1970

Law in America's Service: From 1779 to the Present

William & Mary Law School

Repository Citation
https://scholarship.law.wm.edu/history/4

Copyright © 1970 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.
https://scholarship.law.wm.edu/history
LAW in America's Service

From 1779 to the Present

A BRIEF HISTORICAL SKETCH AND DESCRIPTION OF THE CURRENT PROGRAM OF THE

Marshall - Wythe School of Law
College of William and Mary
Marshall-Wythe Hall

Marshall-Wythe
School of Law

FOUNDED DECEMBER 4, 1779
John Marshall, W. & M. 1779, whose Law Notes record his studies at William and Mary; Chief Justice of the United States, 1801-35.

St. George Tucker, W. & M. 1772, second professor of law (1791-1803) and author of first American annotated edition of Blackstone.


Thomas Jefferson, W. & M. 1762, who as Governor of Virginia in 1779 led move to found America's first chair of law.
In the Footsteps of Giants

AT JAMESTOWN in Virginia, the seeds of constitutional government under the guarantees of the English common law were planted with the colony. Although the harsh demands of discipline were the price of survival in the early years, by 1619 it was possible to convene the first representative legislative body in the New World on this site, and thus began the unbroken American tradition of self-government. A century and a half later, insisting upon this principle as a birthright, thirteen colonies proclaimed their independence and struggled through a protracted war; at Yorktown in 1781, some twenty miles from where the venture had begun in 1607, the idea became reality.

AT WILLIAMSBURG, midway between Jamestown and Yorktown, the government of the colony had been transferred in 1699. In this educational and political center of Tidewater Virginia, law and government were developed under the influence of strong and cultured minds, whose descendants could eloquently and defiantly pronounce the “unalienable rights” with which they and their posterity were endowed. In this restored city today, the echo of their words still sounds in the ears of the hundreds of thousands of Americans who are the political legatees and beneficiaries of these deeds.

AT THE COLLEGE OF WILLIAM AND MARY, in 1779, under the guidance of an alumnus, Governor Thomas Jefferson, the Board of Visitors established America’s first collegiate chair of law, to train public servants for the service of the new Republic and Commonwealth. George Wythe, signer of the Declaration of Independence, Jefferson’s own teacher of law (1762-67), later presiding judge of the High Court of Chancery, became the first occupant of the chair. John Marshall, later to become the legendary Chief Justice of the United States (1801-35), was one of Wythe’s first students. The first period of the William and Mary Law School lasted from 1779 to 1861. The modern Law School, which opened its doors again in 1922, takes its name from its first teacher and its greatest former student.
Men familiar with the English law were among the first settlers in the New World colonies. Edward-Maria Wingate, governor of the settlement at Jamestown after its founding in 1607, was a member of the Middle Temple, while John Winthrop, governor of the Plymouth Colony in 1621, was a member of Gray's Inn. Roger Williams, the future founder of Rhode Island, in his youth had been a student of law under Sir Edward Coke. The story could be repeated in the case of almost all of the colonies, and while a deep-seated suspicion of lawyers themselves often prevailed in the early settlements, the importance of law was well recognized.

As the early struggles to establish the "plantations" in the New World gave way to more settled conditions, practicing attorneys became more common. The first ones were men who had already been called to the bar in England, but from the last years of the seventeenth century there began to be a growing number of native-trained men of the law. Their preparation for practice was varied; many read law on their own initiative or under the direction of established practitioners, while a smaller group crossed the ocean to enroll in the several Inns of Court, either before or after a residency in one of the young educational institutions in America—Harvard, William and Mary, or others. Sir John Randolph, one of the "alumni" of the College of William and Mary who thereafter enrolled in 1715 in Gray's Inn in London and in time would become His Majesty's Attorney General for the colonies, was a prominent example.

