BOOK REVIEW

The Law Book in Colonial America:
A History of the Book in America: The Colonial Book in the Atlantic World

ALFRED L. BROPHY †

Books are the best of things, well used; abused, among the worst. What is the right use? What is the one end which all means go to effect?

—Ralph Waldo Emerson, The American Scholar

INTRODUCTION

The Patriot Act's requirement that librarians disclose the books that individuals have borrowed gives us a lesson in the importance of books. The FBI's interest in who is reading what is only the most recent evidence that books are both important ways of transmitting ideas and

† Professor of Law, University of Alabama. J.D., Columbia University; Ph.D., Harvard University. I would like to thank Dedi Felman, Tony Freyer, Daniel Hulsebosch, and Sara Patterson for their comments on this essay.


important signifiers of which ideas readers find important. It is not just law enforcement that is interested in reading habits, however. We are hearing a great deal about the project of "the Book" these days. Its center aim is to understand the role of books as vehicles of change. To arrive at that ambitious goal, historians ask a series of more discreet questions. Some of those questions are lofty: What reactions did readers have to the ideas in them? What motivated people to write books? Other questions are more mundane (and usually easier to answer), such as: Who read books? What books (and how many copies of them) were in circulation? What ideas were in the books known to be in circulation? How did economic factors—like demand (or lack of it) for books—drive (or impede) their production? What were the distribution networks for books? What were the physical dimensions of books? How were they produced?

Many of the questions historians of the book ask are at the center of the historical profession: How are ideas propagated? How do those ideas cause (or at least correlate with) changes in behavior? Those are central questions, which historians have been asking since the profession began. Historians of the book slice those questions differently, however, for they place the book at the center of their universe, much as Enlightenment thinkers placed humans at the center of their universe. The book becomes then the vehicle that is studied, much as other things—the

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3. At other times, colleges have sought to control knowledge by limiting access to libraries. Leon Jackson, The Rights of Man and the Rites of Youth: Fraternity and Riot at Eighteenth Century Harvard, in THE AMERICAN COLLEGE IN THE NINETEENTH CENTURY 46, 53-54 (Roger Geiger ed., 2000) (discussing Harvard College’s policy in the 1790s of limiting circulation of books to undergraduates and banne Edward Gibbon’s Decline and Fall of the Roman Empire). And then there is the shameful record of segregated libraries, which effectively limited African Americans’ access to knowledge. See generally PATTERSON TOBY GRAHAM, A RIGHT TO READ: SEGREGATION AND CIVIL RIGHTS IN ALABAMA’S PUBLIC LIBRARIES, 1900-1965 (2002). Even if one were to accept the logic of Jim Crow segregation, there is, it seems to me, something particularly perverse about excluding people from libraries, which are vehicles of self-improvement. The responses of the African American community to exclusion from libraries suggests ways that knowledge is transmitted and preserved and testifies to the resourcefulness of communities searching for knowledge. See, e.g., Arthur G. LeFrancois, Our Chosen Frequency: Norms, Race, and Transcendence in Ralph Ellison’s Cadillac Flambe, 26 OKLA. CITY U. L. REV. 1021, 1022 (2001) (discussing norms of segregation in the Oklahoma City public library and the ways that young Ralph Ellison found reading material). But that is a story for another time.
Mediterranean; the Erie Canal; the year 1831—have become objects of study.  

Historians of the book are concerned with the ways that the medium of print changed how people thought and acted. Many of their methods are well known, almost antiquarian, in nature. They lovingly compile lists of libraries. They seek more precision, however, than we are used to seeing in antiquarian studies, for historians of the book have the ambitious goal of pinpointing how ideas in books affect actions. It is a grandiose project, in many ways, attempting to encompass much of intellectual history. For, given that almost all intellectual history deals with written ideas, the history of the book as a general topic threatens to expand to the point that it becomes all encompassing.

Law books are particularly important vehicles for studying how books propagated ideas. This review explores what the project of "the history of the book" looks like now, as reflected in A History of the Book in America: The Colonial Book in the Atlantic World, and suggests some places where further attention to the law book might refine the precision of the project.

The subject of the power of print to transform American society has captured the attention for generations. Supreme Court Justice Joseph Woodbury told the Dartmouth Phi Beta Kappa Society in 1844 about the powerful effects of print:

Newspapers travel by the fleet wings of steam[,] cross mountains, oceans and continents almost as quickly as they once crossed counties. In short, they eclipse the power of the orator and minstrel, and reach and rule the masses much wider than ever did a Demosthenes or an Ossian. It would be no very forced view of the subject to consider printing as a galvanic chain between nations no less than different portions of one people; the conductor, or


medium for a like literature, politics, philosophy and religion, as if, in many respects, a single pulse beat through the whole."

