises or any part thereof and upon Nonpayment thereof or any part thereof for and in the name of the said Robert Spry to make any distress or Distresses for any such rent or arrears of rent and such Distress or Distresses then and there found to carry away sell and dispose of according to law and to make any Avowry or Justification for any such Distress or Distresses And for and in the name of the said Robert Spry to commence and prosecute any Action or Suits against any person or persons for any rent or arrears of rent due as aforesaid And to take all other lawful ways and means for recovery thereof as his the said Robert Spry's Attorney shall think fit And also for and in the name of the said Robert Spry to ask demand and sue for recover and receive of and from all and every person and persons whomsoever all such Deeds Evidences Muniments and writings as relate to the said Lands or any part thereof And also for and in the name of the said Robert Spry to grant bargain sell and dispose of all or any part of the said Messuages Lands Tenements Hereditaments and Premises whereunto the said Robert Spry shall or may be in any manner intituled and to make sign seal execute and deliver all such Deeds and Conveyances as shall be necessary for Conveying and Assuring the same unto such person or persons as shall purchase the same and to their Heirs and Assigns forever And also for and in the name of the said Robert Spry to let and demise the said Messuages Lands and Premises or any part thereof either for years or at Will according to the best discretion of him the said John Lee And also for and in the name of the said Robert Spry by Ejectment or other due course of Law to remove or expell any person or persons who now or at any time hereafter shall be settled upon or be in possession of the said Messuages

Lands and Premises or any parts thereof And also for and in the name of the said Robert Spry to make any Agreement for or concerning the same as to the said John Lee shall seem meet And for and in the name of the said Robert Spry to commence and prosecute any Action or Suit in any Court of law or Equity and to make answer and defend any Action or Suit in any Court of Judicature in North America aforesaid for or concerning the real or personal Estate and Effects of the said Thomas and Sarah Spry deceased against any person or persons whomsoever and upon receipt or recovery of any sum or sums of money for him the said Robert Spry and in his name or in the name of the said John Lee to make give and execute proper and sufficient acquittances and discharges for the same And the s<sup>d</sup>. Robert Spry doth hereby grant to the said John Lee his said Attorney all his power and lawfull authority in the premises for receiving recovering and discharging the same and one Attorney or more under him the said John Lee to make and substitute and the same at pleasure again to revoke ratifying and hereby confirming all and whatsoever his the said Robert Spry's Attorney or Substitute shall do or cause to be done in and about the premises by virtue of these presents as fully and effectually to all intents and purposes as though he the said Robert Spry were present and did the same himself.

In Witness whereof the said Robert Spry hath hereunto set his Hand and Seal the Twenty second Day of August in the Year of our Lord one thousand seven hundred and seventy seven.

Sealed and Delivered (being first duly stamped) in the presence of William Minifie, Christopher Lethbridge Recorded Decm. 22<sup>d</sup>. 1780.

Robert Spry [L. S.]

Recorded at Wilmington, Delaware, Deeds D 2. pp. 323-325.

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