

## William Wyche\*

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*In 1794, William Wyche wrote what was possibly the first American practice manual, A Treatise on the Practice of the Supreme Court of Judicature of the State of New-York in Civil Actions. Mr. Emery describes what little is known of Wyche's life and legal career in the New York City of the 1790s.*

¶1 In 1794 William Wyche wrote *A Treatise on the Practice of the Supreme Court of Judicature of the State of New-York in Civil Actions*,<sup>1</sup> the first book on New York practice<sup>2</sup> and possibly “the first American practice manual.”<sup>3</sup> Wyche the author has the prominence priority brings; Wyche the man, to a substantial extent, is a mystery. “[E]ven the least sturdy straws must be grasped if we are to catch any glimpse” of Wyche and his career.<sup>4</sup>

### Wyche in England

¶2 William Wyche was the only son of William Wyche of St. Marylebone Parish, Middlesex (just outside of London).<sup>5</sup> He entered Gray's Inn on November 21, 1788,<sup>6</sup> at a time when Gray's was the smallest and perhaps least prestigious of the

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1. WILLIAM WYCHE, *A TREATISE ON THE PRACTICE OF THE SUPREME COURT OF JUDICATURE OF THE STATE OF NEW-YORK IN CIVIL ACTIONS* (New York, T. and J. Swords 1794) (Evans no. 28139, BEAL no. 9188) [hereinafter *TREATISE*]. A “second edition” (actually a reprint, with identical content and pagination) was published later the same year (Evans no. 28140); Arno Press published a facsimile reprint of the first “edition” as part of its “American Law: The Formative Years” series in 1972. “Evans numbers” refer to the bibliographical entries in CHARLES EVANS, *AMERICAN BIBLIOGRAPHY* (1941–1959); “BEAL numbers” to those in MORRIS L. COHEN, *BIBLIOGRAPHY OF EARLY AMERICAN LAW* (1998).

2. *Continental Nat'l Bank of Boston v. Thurber*, 26 N.Y.S. 956, 957 (N.Y. Gen. Term 1893); CHARLES WARREN, *A HISTORY OF THE AMERICAN BAR* 336 (1911).

3. 30A CHARLES ALAN WRIGHT & KENNETH W. GRAHAM, *FEDERAL PRACTICE AND PROCEDURE* § 6355, at II (2000).

4. The quoted words, in another context, are from RALPH V. TURNER, *THE ENGLISH JUDICIARY IN THE AGE OF GLANVILL AND BRACTON*, c. 1176–1239, at 150 (1985).

5. Letter from Theresa Thom, Librarian of Gray's Inn, to Robert A. Emery (Nov. 28, 2000) (on file with the author). I wish to thank Ms. Thom for checking the manuscript “Admittance Books” of Gray's Inn for the entry on William Wyche.

6. *Id.*

four Inns of Court.<sup>7</sup> Wyche's name did not appear in the *Pension Book*, the official record of Gray's Inn, indicating that he never attained the five years' standing required for a call to the bar.<sup>8</sup> The eighteenth-century Inns of Court made little pretense of being educational institutions, and most junior members of the inns learned their law as pupils in the chambers of practicing barristers.<sup>9</sup> In this way, presumably, Wyche acquired the learning he later displayed in his practice *Treatise*.

¶3 We do not know what caused Wyche to leave England. Members of the Inns of Court usually came from fairly prosperous backgrounds,<sup>10</sup> and then, as now, prosperous people generally did not emigrate without good reason. Given the conservative religious and political opinions Wyche later expressed, it was unlikely that he was involved in the revolutionary agitation that drove many English radicals to America in the 1790s.<sup>11</sup> Neither do we know when he arrived in America.<sup>12</sup> To meet the statutory requirements for American citizenship,<sup>13</sup> however, he must have lived in the United States for at least two years before his naturalization in April 1794.<sup>14</sup>

### Wyche Appears in New York

¶4 As far as the written record indicates, Wyche first surfaced in New York City on November 9, 1793, as the author (under the pseudonym "a Gentleman of the Profession"<sup>15</sup>) registering the copyright for *Report of the Trial of Henry Bedlow for Committing a Rape on Lanah Sawyer*.<sup>16</sup> Bedlow's case, heard a month earlier,