The role of the press in creating change was particularly important in the antebellum era, when people were captivated by the idea of progress and the ways that technology facilitated that progress. It remains hard to tease out exactly what that influence is. Professor Thomas R. Dew of William and Mary College told his students in the 1840s of the general social leveling that the printing press effected:

In the days before the printing press, the very few ... who could amass knowledge, and cultivate their talents, enjoyed a monopoly which gave them undue power over the illiterate mass. Voltaire has compared the great men of antiquity among the people to [a] few tall cypresses amid a thick undergrowth of shrubbery. The printing press has elevated the mass, and perhaps brought down somewhat the more gifted few—to pursue the simile of Voltaire, it has lowered the tall cypress and elevated the shrubbery.

In order to bring some precision to that topic, it is necessary to keep it within boundaries. So The Colonial Book sets its central task as discussing the "book-trade practices," by which the editors mean the production, sale, and circulation of books and the practices of writers and readers."

I. GAUGING THE MISSION OF "THE BOOK IN COLONIAL AMERICA" PROJECT

A. What Does The Project Look Like Now?

David D. Hall's introductory essay places some framework around this ambitious project. Hall establishes three meta-themes, which connect the history of the book to larger questions in history and help shape the questions

6. LEVI WOODBURY, AN ORATION BEFORE THE PHI BETA KAPPA SOCIETY OF DARTMOUTH COLLEGE 11 (Hanover, Dartmouth Press, 1844).
8. COLONIAL BOOK, supra note 5, at 12.
9. See COLONIAL BOOK, supra note 5.
that historians of the book will ask. First, it is part of the larger history of radical Protestantism, which caused the migration to America in the first place—of people "publishing" radical ideas—that remade our understanding of the relationship of the individual to institutions of government and religion. It was one of the catalysts and once begun, print helped sustain the revolution by providing a "portable" culture, which might provide guidance for residents of even the more remote province. As a result, historians of the book want to know about the connection between ideas in books and ideas in circulation in society more generally, and how the arrows of influence are pointing. The second meta-theme is the mechanism by which the state regulated print. The final meta-theme is the book's complex relationship to mercantile capitalism. There, the book is a commodity, which flows along the same distribution lines as other commodities (though rarely in as great a volume and rarely to the same distance as other commodities). The book (rather obviously, though we often need to restate the obvious) promoted trade; it was a commodity in demand in America. In addition, it helped to sustain the transatlantic trade system, for many books were concerned with that trade. Finally, account books, letters of credit, and letters themselves were central technologies for transatlantic trade. Print and literacy made possible the further development of trade.

With that framework, Hall has five discrete points of how the book in colonial America intersects with themes from the history of the book more generally. Those five points of intersection structure the volume's essays. First, the connections between print culture and social change, or what Walter Ong has called the shift from "orality to writing to print." There are many associated problems with that, including the role in stabilizing, as well as destabilizing, culture. Print could serve to mobilize support for the status quo or to challenge it—and in many conflicts throughout history it served both purposes.

A second area of exploration is the growth of literacy, the purposes to which it could be put, and the levels of literacy for each action. Third, is the role that print served in the public sphere—that permitted the creation of an alternative intellectual world to the existing universe, or what Hall calls the "republic of letters"—a phrase frequently employed by literary scholars to denote the
literary and political writings that expressed the intellectual world created by writers. 10 The republic of letters is the American version of what Benedict Anderson has called "imagined communities"—nations established first in the mind's eye, largely through print. The nation, in the view of such scholars, is presaged by the national identity, which is sustained by print. 11 The final two points of intersection pertain to the individual's relation to text. How did the recognition of intellectual property and the separation of publication from state control lead to notions of individuality in authorship? Then, the related question: How did readers contribute to that text?

Hugh Amory's introductory essay, "Re-inventing the Colonial Book," looks to more mundane issues than Hall. Amory addresses studies of the people who manufactured books—printers and binders—as well as a micro-economic study of the practice of bookselling. He is the quantifier behind this operation. His appendixes contain detailed—if admittedly rough—estimates of publication practices, such as titles printed in each decade; place of publication of sermons; percentage of titles in each genre; numbers of imported volumes; and titles published by the leading authors. Amory's statistics detail the limited scope of books and how a few authors contributed a wildly disproportionate share of the titles. One is led to wonder who can afford these books. Thus, this remains very much a study of elites. Though one might ask how ideas in books migrated to other people, especially to non-readers.