In the generation leading up to the American Revolution, the number of young men studying for the bar, both under local lawyers and in the Inns of Court, rapidly increased. In fact, the substantial departures from English procedures and practice made it increasingly more practicable to study law in the New World if one intended to make a career there. On the eve of the Revolution Henry Tucker of Bermuda was moved to write to his son, St. George Tucker, a recent student at William and Mary, acquiescing in St. George's proposal to undertake his study
School of Law in America

of law under George Wythe in Williamsburg rather than to proceed to London, as apparently had been the original plan, to enroll at the Middle Temple.

THE roll call of eminent Virginians learned in the law by the 1770s was an impressive one. One writer has observed that the high level of education of these men “developed those exception political and legal talents which not only placed the colony in the forefront of the American Colonies, but also enabled and qualified Virginia to play a leading role during and after the Revolution.” Among the William and Mary graduates—before the introduction of a course of resident study in law—who became leaders of this remarkable bar were Thomas Jefferson, Wythe himself, Peyton and John Randolph, Tucker, James Monroe and others.

IT was a natural development, therefore, for Jefferson to propose the introduction of the study of law and “police” (i.e. regulatory power of government) into William and Mary’s curriculum when it was generally reformed after Independence. Not only did Jefferson foresee the great need for men trained in American variants on the English common law, but he had a well-known teacher at hand: George Wythe, his own mentor, had been guiding young men in preparation for the bar for perhaps twenty years. Certainly his reputation was already established when, in 1762, Jefferson chose him as the best of a number of distinguished lawyers under whom to read; the senior Tucker had agreed with his son that with “so excellent a teacher” at hand, St. George could not do better than to join the numerous neophytes who had already studied under him.

UNDER the leadership of Jefferson as the second Governor of the Commonwealth, the Board of Visitors undertook to “reform” the curriculum, abolishing existing chairs of religion and related studies in favor of the new chairs of police and science (natural philosophy). Wythe, who had for so long been teaching in his home on the “Palace green” down the Duke of Gloucester Street, now transferred his classes to the “College”
—the present Sir Christopher Wren Building. There, for the next decade, he proceeded to conduct a comprehensive course of study—apparently developing special courses in legislative drafting, "moot court" practice, and other subjects rediscovered as "modern" teaching tools—until his resignation to move to Richmond as the presiding judge of the High Court of Chancery.

Wythe's successor was his pre-Revolutionary student, St. George Tucker, who for the next dozen years would build effectively upon what Wythe had established. Tucker appears to have drafted, perhaps at Wythe's request, a formal description of the requirements for a law degree at the College, with an exacting schedule of qualifying examinations in history, government and related pre-law subjects. The letters of various students during this period attest to Tucker's stimulating but demanding course work, which eventually took published form in the first American edition (previous editions in the New World being simply reprints) of Blackstone's *Commentaries on the Laws of England*. Tucker's *Blackstone* thus became the first legal treatise of general coverage of the common law adapted to the new needs of the legal profession in the United States, and for the generation to come it was considered the paramount authority on the subject.

When Tucker, like Wythe, resigned from his teaching post to pursue an extended judicial career, a series of other teachers followed him. William Nelson, one of the judges of the General Court of Virginia, and another of Wythe's former students, taught from 1804-11. His brother Robert, a member of the Chancery Court, succeeded him and taught for the next decade. Little is known of the next occupant of the chair of law—James Semple—because of the complete loss of College records for the period of the 1820s. For nearly twenty years thereafter, however, the law program was an extension of the personality of St. George Tucker's son, Nathaniel Beverley, one of a remarkable line of leaders in the law produced by this family. His *Principles of Pleading*, published in 1846, was considered an authority in its day; but Beverly Tucker is best remembered for his vigorous espousal of the states' rights school of Southern constitutionalism. He was one of the leading advocates of—and perhaps
the progenitor of—many of the political policies advanced by John Tyler, Jefferson Davis and John Calhoun, all of whom were regular correspondents with him.

A NOTHER family of Virginia lawyers—the Minors—accounted for one of the last and greatest of the influential law teachers at William and Mary in its ante bellum period. This was Lucian Minor (1855-59), whose reputation was in part overshadowed by the brilliant career of his younger brother, John. But the brother himself declared that Lucian's insight into American law made him fully the peer of the renowned Joseph Story, and incomplete records suggest that he attracted students from a number of states who returned to become leaders of the bar in the West and Southwest.