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7. In 1747, for instance, it was said that "Beaus" and "Whorers" went to Gray's, serious law students to Lincoln's Inn. DAVID LEMMINGS, PROFESSORS OF THE LAW: BARRISTERS AND ENGLISH LEGAL CULTURE IN THE EIGHTEENTH CENTURY 63–64, 147 (2000).
  8. 2 THE PENSION BOOK OF GRAY'S INN, at xxiv (Reginald J. Fletcher ed., 1910); Letter from Theresa Thom, *supra* note 5.
  9. More particularly, from special pleaders and equity draftsmen who, if not always admitted barristers, were masters of the technicalities of legal procedure. See LEMMINGS, *supra* note 7, at 131–37; MICHAEL BIRKS, GENTLEMEN OF THE LAW 197 (1960).
  10. See LEMMINGS, *supra* note 7, at 114–15, 309; BIRKS, *supra* note 9, at 238.
  11. For a discussion of these radical refugees, see generally MICHAEL DUREY, TRANSATLANTIC RADICALS AND THE EARLY AMERICAN REPUBLIC (1997).
  12. Wyche was not listed, for instance, in PASSENGER AND IMMIGRATION LISTS INDEX (P. William Felby & Mary K. Meyer eds., 1981 & supps.).
  13. Act to Establish an Uniform Rule of Naturalization, ch. 3, 1 Stat. 103 (1790).
  14. Wyche was naturalized before the New York City Mayor's Court on April 8, 1794. KENNETH SCOTT, EARLY NEW YORK NATURALIZATIONS: ABSTRACTS OF NATURALIZATION RECORDS FROM FEDERAL, STATE, AND LOCAL COURTS, 1792–1820, at 3 (1981).
  15. Identified as William Wyche by the copyright entry. 9 EVANS, *supra* note 1, at 203. "W. Wyche" witnessed a will in New York City on Oct. 31, 1793, *Abstracts of Wills on File in the Surrogate's Office, City of New York*, in 39 COLLECTIONS OF THE NEW-YORK HISTORICAL SOCIETY FOR THE YEAR 1906, at 74 (1907) [hereinafter *Abstracts of Wills*].
  16. REPORT OF THE TRIAL OF HENRY BEDLOW FOR COMMITTING A RAPE ON LANAH SAWYER. AND ARGUMENTS OF THE COUNSEL ON EACH SIDE. AT A COURT OF OYER AND TERMINER, AND GAOL DELIVERY FOR THE CITY AND COUNTY OF NEW YORK, HELD 8TH OCTOBER 1793 (New York, 1793) (Evans no. 26513, BEAL no. 13775) (hereinafter BEDLOW TRIAL REPORT).

was of particular notoriety at the time because the defendant's acquittal was followed by a massive riot and the destruction of several brothels.<sup>17</sup> Wyche's sixty-two-page pamphlet is perhaps most interesting with respect to the number, and eminence of some, of the counsel involved: three lawyers for the prosecution, including state Attorney General Nathaniel Lawrence;<sup>18</sup> and six for the defense, including Brockholst Livingston, a leader of the New York bar. Wyche did a workmanlike job; he succinctly abstracted the testimony of witnesses, and his summaries of the arguments of counsel were clear and correct in their use of legal terms. He may have been out to make a financial killing by publishing the eighteenth-century equivalent of an "instant book," but if this was the case, he worked conscientiously in doing so.

¶5 Some three months after the publication of the Bedlow trial report, on February 19, 1794, William Wyche married Louisa Bates in the First Presbyterian Church of New York City.<sup>19</sup> This is all we know of Wyche's private affairs: we know nothing of Mrs. Wyche's antecedents, and nothing of the couple's married life.

