

1940

## Law at William and Mary

Theodore S. Cox

*William & Mary Law School*

---

### Repository Citation

Cox, Theodore S., "Law at William and Mary" (1940). *1932–1942: Theodore Sullivan Cox*. 1.  
<https://scholarship.law.wm.edu/tscox1/1>

Copyright c 1940 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.  
<https://scholarship.law.wm.edu/tscox1>

# The ALUMNI GAZETTE



The College of William and Mary in Virginia

## Record Crowd of 18,000 Watches Indians Win State Title, 16-0



### Highlights and Sidelights Of Indian-Spider Battle

By Morris Slegel

A few Turkey Day notes as the Indians made their way out of the stadium. It was big sentiment Bill Fitzhugh who led the Spider forward in the charge that stopped the Indians' scoring drive in the opening minutes of the second period. — the same.

**INDIANS SCORE SURPRISE 13 TO 6 VICTORY OVER VA. TRIBE SCORES TWICE IN SECOND PERIOD; JOHNSON TALLIES BOTH**

**Tribe Power Too Much For Spiders**

**Johnson Leads Indians to Win**

**Tribe Hangs 20-13 Defeat On Gobblers**

**William and Mary Rallies to Win**

**Indians Rout Apprentices**

**14 Veterans Returning For Active Duty**

**Tribe Tally in Last Period**

**Navy Rallies in Last Period**

**State Air Attack Nets Middies Win**

**Korczowski, Masters Play Brilliant in Defeat**

**William & Mary Overpowers Randolph-Macon Team, 46-6**

**William and Mary Backs Run Wild in Victory**

**HOWARD SCOOTs 45 YARDS FOR HIS TOUCHDOWN**

**W. & M. Team Is Leading State Race**

**Wm. & Mary-Va Statistics**

**Tribe Led to Victory by Johnson**

**Voyles Calls 38 Grid Candidates for Practice**

**W. & M. Defeats Tech, 20-13**

**Underdog N. C. State Eleven Upsets William and Mary, 16-0**

**Upset Cavaliers Indians 13-6**

**VMI, INDIANS IN SCORELESS TIE**

**W-M, 19-7**

# Law at William and Mary

By THEODORE SULLIVAN COX

(EDITOR'S NOTE: This article is the ninth of a series concerned with the various departments at the College. The next of the series will be on the Department of English, and will be written by Jess Hamilton Jackson.)

Among the many trails in American education first blazed by the College of William and Mary is the teaching of law. For it was during the heroic age of the College that Thomas Jefferson, an alumnus, breathed new life into the curriculum of this already venerable institution. Let him tell it in his own words.

"On the 1st of June, 1779, I was appointed [elected] Governor of the Commonwealth and retired from the legislature. Being elected also one of the Visitors of Wm. & Mary College, a self-electing body, I effected during my residence in Williamsburg that year, a change in the organization of that institution by abolishing the Grammar School, and the two professorships of Divinity & Oriental languages, and substituting a professorship of Law & Police,<sup>1</sup> one of Anatomy, Medicine and Chemistry, and one of Modern languages; and the charter confining us to six professorships, we added the law of Nature & Nations, & the Fine Arts to the duties of the Moral professor, and Natural history to those of the professor of Mathematics and Natural philosophy."<sup>2</sup>

The chair of law, the first in any American college or university, was established on December 4, 1779. Its first incumbent, George Wythe, began his duties immediately. Only twenty-one years had passed since the great Blackstone, as Vinerian professor at Oxford, had become the first professor of law in the English speaking world. Wythe was the second. Thirty-eight years were to elapse before law would be taught at Harvard, and nine more years before it would be taught at the University of Virginia.

From the very start the new school was a success. On July 26, 1780, Jefferson wrote to Madison:

"Our new Institution at the College has had a success which has gained it universal applause. Wythe's school is numerous, they hold weekly Courts & Assemblies in the

Capitol. The Professors join in it, and the young men dispute with elegance, method & learning. This single school by throwing from time to time new hands well principled, & well informed, into the legislature, will be of infinite value."<sup>3</sup>

As might have been expected, the first American law degree, of which there is record, was conferred by the College of William and Mary. William H. Cabell, subsequently Governor of the Commonwealth and President of the Virginia Supreme Court of Appeals, received this degree in 1793.