B. What this Book Looks Like

A book on books, where one of the key units of analysis is how knowledge is presented, invites a discussion of the book's organization. The organization is thematic within broad chronologies. Thus, after a brilliant introductory essay by David Hall and a strong one by Hugh Amory, we have three chapters on the seventeenth century: "The

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Let me point to some of the highlights of those chapters, to suggest how the project achieves its goals. Following the two introductory essays by Hall and Amory respectively, discussed above, Hall presents an essay on the Chesapeake in the seventeenth century. It is a complete accounting of what one might hope to know about books. Law and law books occupy a central place in Hall's analysis. Throughout most of the seventeenth century, there was no press established in the Chesapeake. Perhaps that was by design, for as William Berkeley proudly pointed out there were no common schools nor presses in Virginia, "for learning has brought disobedience, and heresy, and sects into the world, and printing has divulged them, and libels against the best government."\(^\text{12}\) A dozen years later, the Virginia government stopped an attempt to establish a printer in the colony.\(^\text{13}\) Still, the Virginia government used the press; it sent manuscript copies of its laws to London, for printing there. Virginia citizens also sent their manuscripts to London printers; so the Chesapeake literature was printed in London, and then circulated in America.\(^\text{14}\)

The need for multiple copies of statutes was central to the development of print in the Chesapeake. Colonial America was a world in which symbols—like copies of the laws, proclamations, seals, writs appointing magistrates—conferred legitimacy on the bearers.\(^\text{15}\) In one instance, a court in the Lower Counties (what is now Delaware)

\(^{12}\) COLONIAL BOOK, supra note 5, at 56.
\(^{13}\) Id. at 56.
\(^{14}\) Id. at 56-57.
\(^{15}\) Id. at 58-60.
refused to sit without a copy of the most recent statutes. William Penn wrote to them that the laws had been delayed because the weather was too cold to permit them to be copied quickly. So much of the publishing for the Chesapeake related to statutes. Writing held a remarkable power; it conferred power on courts and magistrates. Written records preserved the rights of landowners and parties to a contract, as well the intent of testators. The world of writing and print was central to the world of law in colonial America; it is only necessary to contemplate the records to understand how fundamental writing was to the organization of early American society.

Hall continues with a section on books and owners. Here he looks to the inventories of estates, which sometimes listed the individual titles owned by the decedent. The lists of books available are indeed suggestive—and illuminate the ideas that might be in circulation. There was some literature, such as Ovid, which might help transplant the high brow culture of London to the remote province of Virginia. There were religious books, quite frequently the Bible, of course. Then there were utilitarian books—practical medical and legal treatises. So Hall is able to suggest that

[a] few men took a broader view of the law. Wanting to align the legal system in the colonies with the English common law, yet also preferring a measure of local autonomy, these men turned to works of history, English statutes, and treatises of jurisprudence in their search for a middle way.

Hall makes insightful inferences about what the presence of books in a library might mean, as he has done with books in New England, and as Jon Butler has done for Maryland minister Thomas Teackle’s extraordinary collection of 333 books. Yet, when one is speculating about possible uses of single volumes, the level of precision is necessarily limited. It is easier to recover the motivations of Chesapeake

17. COLONIAL BOOK, supra note 5, at 66.
authors, often to promote commerce and migration—in short, to provide information about the colonies. Hall's essay provides a complete picture of the book in one location in time: who read and wrote them and for what reasons. Other essays expand on those themes, in places where the records are more complete and allow fuller recovery.

The next two chapters turn to New England in the seventeenth century, where the records permit fuller recovery. Hugh Amory reminds us that in New England, as well as in the Chesapeake, early publishing was controlled by the government. Until near the end of the seventeenth century, the Massachusetts General Court (the colony's assembly) restricted presses to Boston and Cambridge. Those outside the mainstream—like Roger Williams—had to look outside the colony if they wanted to publish their work.29 Overlying the local regulations, was the 1662 licensing act, which required licensing of books and subjected books to confiscation that were hostile to the Church of England or the state.30 For a variety of reasons—beginning with state censorship, but primarily because of economic limitations—Amory concludes that print was both ubiquitous and poor. Ubiquitous because some print was everywhere—such as Bibles, statutes, and pre-printed blank forms—but poor because there was little else.31 That is an important conclusion—and one that highlights the centrality of law in the project of the colonial book.

Following Amory's essay as well as Hall's on readers and writers in New England, which highlights the importance of religious controversy in driving the increasing use of print over the seventeenth century, the book moves into the eighteenth century. It begins with a strong chapter on the Atlantic world, emphasizing the transatlantic context of print: the role of world economy and such seemingly mundane but crucial factors as availability of skilled printers. James Raven's section of the "Atlantic World" chapter, on importation of books, adds important dimensions to the studies of libraries, because it gives some sense of the quantity of books in circulation. One still hopes for further data on which books specifically were in circulation. One is, nevertheless, struck with the

20. COLONIAL BOOK, supra note 5, at 83-84.
21. Licensing Act of 1662, 14 Car. 2, 33 (Eng.).
22. COLONIAL BOOK, supra note 5, at 108-09.
predominance of utilitarian and religious books. But those kinds of quantitative assessments are central to an assessment of books as commodities: How did the estimated 1.5 million books imported into the colonies add to the literary, religious, political, and legal culture?