### Wyche's *Treatise*

¶6 The 355-page *Treatise on the Practice of the Supreme Court*, published in May 1794,<sup>20</sup> was a much more substantial effort than the Bedlow trial report. We may surmise that Wyche wrote the book partly at least to advertise his legal abilities in one of the few ways regarded as proper in his time.<sup>21</sup> The arrangement of the *Treatise* was eminently practical. It was divided into three parts: the first traced the "progress of a suit in common cases" from process to execution; the second described "proceedings by and against particular persons," such as infants, corporations, and married women; and the third detailed idiosyncracies of "particular actions and cases," such as account and writs of right. In no sense could Wyche's *Treatise* be regarded as original. He began his discussion "Of Actions," for example, with the entirely conventional classification of real, personal, and mixed actions, and he proceeded

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17. See CHRISTINE STANSELL, *CITY OF WOMEN; SEX AND CLASS IN NEW YORK, 1789–1860*, at 25 (1986). Stansell does a good job of examining the class and gender tensions that the Bedlow trial revealed.

18. One of the prosecuting counsel was a "Mr. Kent"; if this was future Chancellor James Kent, who moved to New York City early in 1793, neither of his standard biographers—William Kent and John T. Horton—mentions it.

19. First and Second Presbyterian Church, New York, New York, Computer Printout; marriages, 1756–1813 (Genealogical Society of Utah, 1977), indexed by FamilySearch, available at [www.familysearch.org](http://www.familysearch.org) (Church of Latter Day Saints).

20. Copyright was issued to Jacob Morton on May 5, 1794. 9 EVANS, *supra* note 1, at 442. Morton was a New York City lawyer and politician. 26 THE PAPERS OF ALEXANDER HAMILTON 171 (Harold C. Syrett ed. 1979). Did Morton commission the *Treatise*, or did Wyche grant Morton the copyright to pay a debt or to fulfill obligations of a legal clerkship? The answer is not known.

21. See LEMMINGS, *supra* note 7, at 159–60.

to describe the standard common law writs—detinue, assumpsit, and so forth—on that basis.<sup>22</sup> The *Treatise*, however, displayed redeeming features. Wyche's sense of organization was strong: he kept his discussion within the clear outlines he had established. He wrote clearly and simply (at least by eighteenth-century, common law standards), and he was careful to explain the technical law terms he used. He displayed a critical sense. As examples, he made some shrewd comments on the competency of witnesses,<sup>23</sup> he was willing to venture an opinion concerning an unresolved question of statutory interpretation,<sup>24</sup> and he did not hesitate to criticize the "sanguinary" punishments that disfigured American criminal law.<sup>25</sup>

¶7 Wyche based his *Treatise* on five types of sources, to most of which he was careful to provide footnote references. First, and most frequently, he cited standard English common law reports, abridgments, and treatises (Blackstone surprisingly infrequently). Second, and most usefully for New York practitioners, he comprehensively cited New York State constitutional provisions and statutes passed since the Revolution insofar as they affected supreme court practice, integrating them into the procedural framework that the English materials provided.<sup>26</sup> Third, he cited pertinent supreme court rules, some going back to the early 1700s.<sup>27</sup> Fourth, Wyche cited a few unreported decisions of both the supreme court and the New York City Mayor's Court.<sup>28</sup> In using these sources, Wyche displayed a good working acquaintance with the English authorities, and a surprisingly wide command of New York statutes, court rules, and unreported opinions, some of which were quite difficult to locate.<sup>29</sup>

¶8 Wyche's last source was the most interesting. He acknowledged the aid of "some practical sketches in manuscript, one passing under the name of a personage of high respectability."<sup>30</sup> Julius Goebel has identified this personage as Alexander Hamilton, who prepared in the 1780s a 177-page manuscript titled "Practical Proceedings in the Supreme Court of the State of New York."<sup>31</sup>

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22. TREATISE, *supra* note 1, at 13–14.

23. *Id.* at 159–60, noted in John Fabian Witt, *Making the Fifth: The Constitutionalism of American Self-Incrimination Doctrine, 1791–1903*, 77 TEX. L. REV. 825, 861–62 (1999).

24. TREATISE, *supra* note 1, at 309–12 (*qui tam* statute).

25. *Id.* at 366.

26. For a good example of Wyche's integration of New York statutes with English authorities, see his discussion of *replevin*, *id.* at 315–25.