FROM 1779 to the beginning of the Civil War, the program in law at the College of William and Mary produced a large number of men who subsequently made their name in the legal profession of the nineteenth century. The distinguished faculty who occupied the chair established through Jefferson's efforts were widely known to the profession in their day, and the names of Wythe, Minor and the two Tuckers are still remembered in legal history. With the outbreak of the hostilities between the states, and the launching of the first of a number of military campaigns in the Virginia Peninsula, the College was compelled to close its doors. When the Civil War ended, financial ruin lay like a pall on the great accomplishments of the previous eighty years in legal education. It would be another sixty years before the historic priority in law would be revived, in a modern program which is now virtually half a century in growth.

BLACKSTONE'S COMMENTARIES:
WITH
NOTES OF REFERENCE,
TO
THE CONSTITUTION AND LAWS,
OF THE
FEDERAL GOVERNMENT OF THE UNITED STATES,
AND OF THE
COMMONWEALTH OF VIRGINIA.
Today’s Program and Tomorrow’s Challenge

The program in law at the College of William and Mary today still adheres to Thomas Jefferson’s goal—to prepare lawyers for leadership as citizens, whether in private practice or public office. This means an emphasis throughout the modern Law School curriculum upon changing propositions in existing law, and new subjects within the law in general. In the past decade, courses in urban land use, constitutional rights and duties, international business transactions, administration of criminal justice and social welfare law have all been introduced into the curriculum in response to new professional responsibilities of the lawyer.

The modern Law School occupies a building only a stone’s throw from where George Wythe taught his classes two centuries ago—but in point of time it is also a neighbor of the nuclear reactor and the technology of the space age, both advanced scientific laboratories of the College in nearby facilities. Interdisciplinary dialogue, on relationships of the law to technological, social and economic issues of the present, are becoming a primary concern of the faculty and student body of the Law School. Continuing professional education, taking advantage of the outstanding facilities of the Williamsburg Conference Center, are a regular feature of the school’s services.

Research into the changing needs of modern law, both for state and national agencies, systematically enrich the Law School’s regular teaching program and keep it in touch with new issues. Studies in legislation and in judicial administration are conducted on a continuing basis. The nearness to government offices and law firms specializing in practice before government agencies, in the state capital in Richmond and the national capital in Washington, give the students in the Law School a unique opportunity to gain experience in these areas of specialty.

The William and Mary Law Review, edited and published by law students, is a quarterly of research which has attained national recognition for its symposia on various current developments in law. In the annual papers of...
Marble staircase in the main foyer of the present Law School building, leading to main classrooms and faculty offices on second floor. Bust of Blackstone presides over the landing.

the William and Mary Tax Conference, another medium for widespread distribution of current information on an important field of modern jurisprudence is provided. The Legal Aid Service, also staffed entirely by students, and the William and Mary Bar Notes, edited by a student organization, provide other practical outlets for professional experience.

The modern Law School building houses a general law library collection of approximately 50,000 volumes, as well as a special tax library which is reputed to be one of the most carefully selected collections of its kind in the profession. Other special collections, some of them on microfilm or similar photocopies, cover a range of subjects with special emphasis on state and national constitutional development. The shelf list of considerably more than two hundred professional periodicals covers most of the significant current literature of the common law world.

The ceremonial Moot Court Room is the setting for a variety of special lectures and forums in law and current affairs. Its portraits of John Marshall and George Wythe, as well as its panel of portraits of the Chief Justices of the United States, symbolizes the continuity of the Law School’s participation in the development of legal institutions in the United States.
Course Offerings

(Consult current Law School announcements for more complete course descriptions, additions or changes.)

**Administrative Law** (3). General study of regulatory procedure by state and federal administrative tribunals.

**Admiralty Law** (3). Substantive and procedural principles of maritime law.

**Advanced Income Tax** (3). Special problems of taxation of corporations, investment and insurance companies, etc. (Part of graduate program in Law and Taxation.)