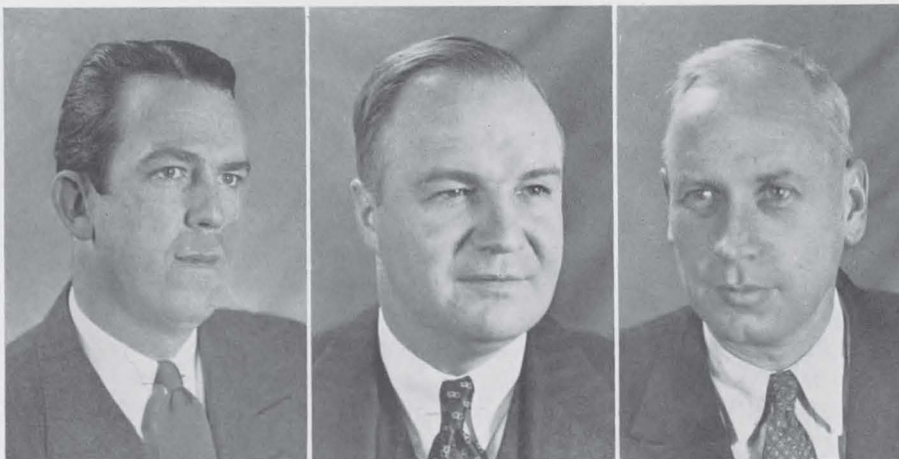
From 1779 to 1861 the law school had a successful and continuous career. With the advent of war, the College suspended operation. When, in 1865, it was reopened by Colonel Benjamin S. Ewell, one of William and Mary's greatest presidents, straitened circumstances prevented the teaching of all the courses previously taught. Leaves of absence, therefore, were granted to several of the returning professors. Among them was Charles Morris, Professor of Law. During the precarious years which followed, the law school remained inactive. Although between 1865 and 1920 some courses dealing with legal subjects were taught and three law degrees were granted, it remained for Julian Alvin Carroll Chandler, another great president, to awaken the somnolent school. Efforts in this direction were begun in 1920, almost at the very beginning of his amazing administration. Foremost among his co-workers in this movement was the distinguished alumnus and benefactor of the College, Robert M. Hughes. With the session 1922-23 the revival of the law school was completed. Its official designation later was changed to the Department of Jurisprudence.

In 1932 the Department of Jurisprudence was placed on the list of approved law schools by the American Bar Association and the same year the curriculum was registered by the Board of Regents of the University of the State of New York. In 1936 the College became a member of the Association of American Law Schools. From the standpoint of both quality and quantity, law study at William and Mary satisfies the requirements for admission to the bar in every state in the union.<sup>4</sup>

<sup>1</sup>*The Works of Thomas Jefferson*, Ford's Edition, Vol. III, p. 33.

<sup>2</sup>The record of applicants for admission to the bar who have received their legal education at William and Mary has been consistently excellent.

Left to right: John Latane Lewis, Walter Edward Hoffman, Dudley Warner Woodbridge



## OBJECTIVES

Prior to 1779 an American who wished to study law had two alternatives: he might read law under the supervision of a practitioner, or, if he were fortunate, he might go to England. The most obvious reason, therefore, which prompted Mr. Jefferson to establish the law school at William and Mary was to afford an opportunity for future lawyers to prepare for their profession in an American college; the other (and an important and distinctive one) was to afford an opportunity for such study to those who did not expect to practice but who desired a legal education as preparation for a career of public service. Fortunate in having Mr. Jefferson as its founder, the law school has been equally fortunate in being able to adhere steadfastly to these objectives. Its revival under Dr. Chandler detracted nothing from the original concept but enlarged it to include as a third objective an opportunity to study law as an aid to other fields of study, notably Economics, and Accountancy.<sup>5</sup> Since the establishment of the Marshall-Wythe School of Government and Citizenship in 1922, the Department of Jurisprudence has cooperated closely with this school which includes the Departments of Economics, Government, History, and Sociology.<sup>6</sup>