27. *E.g.*, *id.* at 10. Wyche properly cited prerevolutionary court rules, because the state supreme court regarded itself as the continuation of its provincial predecessor. JAMES D. FOLTS, "DUELY & CONSTANTLY KEPT": A HISTORY OF THE NEW YORK SUPREME COURT, 1691–1847, at 2–3 (1991).

28. *E.g.*, TREATISE, *supra* note 1, at 13, 174 (Supreme Court); 8, 309 (Mayor's Court). No New York court opinions were reported until the publication of *Coleman's Reports* in 1801.

29. Robert Ludlow Fowler, *The Jurisdiction of the Supreme Court of Judicature of the Province of New York*, 20 ALB. L.J. 166, 170 (1879).

30. TREATISE, *supra* note 1, at ix.

31. 1 THE LAW PRACTICE OF ALEXANDER HAMILTON 40 (Julius Goebel ed., 1964).

Hamilton's "practice manual" was not the finished, systematic survey that Wyche's *Treatise* was, but it must have aided Wyche in gaining a practical command of state supreme court procedure.

¶9 A modern writer has described Wyche's *Treatise* as being "of little scientific or permanent value."<sup>32</sup> In a sense, this was true: the book was superficial in comparison with the depth and sophistication displayed by contemporary English practice treatises such as Crompton's *Practice of the Courts of King's Bench and Common Pleas*.<sup>33</sup> Nevertheless, the *Treatise*'s two printings in a single year suggested that it achieved what Wyche aimed to do: simplify and adapt the vast body of English precedent to the realities of New York practice, and integrate this English authority with the court rules and state statutes actually applied in New York.<sup>34</sup> Wyche avowedly wrote for the law student and the "young practitioner."<sup>35</sup> Law students probably read his book with profit,<sup>36</sup> and in later years even experienced counsel did not hesitate to cite it to the supreme court.<sup>37</sup> Indeed, on occasion the supreme court itself cited the *Treatise*.<sup>38</sup>

¶10 Wyche's practical bent was further suggested by his proposal to publish a companion volume to the *Treatise*: a set of "precedents" (sample procedural forms). Wyche stated that he had assembled a large collection of precedents, "perused and sanctioned by several Gentlemen of repute at the English bar," and altered for New York practice.<sup>39</sup> An advertisement at the end of the *Treatise* solicited subscriptions for such a "Collection of Entries, or Select Pleadings, in the Supreme Court." The compilation was never published.

### Wyche's Other Publications

¶11 On May 10, 1794, shortly after the publication of his practice *Treatise*, Wyche delivered an oration entitled *Party Spirit*<sup>40</sup> at the Horanian Literary

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32. JULIUS J. MARKE, A CATALOGUE OF THE LAW COLLECTION AT NEW YORK UNIVERSITY WITH SELECTED ANNOTATIONS 303 (1953). For more positive views of Wyche's book, see DAVID GRAHAM, A TREATISE ON THE PRACTICE OF THE SUPREME COURT OF THE STATE OF NEW YORK 9 (2d ed. 1836); ERWIN C. SURRENCY, A HISTORY OF AMERICAN LAW PUBLISHING 136-37 (1990).

33. GEORGE CROMPTON, THE PRACTICE OF THE COURTS OF THE KING'S BENCH AND THE COMMON PLEAS (London, A. Strahan 1798).

34. TREATISE, *supra* note 1, at vii-ix.

35. *Id.* at vii-viii.

36. See JEROME MUSHKAT & JOSEPH G. RAYBACK, MARTIN VAN BUREN: LAW POLITICS, AND THE SHAPING OF REPUBLICAN IDEOLOGY 16 (1997).

37. *E.g.*, Sacket v. Bullinghurst, 7 Cow. 520, 521 (N.Y. Sup. Ct., 1827); Bogart v. Brinkerhoff, 2 Cow. 587, 588 (N.Y. Sup. Ct., 1834).

38. *E.g.*, Lownds v. Remsen, 7 Wend. 35, 40 (N.Y. Sup. Ct. 1831).