The hostility of authorities in the Chesapeake towards printers also appeared in the Middle Atlantic colonies. In 1670, the Duke of York (who governed what is now New York, New Jersey, and Pennsylvania) issued an order essentially applying the Licensing Act's requirement that printers obtain official approval before setting up shop. The story is somewhat more complex for Pennsylvania, founded by William Penn in 1682, because Quakers had their own needs for a printer friendly to their mission. William Bradford, an apprentice to the leading Quaker printer of the time, Andrew Sowle, migrated in 1684 and established a print shop and a book importing business. Historians have studied Bradford's output for what it says about the nature of Quaker thought at the time, as well as how American Quakerism varied from European Quakerism. Perhaps even more important was Bradford's support of George Keith, a leading Quaker who precipitated a conflict within Quakerism in the early 1690s when he advocated additional focus on the Bible and on the historical Jesus. Bradford's work was central to the conflict (as well as our understanding of it), because his nearly twenty imprints marked the boundaries of the conflict and propagated it throughout the Quaker world on both sides of the Atlantic. Once the conflict washed over into the courts, books became even more wrapped up in the conflict, for when Bradford was charged with violating the Licensing Act the court turned to a book of statutes to understand what the act prohibited. The Keithian controversy is an excellent case study in the ways that print contributed to religious conflict and how it disseminated understanding of both the orthodoxy and the heretics. Bradford provides an excellent example of print destabilizing. He also opens up questions about how to draw cultural inferences from the books that a society publishes.

Greene, as did Hall, is able to identify many of the books in circulation in early Pennsylvania, in large part because of book lists left by several highly unrepresentative colonists, such as Francis Daniel Pastorius, a German who migrated to Pennsylvania in 1683 and lived there until his death around 1720, and James Logan, who first came to Pennsylvania in the 1680s to serve as William Penn's secretary, and then assembled a library of somewhere near 2,200 volumes before his death in 1751. Perhaps the most engaging illustration in the entire book is the cover page from a manuscript copy of the laws of Pennsylvania, copied by Francis Daniel Pastorius. Pastorius is one of the most important figures in all of colonial history for those interested in the history of the book—and I shall deal more with him shortly. The illustration, however, links well the interactive nature of the manuscript book. Pastorius' collection of the laws, which he named *Lex Pennsylvaniensis*, is both utilitarian and aspirational. It has summaries of all the laws in force, but also contains aphorisms in English and Latin, such as "All the law is fulfilled in one word, in this: thou shalt love thy neighbor as thyself"; "All things whatsoever ye would that men should doe to you, doe ye even to them, for this is the law and the prophets"; and "the law is good, if a man use it lawfully."

Pastorius packaged the statutes in a way to promote his particular values and to remind readers of the essential purposes of law. He repeatedly used those aphorisms and ones like them as a magistrate. One is led again to the conclusion, that the law book provides a place to observe the interaction of authors and readers, to see how readers pay close attention to text, and where print is central to the propagation of (legal) culture.

Following Calhoun Winton's short chapter on the southern press in the eighteenth century, the book returns to the middle Atlantic colonies in the middle of the eighteenth century. The press is becoming more important


and stronger. Benjamin Franklin makes his appearance in Philadelphia in 1723, and—after a few years—adds competition. He vertically integrates, setting up paper mills to get around the Bradford family's monopoly on locally produced paper.\textsuperscript{29} By the 1740s, printers had proliferated and they were active in providing the books that underlay the Great Awakening.\textsuperscript{30} And then things begin to become too elusive: what does one make of the effect of print on the American Revolution?\textsuperscript{31} Greene, perhaps wisely recognizing that such a topic is so all-encompassing that it is not possible to do justice to it, focuses on key issues, like the increasingly political nature of printers and the dispute between Thomas Paine and his printer over profits from Common Sense.\textsuperscript{32} Some of the issues are addressed in the chapter on "Periodicals and the Press," which combines an essay by Charles E. Clark on the growth and types of the periodical press and a brief but important essay by Richard D. Brown on freedom of the press from governmental regulation (the key problem of the seventeenth century) and from "popular" censorship (the problem of the eighteenth).

The two final chapters move to a different level of analysis from the previous ones. Where the majority of the book has been in relatively low orbit around questions of printers and their technology, the economics of print and distribution, and studies of books in circulation, the final two chapters look from a much higher vantage point (and are more speculative). Chapter eleven by David Hall and chapter twelve by David Shields address learned and literary culture respectively. In both chapters, the focus is unapologetically on elites. In Hall's essay, the emphasis is on colleges (mostly Harvard) and learned societies (the American Philosophical Society and the Academy of Arts and Sciences). Shields emphasizes those colonists producing literature and their literary societies. Hall focuses on books that helped form the republic of letters—a phrase particularly apt for his subjects as well as Shields's. Hall also addresses the inter-colony connections among

\textsuperscript{29} Id. at 258.

