

Benjamin Kissam papersMSS.84.11

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1755-1776



SCHOOL *of* LAW

Title Statement

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Profile Description

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Descriptive Summary

Unit ID

MSS.84.11

Unit ID

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/repositories/4/resources/659

Unit Date

1755-1776

Language

English

Creator

Kissam, Benjamin, 1728-1782

Extent

2 Volumes

Repository

Arthur J. Morris Law Library Special Collections

Administrative Information

Immediate Source of Acquisition

Professor Neill H. Alford, Jr. donated the ledger, docket book, and notes in 1984. The University of Virginia Arthur J. Morris Law Library acquired the estate queries document in April of 2018.

Biographical / Historical

Benjamin Kissam (1728 - 1782) was a prominent lawyer in New York City who trained prospective lawyers in his office on Golden Hill. From 1764 until 1768, one of his clerks was John Jay, who grew to admire and love his mentor. Kissam's wife was Catherine Rutgers, whose family owned a large amount of land in New York, and his brother Daniel was a judge in the Court of Common Pleas in Jamaica, New York. For a time, Benjamin was primarily responsible for the support of his younger brother Sammy, perhaps the Samuel Kissam who became a doctor and friend of Jay. Benjamin Kissam died in 1782.

Scope and Contents

These manuscript volumes reveal a great deal about Benjamin Kissam's practice, and provide a window on the legal world in New York City on the eve of the American Revolution. The ledger was kept from 1755 to 1776, and contains accounts of clients, both individual and corporate, relatives, servants, and other lawyers. Although there is no mention of John Jay, this ledger was in use during the period of Jay's clerkship with Kissam. His clients ranged across the social spectrum, and he sometimes noted their places of residence or occupations. Since he kept thorough and detailed records for these accounts, the great number of blanks on the credit side suggests that many of them were never settled. Occasionally, he noted that he would never be paid for a certain account. In transactions involving family members and employees, he kept careful records of money spent or advanced and funds repaid.

Under the name of James Duane, another prominent lawyer and later federal judge, Kissam wrote: "N.B. Mr. Duane Composes Judgments for me and lets me take the fees to my own Use, and I the same to him, therefore the articles charged on the other side for Judgmts. composed by me are not to be charged to him." (p. 51).

Kissam represented the proprietors of the Kayoderosseras, a huge area of land formerly inhabited by the Mohawk. The Native Americans felt they had been treated unfairly when the land patent was granted to a number of colonists in the early eighteenth century. Kissam's ledger lists the services he performed for the

proprietors in reaching a new settlement with the Mohawk in 1768.

The "Supream Court Register" contains information on the cases Kissam had before that court from 1768 to 1775 (the ledger indicates that he kept other registers for other jurisdictions during this period.). At the beginning of the entry for each case, he lists the names of the plaintiff and defendant, usually the name of the other attorney, and the means by which he got involved in the case. He then describes the actions taken in the case, and the dates as well as his costs and fees. If the case concerned a debt, he noted when and how it was repaid. Occasionally, he had the client sign a statement in the register saying that he would pay Kissam, or that he or she had received from Kissam the money recovered from the case.

Almost all of the cases in the register are civil, and debt is by far the most common type. There are also assumpsit cases, one involving a marriage promise; ejection for lands in Cortlandt Manor and Oysterbay, as well as Westchester, Albany, Orange, Dutchess, Queens and Ulster Counties; trover and conversion; trespass; assault and battery; and slander.

For the few criminal cases, the entries are not too detailed. In 1772, Kissam represented first a man, and later a woman, who were accused by the Crown of receiving stolen goods. The man was convicted, but the woman was released because the attorney general could produce no witnesses.

In addition to providing details about Kissam's practice in the appeals court over this seven year period, the register provides the names of 22 other lawyers practicing there. These include James Duane, who is frequently named, and John Jay, a practicing attorney, who is named about a half dozen times. Kissam's notes about how he came to be involved in each case reveal his standing in the professional and social community. Some of his clients were from the wealthiest and most influential New York families, such as DeLancey, DePeyster, Livingston, Van Cortlandt, and Van Rensselaer. Captain Isaac Sears, whose name appears a number of times, was a ship owner and, like many of Kissam's clients and colleagues, a leader in the revolutionary cause.

Although it has been reported by Jay's biographers that Kissam was a loyalist, his political views are not evident in these volumes - even as the war was beginning. It is clear that he was well respected by many leaders of the revolution, such as Jay, Duane, and Sears, as well as Peter, Philip, and Robert Livingston, Abraham Ten Broeck and the Rutgers family.

Historical records of the practice of colonial lawyers are extremely rare, and so for that reason alone the Kissam ledger and register are valuable. These manuscripts are all the more important, however, because of Kissam's association with John Jay and other leaders in the revolutionary era, and because his clientele represented a wide range of colonial New Yorkers.

Keywords

Ledgers (account books)

Practice of law -- New York (State) -- New York

Kissam, Benjamin, 1728-1782

Duane, James, 1733-1797

Jay, John, 1745-1829

Sears, Isaac, 1730-1786

Description of Subordinate Components

Ledger Book

Unit ID [Archival Resource Key](#)

Unit ID /repositories/4/archival_objects/75427

Unit Date 1755- 1776

Mixed Materials MSS 84-11

"Supreme Court Register D Begun October 1768"

Unit ID [Archival Resource Key](#)

Unit ID /repositories/4/archival_objects/75428

Unit Date [1775]

Mixed Materials MSS 84-11

15 Notes

Unit ID [Archival Resource Key](#)

Unit ID /repositories/4/archival_objects/75429

Unit Date 1760-1775

Mixed Materials MSS 84-11

Estate Queries Answered and Signed by Benjamin Kissam, Oisterbay

Unit ID [Archival Resource Key](#)

Unit ID /repositories/4/archival_objects/75430

Unit Date May 18, 1773

Mixed Materials MSS 84-11