39. TREATISE, *supra* note 1, at xi.

40. WILLIAM WYCHE, PARTY SPIRIT: AN ORATION, DELIVERED TO THE HORANIAN LITERARY SOCIETY, AT THEIR FIRST ANNIVERSARY MEETING, ON THE 10TH OF MAY, 1794, AT TAMMANY HALL (New York, T. and J. Swords 1794) (Evans no. 28138) [hereinafter Party Spirit].

Society<sup>41</sup> meeting held at Tammany Hall. Given the time and venue of this oration, its tone was remarkable. The spring of 1794 saw the spirited conflict of pro- and anti-French Revolution factions in New York—the beginnings of the Democratic-Republican and Federalist parties, when Tammany Hall was changing from a social club to a powerful Democratic political machine.<sup>42</sup> In contrast to this fervid political environment, Wyche's oration denounced the development of party spirit and extolled the virtues of political moderation.<sup>43</sup> The oration's dedication to moderate Democrat Samuel L. Mitchell, professor at Columbia College, suggested its general orientation.<sup>44</sup>

¶12 Wyche's next publication was *An Essay on the Theory and Practice of Fines; with Precedents*,<sup>45</sup> originally prepared as an appendix to his practice *Treatise* but then enlarged, "stripped of the English learning not applicable to America,"<sup>46</sup> and published separately. In seventy-eight pages, Wyche summarized the history of fines (which he succinctly defined as a "feoffment of record"<sup>47</sup>); their nature, use, force, and effect; and how they could be avoided. An appendix of precedents printed sample practice forms, obviously derived from English sources but conscientiously adapted to New York requirements. The *Essay on Fines*, like the practice *Treatise*, relied heavily on English books and English cases, but it did cite those New York statutes applicable to the subject.<sup>48</sup> It was certainly not a profound or critical work. It was, however, simply written and could well have proved a godsend for a law student or new lawyer who needed an introduction to the subject.

¶13 Wyche's last publication was a forty-four-page excursion into religious controversy, *An Examination of the Examiners Examined, being a Defense of Christianity*,<sup>49</sup> published in 1795. This pamphlet attempted to refute the anony-

41. The content of Wyche's speech suggests that this society was a debating club for young men. According to an earlier meeting announcement that appeared in the *New-York Weekly Museum* of March 9, 1793, the society had rooms on Nassau Street, but it was not among the established fraternal and social organizations listed in New York City directories of the time. I do not know what "Horanian" meant.

42. See ALFRED F. YOUNG, *THE DEMOCRATIC REPUBLICANS OF NEW YORK; THE ORIGINS, 1763-1797*, at 345-65 (1967).

43. PARTY SPIRIT, *supra* note 40, at 11-12.

44. For Mitchill (the proper spelling of his name)—a rather quixotic character and future U.S. senator—see 1 JABEZ D. HAMMOND, *THE HISTORY OF POLITICAL PARTIES IN THE STATE OF NEW YORK* 215-16 (1852).

45. WILLIAM WYCHE, *AN ESSAY ON THE THEORY AND PRACTICE OF FINES; WITH PRECEDENTS* (New York, T. and J. Swords 1794) (Evans no. 28137, BEAL no. 9187) [hereinafter *ESSAY ON FINES*]. The "Advertisement" (or preface) for this work was dated September 18, 1794. Wyche dedicated the pamphlet to Samuel Jones, the recorder of the city of New York.

46. *Id.*, "Advertisement" (unpaginated).

47. *Id.* at 16. Fine and recovery, as a method of land transfer, was used in New York until 1829. ROBERT LUDLOW FOWLER, *HISTORY OF THE LAW OF REAL PROPERTY IN NEW YORK* 168 (1895).

48. *E.g.*, *ESSAY ON FINES*, *supra* note 45, at 32, 39.