\textsuperscript{30} Id. at 259-61.

intellectuals (what Drew Faust called a "Sacred Circle") and uses their tracking of the trajectory of Venus in 1769 as one prime manifestation of their cooperation. One wonders, of course, how what was taught in college influenced students. There seem to be gaps—chasms, really—between what college students and the rest of the reading population read. Books are useful in recreating the culture of a particularly bookish culture (that of colleges and literary societies), which makes Hall's essay particularly successful. But one always looks to see what further inferences we can draw from these data.

The American Revolution is, of course, central to that project. One wishes that the American Revolution occupied a larger ground than Hall and Amory devote to it. They seem to have side-stepped it, perhaps for prudential reasons. When Bernard Bailyn wrote about the ideological origins of the American Revolution, he focused on the ideas in pamphlets. To complete the book project, one would wonder who was reading those pamphlets—and how readers interacted with them. How did those pamphlets change the nature of the debate? Then, there is the meta-narrative. Once we put the single pieces together, what do they say? How did print transform (or fail to transform) early American thought? Some of these questions are easier to answer than others. In the nineteenth century, there are the changes wrought by sentimental literature. In the colonial era, there is the American Revolution and the Great Awakening. To try to get at those changes, one might even engage in counterfactual question: Would the American Revolution have been possible without a printing press?

34. Colonial Book, supra note 5, at 411, 419.
II. THE HISTORY OF THE BOOK PROJECT MORE GENERALLY

I would not be hurried by any love of system, by any exaggeration of instincts, to underrate the Book. . . . And great and heroic men have existed who had almost no other information than by the printed page.

—Ralph Waldo Emerson, *American Scholar* 36

It might make sense to re-examine "the project," by asking what are its component parts. How, for instance, can we hope to understand what purposes readers made of books? If we break the project down into its component parts, I think we arrive at a different understanding of the project from what Hall and Amory sketch in their introduction, and maybe even see how the project is both extremely traditional and wildly radical at the same time. Part of the project of the history of "the book" is old, even antiquarian. The bibliographic essay at the end credits Isaiah Thomas's *History of Printing in America*, published in 1810, as *still* the leading work on the subject. 37 That antiquarian text is the study of what books were published and by whom. Yet it is from such mundane data that much larger conclusions are possible. First, what were the economics of printing and distribution networks. Printing and distribution are themselves important gauges of economic and social development. They tell us about the resources and aspirations of early Americans. The history of the printing, distribution, and sale of books is partly the story of the growth of the colonial economy, for books circulated along the lines of other commodities—just in smaller quantities. And as more printers became available, that promoted competition and broke the monopoly that state patronage created when there was only one printer. So the exploration of mechanics may yield important insight.

Second, we must examine what books were available. In order to suggest that books affected how people thought and behaved, we need to have some sense that books were available. We know about that in several ways: from inventories of estates, library lists, and book sellers' records. Those book lists, which are rarer than one would like, show what the boundaries of the printed world looked like. They map the intellectual terrain. That is an area which has produced some important scholarship, particularly regarding the law books in colonial America. 38

From such data, it is then possible to plumb a story of grand intellectual history: How does the availability of books shape the development of ideas? How do ideas in books affect (or at least correlate) with ideas in action? The difficulty comes in making that quantum leap from book lists, distribution networks, and reader lists, to how ideas in books motivate change. To get at such elusive questions, one has to make a series of inquiries, such as, how did books' structure reflect or limit knowledge? Historians have already produced some really good models of that kind of scholarship. Richard Ross, for instance, has studied law books—particularly textbooks for students—in the fifteenth century, to show that they emphasized memory as a way of learning law. 39 Law became, in Ross' terms, a memory-oriented profession. Ross does not attribute power to those books to channel how law was taught; he uses them to show the structure of legal thought. Similarly, Ann Blair's book on Jean Bodin, for instance, mines his commonplace book for evidence of his world view. 40 For Ross and Blair, books reflect the structure of thought.

There are more ambitious questions, yet, that one must pose of books to map how they were responsible for the


transmission of ideas. 41 Here, those questions relate to the authors' purpose. To answer that, we need to pay close attention to the contents of books. This is a central question of much of intellectual history, which demands a close reading of texts. 42 Another step outward in a concentric circle to a more general question—indeed, a quantum leap outward—is how did readers react? There is by no means a one-to-one correlation of what we find in the book and the ideas in the heads of its owners (to say nothing of its readers). Of course, "[m]eek young men grow up in libraries, believing it their duty to accept the views which Cicero, which Locke, which Bacon, have given, forgetful that Cicero, Locke, and Bacon were only young men in libraries, when they wrote these books." 43 But not all meek young people believe what they read. What are the reasons readers use books? As one might use a recipe book—to provide forms for actions, for instance? To confirm their already existing notions? To learn history? To learn new ideas? To interact with books?