## CURRICULUM

The curriculum of the Department of Jurisprudence is unusual. Broad in scope, if not only includes subjects generally not found in the conventional three years' curriculum in law, but there is a correlation of academic study with the study of law. In addition to being the first college or university in America to teach law, William and Mary also was the first institution to require an academic baccalaureate degree as a prerequisite to the law degree. This was probably true from the very beginning, for the statutes of the College, compiled in 1792, provided that the candidate for the law degree "must have the requisites for Bachelor of Arts; he must moreover be well acquainted with Civil History, both Ancient and Modern, and particularly with Municipal law and police." This marked the beginning of what has been thought a modern custom of requiring extensive academic preparation as a preparation for law study. It also was the first attempt to correlate in a law school curriculum academic subjects with subjects in law. There is a strong trend today in legal education toward a law

<sup>5</sup>It is possible for a student at William and Mary in six years not only to receive his A.B. and B.C.L. but also qualify for the examination for Certified Public Accountant.

<sup>6</sup>The law school always has formed an integral part of the College.

.....  
Left to right: Theodore Sullivan  
Cox, Frederick Keating Beutel,  
Edgar Maria Foltin



curriculum which, beginning with the third year in college and continuing for a period of four years, combines and correlates law and academic subjects. The concept behind this so-called "new" four year curriculum is as old as the study of law at William and Mary; it was one of the foundations on which the present Department of Jurisprudence was built.

While the curriculum at William and Mary is so designed that a student may commence his law study either as a graduate or as an undergraduate, it is better adapted to the latter. The student begins his law study in his third year in college, at the same time studying academic subjects calculated to assist his law study and broaden his cultural horizon. At the end of his fourth year he receives the degree of Bachelor of Arts.<sup>7</sup> After two more years of law study, he receives the degree of Bachelor of Civil Law. The very name of the degree, *Legis Civilis Baccalaureus*,<sup>8</sup> is reminiscent of Oxford, William and Mary's only predecessor in teaching the English Common Law. Not content merely to possess an advanced law curriculum, William and Mary constantly is studying means whereby a greater correlation between law and academic subjects may be achieved, to the end that its graduates in law shall not be narrowly legalistic.

## FACULTY AND STUDENT BODY

The law school never was large nor is it today. The average annual registration in recent years has been between sixty and seventy.<sup>9</sup> This is larger, however, than a number of other law schools which are approved by the American Bar Association and which are members of the Association of American Law Schools. It seems a sound policy for an institution the size of William and Mary to keep its law school enrollment to a proper proportion. As a result of this relatively small enrollment, classes are small and individual attention is given to

(Continued on page 22)

<sup>7</sup>Jurisprudence forms a field of concentration for the A.B. in the same manner as other fields. A student, therefore, may take his A.B. in Jurisprudence and need not continue to the B.C.L.

<sup>8</sup>The degree, Bachelor of Civil Law refers to the Civil Law as distinguished from the Canon Law and does not mean Civil Law as distinguished from Criminal Law, nor the Civil Law as distinguished from the Common Law.

<sup>9</sup>Of these slightly less than one half are from other departments and are studying certain law subjects which complement their academic study.

1942—

Virginia Charlotte Henderson, '42x, and Thomas Goree Little, September 28, 1940, Chapel of the Sir Christopher Wren Building, College of William and Mary. Address: Williamsburg, Virginia.

1943—

Henry Haskins Dodge, '43x, and Emily Hill, September 7, 1940, Colonial Heights Methodist Church, Petersburg, Virginia. Henry is studying at the University of Virginia at Meadowbrook Heights, Charlottesville, Virginia. Carl Marvin Voyles, Jr., '43x, was best man, Dyckman Ware Vermilye, '43x, was one of the ushers, and Alfred Leneir Alley, '40Ba, sang.

*Correction—*

The GAZETTE for October, 1940, announced the marriage of George Henry Bunch, Jr., '38Ba, Σ A E, and Mercedes Allen, '39Ba, K Δ. The editors have learned that the GAZETTE was unintentionally misinformed and therefore wish to correct the announcement and express apology for any embarrassment that such an announcement might have caused.