**Business Organizations I** (3). Legal relationships between principal and agent in business enterprises generally.

**Business Organizations II** (3). Corporation law.

**Business Planning** (3). Tax laws as affecting business decisions.

**Civil Procedure I** (3). Introduction to judicial organization, procedure and jurisdiction in common law and equity.

**Civil Procedure II** (3). Pleading and practice under the Federal Rules of Civil Procedure.

**Commercial Law I** (2). Primary emphasis upon Uniform Commercial Code, Art. 2 (Sales) and Art. 7 (Documents of Title).

**Commercial Law II** (2). U. C. C. law relating to negotiable instruments and bills and notes.

**Commercial Law III** (2). Law on secured transactions.

**Conflicts of Laws** (3). Choice and application of law to issues arising in one jurisdiction and tried in another.


**Constitutional Rights and Duties** (3). Intensive study of contemporary issues under Bill of Rights.

**Contracts I** (3). Elements in formation of agreements between individuals.

**Contracts II** (3). Obligations and remedies pertaining to agreements.

**Corporate Reorganizations** (2, 3). Tax problems involved in liquidations, reorganizations and carryovers in corporate business. (Graduate.)

**Creditors Rights** (3). Legal obligations between creditors and debtors under common law and statutory procedure.

**Criminal Law** (3). Legal definition of crimes, elements of defense and introduction to criminal procedure.

**Criminal Justice Administration** (3). Constitutional and professional considerations in criminal prosecution.

**Equitable and Legal Remedies** (3). Restitution, injunction and other methods of relief supplementary to basic legal process.

**Estate and Gift Taxation** (3). Tax aspects of estate planning. (Graduate.)

**Estate Planning** (2, 3). Legal problems in wills, distribution of wealth.
Main reading room of the Law Library provides reading and working space for law students, separate carrels for graduate law students and Law Review editors, with graduate tax library beyond partition in background.

**Evidence** (3). Competency, admissibility and materiality of individual testimony and documentary proof in trial of issues.

**Family Law** (3). Domestic relationships, marriage and divorce, child care and custody.

**Federal Income Tax Law** (3). Legal definitions of income, credits, deductions and losses under U. S. revenue law.

**Federal Jurisdiction and Procedure** (2). Rules of civil procedure in U. S. trial and appellate courts.

**Federal Taxation** (3). Comparison of income, social security, estate and gift taxation within the federal system.

**Future Interests** (3). Existing rights to prospective use and enjoyment of property.

**Government Regulation of Business** (3). General study of anti-trust law.

**International Business Transactions** (3). Legal aspects of conduct of American business abroad.

**International Law** (3). Legal relationships between governments as members of the society of nations.

**Jurisprudence** (2). Philosophy of law.

**Labor Law** (3). Rights of parties in collective bargaining, procedure in arbitration of industrial issues.

**Legal Aid** (3). Clinical work in counseling and preparation for litigation.

**Legal History** (3). Evolution of basic principles of common law in England and America.

**Legal Method and Writing** (3). Legal bibliography, briefing of cases, drafting of memoranda and oral argument.

**Legal Research**. Individual original work in selected subjects, under tutorial supervision.
Moot Court Room, including three-judge bench for appellate practice and jury box for trial practice, also serves as Law School auditorium for large classes and special events and lectures.

Legislation (3). Drafting and construction of statutes, with research in current legislative projects.

Moot Court (1). Practice in drafting briefs and presenting oral argument in appellate procedure.

Municipal Corporations (3). Powers and duties of cities and counties, in governmental and proprietary functions.

Pension and Profit Sharing Plans (2). Tax problems of deferred income arrangements. (Graduate.)

Property I (4). Legal elements in ownership and disposition of real estate.

Property II (3). Land transactions, easements and other restraints on use of real estate.

Regulation of Securities (3). Legal requirements for sale and management of corporate issues.

Seminar in Administrative Law (3). Intensive study of specific administrative agencies and their use of rule-making authority.