Here the commonplace book is a key area for exploration of reader practices. Because readers copied into their commonplace books the important insights on their readings, those books tell us how some readers reacted, put the material together. They can be remarkably revealing, because authors as readers collect their most important thoughts out of the volumes they read. A second topic of critical importance to the project are commonplace books, in which individual students copied passages from other books into their own journals. Commonplace books are a vital—and shockingly overlooked—source for this sort of reconstruction. 44 They paint a vivid picture inside the author's mind, for they tell us precisely what information was deemed worthy of recording. Sometimes those commonplace books are compiled as part of a structured education, such as Thomas Jefferson's legal commonplace book. 45 In those instances, they are useful, but tell us more

42. See Alan Heimert, Religion and the American Mind, From the Great Awakening to the Revolution (1966).
43. Emerson, supra note 1, at 57.
44. Colonial Book, supra note 5, at 132-33.
45. David Thomas Konig, Legal Fictions and the Rule(s) of Law: The Jeffersonian Critique of Common-Law Adjudication, in The Many Legalities
about the existing educational structure than about the author. At other times they are part of an individual's own self-education.

Francis Daniel Pastorius' commonplace book, which he called his *Bee Hive*, is one of those books often-overlooked by historians.\(^{46}\) Pastorius was trained in law in Germany, then migrated to Pennsylvania shortly after its founding in 1682. He served as a magistrate in Philadelphia County and wrote extensively, both practical treatises on law, medicine, and horticulture, as well as more theoretical works on religion, nature, and philosophy. The *Bee Hive*'s six hundred folio pages, compiled out of more than three hundred Quaker tracts and several hundred more non-Quaker books, contains important insight into the Quaker mind, particularly how one thoughtful Quaker viewed the outside world of ideas. There are nearly two thousand individual entries (what he called honey combs) that Pastorius gathered from the books he owned and borrowed, as well as more than three hundred stanzas of poetry, lists of the books he consulted, a short story, and other collections of his thoughts. The entries provide a rich (though one cannot say complete) picture of his mind. The *Bee Hive* is also important for teaching us about the practice of commonplacing: how many books were brought together, what was taken from them, how the ideas in each book were collected and juxtaposed with other ideas.

But there remain several larger, tougher questions in our investigation: How does the average reader react? And then how do those ideas filter to the rest of the non-reading population? Those are the grandest questions of intellectual history: how do ideas move the mass of people? On that elusive question, the American Revolution provides an excellent case study. It also presents the hardest case for study, because it is concerned—as was the French Revolution—with print and the ideas of the Enlightenment. So it is a question of how the printing press "served as the main instrument in the creation of a new political culture."\(^{47}\)


\(^{47}\) REVOLUTION IN PRINT xiv (Robert Darnton & Daniel Roche, eds., 1989).
That, then, is made up of a series of discrete questions: What were the ideas in the press; who was reading the output; what was their reaction? In an earlier era when the French Revolution was viewed with more disdain than now, some questioned the influence of the press. Henry Dickson, for instance, told the Yale College Phi Beta Kappa Society that he found the roots of the French Revolution in the abuses of the royalty rather than the writings of the philosophers:

The French revolution has been attributed to the influence of the philosophers, so called, of the previous age—Voltaire, Rousseau, D'Alembert, and the rest—and to the restless uneasiness of bad men under the restraints of law and religion. For my own part, I find in the memoirs of the time, and in the history of the French court for two or three generations, of the Regent d'Orleans, and of the parc au cerf in the reign of Louis XV, abundant materials for the explosion; nay, I cannot imagine by what human means it could have been avoided or suppressed. 48

Other antebellum orators, however, celebrated the role of the press. Justice Joseph Story's 1826 address at Harvard, "Science and Letters in Our Day," identified the "general diffusion of knowledge" as a central characteristic of the age. 49 He credited the freedom (and inexpensiveness) of the press for that diffusion of knowledge:

No man can now doubt the fact, that where-ever the press is free, it will emancipate the people; wherever knowledge circulates unrestrained, it is no longer safe to oppress; wherever public opinion is enlightened, it nourishes an independent, masculine, and healthful spirit. If Faustus were now living, he might exclaim with all the enthusiasm of Archimedes, and with a far nearer approach to the truth, 'Give me where I may place a free press, and I will shake the world.' 50

50. Id. at 345-46.
Other orators focused their entire talks around print.51  Such speculations have captured the attention of historians for decades—and will continue to do so, for such issues go to the marrow of American character. But print was complex for it both confirmed and destabilized, as the controversy surrounding Tom Paine's *Common Sense* discloses. Shortly after its publication, the Philadelphia papers provided responses.52  Print is conservative and revolutionary. And sometimes both at the same time!