↑ ↑ ↑

### Births

1923—

A son, James Sidney Jenkins, Jr., September 13, 1940, to James Sidney Jenkins, '23Ba, and Dorning Prideaux (Jenkins).

1930—

A daughter, Sally Lees Norton, May 5, 1940, to Paul W. Norton, '30Ba, and Mrs. Norton.

1931—

A daughter, Ann Carol Lorentzen, September 22, 1940, to Herbert Turner Lorentzen, '31Bs, and Mrs. Lorentzen.

A daughter, September 22, 1940, to William Leary Scott, '31Ba, and Hallie Haxall King (Scott), '25x.

1932—

A son, James G. Meehan, Jr., October 5, 1939, to James G. Meehan and Anne Lewis Croxton (Meehan), '32Bs.

1933—

A son, Kurt Alan Hanson, March 13, 1940, to Roy Alan Hanson and Rhoda Pratt (Hanson), '33Ba.

A son, William St. Clair Jaffee, March 25, 1940, to Mortimer Gerard Jaffee, '33Bs, and Sarah W. St. Clair (Jaffee), '36x.

A son, George Errett Miley, III, September 28, 1940, to G. E. Miley, Jr. and Elizabeth Clyde Britton (Miley), '33Ba.

A son, Charles J. Rodarmor, January 30, 1940, to Charles J. Rodarmor and Virginia Bruce Bucktrout Haughwout (Rodarmor), '33Ba.

1935—

A son, October 9, 1940, to Cameron Earl Ogden, '35Bs, and Pauline Stanley (Ogden), '35Ba.

A son, T. Brantley Henderson, III, September 22, 1940, to T. Brantley Henderson, Jr., '35x, and Linda Cowles (Henderson).

1936—

A daughter, Mershon Hilliard Brownlee, June 13, 1940, to Laurence Hilliard Brownlee and Mary Mershon Kessler (Brownlee), '36Ba.

1938—

A daughter, October 3, 1940, to Ted Hugh McGowan, '38Ba, and Muriel Vandeweghe (McGowan).

↑ ↑ ↑

### Deaths

Walter Evans Myrick, '93x, on August 17, 1940, at his

home near Newsoms, Virginia. Among his survivors is a son, Leon Stanley, '23x.

Rufus Walter Powell, '94x, on October 5, 1940, in Newport News. Mr. Powell had been in the U. S. customs office for forty-one years and became deputy collector in 1929, following the death of Edloe Morecock, '92x. He attended the College for two years and then went to the Medical College of Virginia where he graduated from the School of Pharmacy. He is survived by a son, Meredith Hudson, '31x.

Frederick Southgate Taylor, Jr., '96x, recently, at his home in Norfolk. He was a member of Kappa Alpha fraternity.

Benjamin Dorsey Shreve, '04x, on August 13, 1940, at his home in Arlington.

Lee Massie Dade, '05x, on June 1, 1940, at Abingdon, Virginia. He had been a U. S. mail clerk on the Norfolk and Western Railroad for the past thirty-two years. He is survived by a brother, Robert Beverley, '06Ba. He was a member of Pi Kappa Alpha fraternity.

Annie Laurie Rives, '32x, on October 17, 1940, at Winchester. Miss Rives had been a teacher-librarian in the Stephens City High School. She is survived by a brother, Robert Carroll, '19Ba.

Colin Stokes Neal, Jr., '33x, on October 20, 1940, in Washington, D. C. Mr. Neal was a native of Emporia, Virginia.

Birdie Cox Davidson, on October 19, 1940, in Williamsburg. Mrs. Davidson was housemother at the Kappa Delta Sorority house from 1930 to June, 1939.

Josephine Henley, October 22, 1940, in Richmond. Miss Henley had been housemother for the Phi Mu Sorority.

### Law at William and Mary

*(Continued from page 7)*

students in a manner quite impossible in large law schools. According to the College records (which unfortunately are not complete) one hundred and eighty-five law degrees were conferred from 1779 to 1861. During some of these years, in fact, the only degrees granted by the College were law degrees. From 1861 to 1924, the date of the first degree granted following the revival of the law school by Dr. Chandler, three law degrees were conferred. From 1924 to the present thirty-six law degrees have been conferred. Of the two hundred and twenty-four recorded degrees, therefore, conferred over a period of one hundred and sixty-one years, more than sixteen per cent have been conferred during the last sixteen years.