49. WILLIAM WYCHE, *AN EXAMINATION OF THE EXAMINERS EXAMINED, BEING A DEFENSE OF CHRISTIANITY* (New York, L. Wayland 1795) (Evans no. 29929) [hereinafter *EXAMINATION OF THE EXAMINERS*].

mous *Examiners Examined*, itself published in 1794 to defend the deism of Tom Paine's *Age of Reason*.<sup>50</sup> Writing as one "satisfied with the doctrines of Christianity,"<sup>51</sup> Wyche produced a rather diffuse and disorganized rejoinder to deistic arguments the previous pamphlet had raised. On the whole, Wyche was a better law writer than religious controversialist; but his anti-deist position tended to suggest anti-French, proto-Federalist political sentiments.<sup>52</sup>

### Wyche's Bar Membership

¶14 Given that William Wyche's most substantial work was on New York Supreme Court practice, it was surprising that he was not admitted to the supreme court bar until May 4, 1795, a full year after publication of his *Treatise*.<sup>53</sup> Wyche noted on the title page of the *Treatise* that he was "of the honorable Law Society of Grey's Inn, London; and Citizen of the United States of America."<sup>54</sup> In his preface to the work, he modestly described himself as "a young man, almost a stranger in the country," describing a practice "with which it may be said he can scarcely have had many opportunities to be acquainted."<sup>55</sup> At the time he published the *Treatise*, he thus pointedly refrained from stating that he was acquainted with the subject in any professional capacity.

¶15 Admission to the New York bar (either as an attorney at law or as a solicitor in chancery) in the 1790s required a three-year clerkship with a practicing New York lawyer, certification of good moral character, and passage of an examination directed by the court.<sup>56</sup> If Wyche immigrated to America in the early 1790s, he must have started the clerkship required for bar admission almost immediately.<sup>57</sup> His absence from New York City directories before 1795 may

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EXAMINED]. Wyche dedicated this pamphlet to Dr. Isaac Lewis, a Greenwich, Connecticut, Congregational minister and strong exponent of orthodox Christianity, the author of such works as *The Divine Mission of Jesus Christ Evident from His Life* (1796) and *The Political Advantages of Godliness* (1797).

50. *The Examiners Examined* has been attributed to Elihu Palmer, a blind deistic agitator. G. Adolf Koch, *Palmer, Elihu*, in 7 *DICTIONARY OF AMERICAN BIOGRAPHY* 178 (Dumas Malone ed., 1934).
51. EXAMINATION OF THE EXAMINERS EXAMINED, *supra* note 49, at 5.
52. Cf. Young, *supra* note 41, at 350, 570.
53. THE NEW-YORK DIRECTORY AND REGISTER FOR THE YEAR 1795, at 306 (1795). In 1795, Wyche's law office was at 219 Pearl Street, and his residence at the corner of Cedar and Greenwich Streets.
54. Wyche used this description on the title pages of both printings of his TREATISE, *supra* note 1; ESSAY ON FINES, *supra* note 45; and PARTY SPIRIT, *supra* note 49.
55. TREATISE, *supra* note 1, at xi. Wyche sarcastically noted that "some liberal Gentlemen" criticized the book on the grounds of his youth and inexperience. *Id.* at xi-xii.
56. PAUL M. HAMLIN, LEGAL EDUCATION IN COLONIAL NEW YORK 122-23 (1970). Wyche himself summarized the pertinent rules in his TREATISE, *supra* note 1, at 4-6. Admission to the supreme court bar was prerequisite for practice in the busy Mayor's Court. SELECT CASES OF THE MAYOR'S COURT OF NEW YORK CITY 1674-1784, at 54 (Richard B. Morris ed., 1935).
57. Wyche could, for instance, have clerked for Carey Ludlow, the lawyer who recommended him for naturalization in 1794. SCOTT, *supra* note 14, at 3. Ludlow, a senior and wealthy member of the supreme court bar, had spent the Revolution in England as a Loyalist. THE NEW-YORK DIRECTORY

suggest that, at least until his marriage, he lived in the household of the attorney for whom he clerked.<sup>58</sup> Wyche was certainly not a barrister in England, and whatever legal training he had there would not have counted toward the requirements for New York bar membership.<sup>59</sup>