III. LEGAL BOOKS IN COLONIAL AMERICA

Law books need to be at the center of projects that look to the relationship of author to reader, text to reader, and text to action. Given the nature of Anglo-American law, which pays close attention to past contracts, pleadings, and decisions, one finds remarkable reliance on precedents in books. That similarity allows a fine tracing out of ideas—particularly from English books to American practices. Within the last decade, a series of articles and monographs have begun to explore those connections.53

I would like to suggest ways that close study of law books might add to the precision that adherents of the history of the book project hope to achieve. For several reasons law books are well-suited to close analysis and may yield important insights into how books led to the propagation of ideas. Studies of law books in circulation in colonial America give a good sense of what was being read. Because the books had a quite specific application, we can often see how they were used in court records. Law books also had a more aspirational goal of achieving certainty in result, across a broad geographic area. Sometimes they had an even grander goal: unifying a people around themes like the rule of law and a republican ideology. So one can study


law books for both the micro-level questions about authors, production and distribution, as well as reader responses.54

I think there are at least four questions that are relevant here:

(1) What was the distribution of law books?
(2) What were the ideas in the law books that were in circulation?
(3) How did the ideas in them relate to the practices of the colonists?
(4) How did the ideas in them relate to the ideas of colonists?

Those questions are presented in roughly the order that one might want to ask them. We already have fine studies, which Hall and Amory's authors draw upon, of the law books in circulation, although my sense is that there are not yet complete lists of law books in circulation; much data can be squeezed from court records and pamphlets describing trials, which frequently reference law books.

After this initial inquiry, the even more difficult work must begin: linking the ideas in those books with practices in the colonies. Books instructed courts how to operate; what ownership patterns were; even what courts should look like. The frontispiece to Richard Chamberlain's 1681 book, The Complete Justice, for instance, has pictures of judges. The readers in the colonies, where the book is known to have circulated, could see how judges dressed. That book might be useful when they sought to create a magisterial atmosphere, as well as when they sought to understand the content of statutes and the substance of the common law.55 More can be learned about how books were used by linking those books known to be in circulation with court pleadings and public records (like wills and deeds), for instance. How, one wonders, did wills, land transfers and pleadings differ in seventeenth century Pennsylvania from what were used in England? Knowing more about those differences (and similarities) will make it easier to understand how ideas were propagated and how they mutated as they crossed the Atlantic in the minds and books of emigrants.

Print was important not just in transmitting ideas across the Atlantic; it served a crucial function in the colonies in record-keeping and in determining what the law was. Manuscript statute books, as well as printed ones, provide knowledge of how to behave. Print conferred legitimacy. It structures the society, or, as Ralph Ellison, the author of *Invisible Man* wrote, "[L]aw ensures the conditions, the stage upon which we act; the rest of it is up to the individual." Print formed the basis for understanding how society is organized, what that stage looks like. Generations before reading became a necessity of life in nineteenth-century rural New England, it was a necessity in legal circles. If we are talking about a reading revolution, the place to look for that in the seventeenth and eighteenth centuries is in legal and religious circles, where books were primary vehicles for sustaining and propagating the culture of those professions.

So one can study the authorship, production, and distribution of law books, as well as their uses. Such work can yield surprising insights about the transmission of legal knowledge: how it is collected, then re-spun for use in America. The first legal treatise written in British North America, Francis Daniel Pastorius' *Young Country Clerk's Collection*, for instance, combined four English form books. Compiled between about 1698 and 1710, Pastorius' book (which was never printed), provided forms for real estate transactions (mortgages, leases, sales), wills, contracts for goods and services, pleadings for criminal prosecutions, though not for civil suits. In keeping with Quaker ideas against law suits, Pastorius excluded forms for civil suits that appeared in the English books he drew upon, but added them for arbitration of disputes, which had not appeared in the English books. Moreover, he simplified the forms, and provided Dutch as well as English versions of them. There are extensive indexes, which reference both the forms in Pastorius' volume and the treatises upon which he drew. After the first sixty or so pages of his nearly 300 page manuscript, Pastorius provided mostly forms made in America. As the manuscript grew, he departed from English forms, in favor of American ones. So we learn

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something about the changes between English law and Pastorius' communications circuit, for there are forms from his colleagues in Pennsylvania and even New York. We also learn that Pastorius self-consciously built on those precedents. For the title page of the Young Country Clerk's Collection has the aphorism, "Ingenium est fateri per quos profeceris"—true genius is to acknowledge those through whom you have advanced.