Not only fortunate in its founder, the law school also was fortunate in its first professor. George Wythe, "the American Aristides," was a signer of the Declaration of Independence and Chancellor of Virginia. When, in 1790, official duties in Richmond necessitated his residing there he resigned his professorship and was succeeded by St. George Tucker, distinguished jurist and author of several of the earliest American legal classics. From Judge Tucker the line of law professorships descends: Judge William Nelson (1804), Robert Nelson (1811), Judge James Semple (1820), Judge Nathaniel Beverly Tucker, son of St. George Tucker, (1833), Judge George P. Scarborough (1852), Lucian Minor, brother of the great John B. Minor of the University of Virginia (1855), and Charles Morris (1859).<sup>10</sup> In

<sup>10</sup>The dates are those of appointment.

1920 Frederick Juchhoff,<sup>11</sup> who aided in the revival of the law school at William and Mary, taught the first courses. Among others who taught law courses from 1920 to 1927 were Professor R. L. Morton, Professor J. R. Geiger, Judge Frank Armistead, Oscar L. Shewmake, and Governor John Garland Pollard. In 1921 Dr. William Angus Hamilton joined the faculty, and in 1922 became the occupant of Wythe's historic chair of "Law and Police."

By 1927 the law faculty had been stabilized as to personnel. It consisted of William Angus Hamilton, Peter Paul Peebles,<sup>12</sup> and Dudley Warner Woodbridge. Dr. Hamilton died in 1929, and in 1930 was succeeded by Theodore Sullivan Cox, who, in 1932, was appointed Dean, the first to hold this rank.<sup>13</sup> The present faculty consists of four professors, Theodore Sullivan Cox, Dudley Warner Woodbridge, Edgar Maria Foltin, and Frederick Keating Beutel,<sup>14</sup> a law librarian John Latané Lewis, Jr., who is also an instructor,<sup>15</sup> one part-time instructor Walter Edward Hoffman, a practicing attorney in Norfolk, a special lecturer Charles P. Sherman, LL.D., D.C.L. (one of the world's authorities on Roman Law), and a graduate assistant Paul H. Gans.<sup>16</sup> The courses conducted by these gentlemen are:

Mr. Cox—Constitutional Law, International Law, Legal Ethics, Introduction to Law.<sup>17</sup>

Mr. Woodbridge—Contracts, Torts, Property, Evidence.

Mr. Foltin—Criminal Law, Roman Law, Legal History, Legal Philosophy, Criminology,<sup>17</sup> Penology,<sup>17</sup> Psychology of Evidence.<sup>17</sup>

Mr. Beutel—Business Associations, Negotiable Instruments, Conflict of Laws, Government Regulation of Business, Administrative Law, Bankruptcy.

Mr. Lewis—Legal Bibliography, Equity, Sales, Wills.

Mr. Hoffman—Procedure.

The institutions at which the members of the faculty of Jurisprudence have studied form a not unimpressive group. They are: William and Mary, University of Virginia, Washington and Lee, Harvard, Illinois, Michigan, Pennsylvania, Chicago, Columbia, Georgetown, George Washington, Maryland, Stanford, Johns Hopkins, Washington, Cornell, Innsbruck, and Munich.

As a result of the ratio between faculty and students, a very intimate contact exists which has developed mutual understanding and respect and an unusually high morale.

<sup>11</sup>Mr. Juchhoff was Professor of Economics and Accounting and Director of the School of Business Administration.

<sup>12</sup>In 1924 Mr. Peebles received the first law degree granted by the College since 1869. He died in 1938 and was succeeded by Edgar M. Foltin, former Dean of the Faculty of Law of the University of Prague.

<sup>13</sup>Dr. Hamilton held the rank of Professor of Jurisprudence and Dean of the School of Economics and Business Administration, while Dr. Pollard was Professor of Government and Citizenship and Dean of the Marshall-Wythe School.