¶16 The 1796 *New-York Directory* stated that Wyche was an “attorney and counselor at law.”<sup>60</sup> This was a very curious assertion, in that admission as a supreme court counselor required two years of practice as an attorney and a further examination.<sup>61</sup> Although, as Wyche noted, “[t]he rules relative to admission have not always been strictly adhered to,”<sup>62</sup> supreme court records conclusively showed that Wyche never attained the degree of counselor.<sup>63</sup> Here, as in certain other contexts, Wyche may have displayed a tendency to inflate his qualifications.<sup>64</sup>

### Wyche Disappears

¶17 “W. Wyche” witnessed a will on January 20, 1796.<sup>65</sup> Two days later, William Wyche appeared for the defendants in a complicated debt-collection suit in state supreme court. (Wyche had the unenviable task of trying to set aside the judgment entered against his clients due to the incompetence of their prior attorney; later in 1796 Alexander Hamilton appeared for the same defendants in a chancery suit to enjoin the judgment.<sup>66</sup>) After these actions in January 1796, William Wyche disappeared from view entirely. He did not appear in the 1797 New York City direc-

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AND REGISTER FOR THE YEAR 1794, at 258 (1794); 3 PAPERS OF ALEXANDER HAMILTON, *supra* note 11, at 44; 3 JAMES GRANT WILSON, THE MEMORIAL HISTORY OF THE CITY OF NEW-YORK 150–51 (1893). Jacob Morton, the holder of the copyright for Wyche’s *Treatise*, was Ludlow’s son-in-law. 3 MARTHA J. LAMB & MRS. BURTON HARRISON, HISTORY OF THE CITY OF NEW YORK: ITS ORIGIN, RISE AND PROGRESS 445 (1896).

58. In the early nineteenth century—and presumably earlier—it was customary for law clerks to sleep in the offices of the lawyers who employed them. HAROLD EARL HAMMOND, A COMMONER’S JUDGE: THE LIFE AND TIMES OF CHARLES PATRICK DALY 23 (1954).
59. Attorneys from other jurisdictions had to practice for three years, among other requirements, before admission by motion in New York. TREATISE, *supra* note 1, at 5–6.
60. THE NEW-YORK DIRECTORY AND REGISTER FOR THE YEAR 1796, at 213 (1796). Wyche had moved his law office to 100 John Street.
61. TREATISE, *supra* note 1, at 5.
62. *Id.*
63. A List of the Attorneys and Counselors of the Supreme Court of Judicature of the State of New York (n.d., ca. 1798) (unpublished manuscript, on file in Supreme Court of Judicature Records, record group J0044, New York State Archives, Albany, N.Y.).
64. Before he was admitted to the bar, Wyche had claimed to be “a Gentleman of the Profession” on the title page of his 1793 BEDLOW TRIAL REPORT, *supra* note 16; and he mentioned “the hurry of professional pursuits” in his 1794 oration, PARTY SPIRIT, *supra* note 40, at 7. The former assertion may have been puffery for sales purposes, the latter merely a reference to the demands of law study or legal authorship; together they may suggest a penchant for exaggeration.
65. *Abstracts of Wills*, *supra* note 15, at 6.
66. 2 LAW PRACTICE OF ALEXANDER HAMILTON, *supra* note 31, at 319.

tory<sup>67</sup> (which was presumably compiled the prior year). He probably did not leave New York, because he was not in the list of “attorneys in the country” required by court rule to appoint agents in the city.<sup>68</sup> An author who had written five books and pamphlets in two years would hardly stop publishing of his own volition. It can only be surmised that Wyche died early in 1796 or soon after, possibly in the terrible yellow fever epidemics that scourged New York City in the later 1790s.<sup>69</sup> We simply do not know.

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67. LONGWORTH’S AMERICAN ALMANAC, NEW YORK REGISTER, AND CITY DIRECTORY (1797). Neither was he mentioned by the city newspapers of the time, such as the *New York Daily Gazette* or the *New-York Weekly Museum*.

68. *Id.* at 93–96.

69. For these epidemics, see WORLD OF THE FOUNDERS: NEW YORK COMMUNITIES IN THE FEDERAL PERIOD 46 (Stephen L. Schechter & Wendell Tripp eds., 1990).