The significance of the changes appears when one reads the Young Country Clerk's Collection in conjunction with Pastorius' commonplace book, the Bee Hive. Together one can understand Pastorius' motivation. For in the commonplace book, he explores the role of magistrates, justice, and law. Together those thoughts depicted a world of a well-ordered society. People should be controlled by criminal law; magistrates should decide cases according to simple principles of equity, rather than be influenced by powerful or affluent litigants; and litigants themselves should also seek justice, rather than everything to which they are legally entitled. In short, people should live by the golden rule. Or, as Pastorius wrote in verse: "To do to Others as We would be done by them/This was Christ's doctrine and, if fully understood/Is the Eternal Band of Peace, the noblest Good/With this runs parallel what holy Prophets taught/To shun the Sin as hell: Be Virtuous, and not nought."65

Books, then, are part recipe—telling courts how they ought to function and what the content of their ideas are—and part authority—telling what statutes say and the elements of a cause of action—and part records. In short, they are the creators and preservers of legal culture. The authority of law books was high. For instance, a Pennsylvania court in the late seventeenth century looked to a law book to understand the elements of defamation.59 Borrowing Mary Sarah Bilder's construct of "legal literacy," one can talk about the varying levels of legal knowledge contained in the books and in circulation among the colonists. Those books provided colonists with access to basic legal information—to make a mortgage or sell land, to make contracts for the sale of goods, to make wills—up to

58. Brophy, supra note 26, at 659 (quoting Francis Daniel Pastorius, Bee Stock or Hive (date unknown) (unpublished manuscript, on file with the Van Pelt Library at the University of Pennsylvania)).

the most sophisticated legal knowledge, such as pleading their cases in court. So one may want to think in terms of the "republic of legal letters" as well as—or even more than—the republic of letters. Along those lines, one wonders how important the republic of legal letters is in comparison with the republic of letters more generally? As Hugh Amory's appendix points out, the vast majority of printed material was of practical—rather than literary—importance. One may construe legal literature as closely related to literary pursuits—one thinks of Perry Miller's essay on the mind in colonial Virginia, which read references to religion in legal documents as part of the evidence of a religious basis for the colony and Robert Ferguson's Law and Letters in American Culture, which connects lawyers to literary output in the antebellum era. Nevertheless, when one is drawing conclusions about the nature of print culture, it is important to focus on the importance of practical books—particularly law books and pre-printed legal forms.

There is also an ideological dimension to law books. They were part of creating a national legal community, whose ideas were part of a national dialogue. Law books were part of creating a national legal identity. When South Carolina lawyer Hugh S. Legaré reviewed the first two volumes of Chancellor Kent's Commentaries on American Law, the central theme of his review was the role that law books played in creating an American law, which was distinct from European models. At a more concrete level, books helped create a stabilized and uniform law. On that issue, legal historians have already made substantial progress, exploring the uses of print in creating a national law. Much of that story is beyond the scope of the colonial

63. See Hugh S. Legaré, Kent's Commentaries, 2 Southern Review 72-74 (1829), reprinted in 2 Writings of Hugh Swinton Legare 102 (Charleston, 1845).
64. Susanna Blumenthal, Law and the Creative Mind, 74 Chi-Kent L. Rev. 151 (1998); Daniel J. Hulsebosch, Writs to Rights: "Navigability" and the Transformation of the Common Law in the Nineteenth Century 23 Cardozo L.
book; the main contours of that contribution of the book to a national law lie in the nineteenth century. There are some contributions of colonial legal books to a uniform, stabilized law, which one can find throughout the colonial period. There were statute books; form books; reports of cases; and commonplace books, which had English precedents. Print also provided a mechanism for mobilizing support. For example, grand jury charges were frequently published into the nineteenth century to gather community sentiment around the need for respect for law.65

But we should not be misled into over-emphasizing the book’s influence. There are substantial questions about which way the arrows that indicate influence point: whether from the book to the public or vice versa. In many instances, the book is likely only the symbol of changes, not the catalyst for them. It is a very worthy question how much the Declaration of Independence was influenced by Common Sense—and one unlikely to admit of ready answers. We can much more easily gauge the ways that both documents drew upon a common cultural reservoir.

IV. CONCLUSIONS

A real book always makes you feel as though there is more in the writer than anything that he has said.

—Harriet Beecher Stowe, Dred: A Tale of the Great Dismal Swamp66

The Colonial Book breaks down these grand questions into manageable parts and presents state-of-the-art interpretations of the book’s place in early America. But maybe most importantly, it leaves open a myriad of questions for further investigation. The essays make it

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easier for others to join the project in that they suggest studies that are needed now. The micro-level questions about the economics of printing and distribution of books, the almost antiquarian questions about what books were in circulation in early America must be joined with traditional questions of intellectual historians, looking to the ideas that are in those books. Together, they can then be used to address the more speculative questions about what effect those ideas had on their readers and—once they were infused into the culture—to the people who would never read them. Such is the marrow of history.