<sup>14</sup>Former Dean of the Law School of Louisiana State University.

<sup>15</sup>The Association of American Law Schools requires of its members a full-time faculty of at least four and a librarian who devotes the majority of his time to the law library.

<sup>16</sup>Mr. Gans (J.U.D. University of Vienna) is engaged in the study of American Law.

<sup>17</sup>Although these courses possess considerable legal content, they do not apply toward the law degree.

At the head of the list of illustrious Americans who studied law at William and Mary stands John Marshall. His law study was brief; may we hope that it was intensive. It is interesting, however, to speculate on the influence which the teacher George Wythe exerted on the student John Marshall, in developing the latter's concept of judicial review expressed so forcefully in the case of *Marbury vs. Madison*.<sup>18</sup> For in 1782, five years before the Constitutional Convention, Chancellor Wythe took occasion to say:

"Nay, more, if the whole legislature, an event to be depreciated, should attempt to overleap the bounds prescribed to them by the people, I, in administering the public justice of the country, will meet the united powers at my seat in this tribunal; and, pointing to the Constitution, will say to them, here is the limit of your authority; and hither shall you go but not further."<sup>19</sup>

Another eminent jurist who was one of Wythe's students at William and Mary was Spencer Roane, twenty-seven years a member of the Supreme Court of Appeals of Virginia and the man who would have been Chief Justice of the United States if President Jefferson could have dislodged Chief Justice Marshall. Another justice of the Supreme Court of the United States who studied law at William and Mary was Philip Pendleton Barbour, who, before his elevation to the bench, was a member of Congress for fourteen years. Then there was John J. Crittenden, author of the "Crittenden Propositions" which in December, 1860 he introduced in the Senate as a compromise to avert civil war. And James Murray Mason, of "Mason and Slidell" fame, the grandson of the illustrious author of the Virginia Bill of Rights, also received his legal education at William and Mary. Among the law alumni of lesser prominence was Henry St. George Tucker, the son of William and Mary's second professor of law, who himself became the third to hold the professorship of law at Charlottesville. It was he who gave to the University of Virginia its proudest possession—the Honor System. The three greatest names, perhaps, connected with the teaching of law in Virginia are Wythe, Minor, and Tucker. To William and Mary alone belongs the Wythe tradition; the Minor tradition is shared with the University of Virginia; while the Tucker tradition embraces William and Mary, the University of Virginia, and Washington and Lee.<sup>20</sup>

While too few years have elapsed for the present alumni to become as distinguished as their predecessors, the recent graduates of the Department of Jurisprudence are to be found in private practice, in faculties of law, and in public service.

#### CLASSROOMS AND LIBRARY

The Department of Jurisprudence very appropriately is located in Marshall-Wythe Hall, which bears the

<sup>18</sup>1 Cranch 137 (1803).

<sup>19</sup>*Commonwealth vs. Caton* (4 Call 5).

<sup>20</sup>Washington and Lee's distinguished law professor and dean John Randolph Tucker was the son of Henry St. George Tucker and the grandson of St. George Tucker; Dean Tucker's son, Henry St. George Tucker also was professor and dean at Washington and Lee.

joint names of William and Mary's most distinguished law student and his great law teacher. In this building also are the Departments of Economics, Government, History, and Sociology which comprise the Marshall-Wythe School of Government and Citizenship. The classrooms devoted to Jurisprudence together with the offices of the law faculty are on the third floor.

Since 1931 the law library has occupied the third floor of the College library building. From an extremely meager and somewhat scattered collection it has been transformed, during the past ten years, into a well-rounded and reasonably complete library of some fifteen thousand volumes. Since 1932 it has been under the immediate supervision of the law librarian, Mr. Lewis. Well organized and ably administered it forms the living center of the scholarship of the Department of Jurisprudence while contributing in no small measure to that of the whole College.

#### CONCLUSION

The story of the law school is to a considerable degree the story of the College. Distinguished and great it declined and all but perished, only to rise again. Through bright days and dark days, good fortune and ill, through War and Reconstruction, economic and social upheaval, it has survived. And so today, despite past discouragements and uncertainties, the lamp of the law burns brightly at William and Mary.

---