State and Local Taxation (3). Constitutional limitations and legal processes in revenue collection in state and local governments.

Tax Administration and Procedure (4). Organization and operation of Internal Revenue Service. (Graduate.)

Tax Research. Graduate course offering opportunity for experimental or otherwise original work in tax law. (Graduate.)

Taxation of Partnerships (2). Tax law applicable to formation and dissolution of partnerships. (Graduate.)

Taxation of Trusts and Estates (2). Tax law applicable to creation, administration and termination of trusts and estates. (Graduate.)

Torts I (3). General principles of liability in personal injury.

Torts II (3). Special problems of liability in personal injury.

Trial Advocacy (1). Practical experience in preparation and handling of trial cases.

Trial and Appellate Practice (2). Procedural aspects of jury trials, instructions, motions and appeals.

Trusts and Estates (4). Law and procedure in testate and intestate succession, administration of estates and related subjects.

Urban Land Use (3). Intergovernmental relationships in urban renewal and other questions of use of space.

The Graduate Tax Program (M.L.&T.)

THE unique degree of Master of Law and Taxation offered by the Marshall-Wythe School of Law is a merging of the specialties of tax law and tax accounting into an integrated graduate professional program. The program was created to meet the increasing need for competently trained personnel to deal with the special tax problems of government and business. Accordingly, the program stresses background preparation in law, economics, accounting and business administration.

UPON this foundation, the graduate year of study offers an integrated course of all phases of tax work with which a practitioner may expect to deal. Federal, state and local taxation procedures, estate and gift taxation, tax problems of partnerships and corporate business enterprise, pension and profit-sharing plans, and matters of public finance and fiscal policy, are among the representative seminar topics.

PART of the Law School faculty is comprised of specialists in tax law whose own background and continuing research in the subject has made the M. L. & T. program at the Law School preeminent in the profession.

SATISFACTORY completion of requirements for both baccalaureate degree and a professional law degree, with preference for pre-law preparation in economics, accounting and business administration, are suggested for admission to the graduate program.

For further information on the M. L. & T. degree, write to:
Graduate Tax Program
Marshall-Wythe School of Law
College of William and Mary
Williamsburg, Virginia 23185
Heirloom table from descendants of John Marshall, and portraits of William and Mary alumni who have sat on Supreme Court of United States, are features of ceremonial lounge and reception room.

Summer School of Law
In England

Since 1967, the William and Mary Summer School of Law in England has offered accredited courses for American law students on the campus of the University of Exeter, in Devon. Students from a large number of American law schools annually enroll in this program, which is devoted to (1) a study of the common law in which a comparison between English common law principles and American common law variants is made by American and English law teachers participating in the same course; and (2) a seminar in the general experience with systematic reform and revision of the common law in England, where this will be of practical benefit to future American leaders of the bar. Courses in civil and international law are also offered. A separate brochure, published annually, describes the Summer School of Law in England in more detail.

Exchange professorships with English law faculties are periodically arranged, and the Law School is developing plans to offer recipients of its J. D. degree the opportunity to pursue a year of post-doctoral study in one or another of the distinguished British universities. A growing special collection in the Law Library, on the legal systems of the British Commonwealth of Nations, provides opportunity for extended comparative study.
Lectures and Awards

Throughout the Law School year, a number of leaders of the bar appear in Williamsburg and participate in professional lectures before the law students. One of several developing lecture series, through which specific leaders are invited to lecture before the law classes, is the Sherwell Lecture in law. Funded by a gift from Mrs. Maria Estaire Baumert of New York, in memory of her family and particularly her brother, the late G. B. Sherwell, the annual lecture regularly attracts well-known professionals to deliver their thoughts on contemporary issues in the law.

Another means by which the Law School participates in recognizing the current improvement of the legal profession is the annual Marshall-Wythe Medallion, which is awarded to a leader of the bench or bar in the United States or elsewhere in the common law world. Further details on these activities appear in the annual announcement and catalog of the Law School.

Continuing legal education through conferences and clinics, utilizing the Moot Court Room and the exceptional facilities of the Williamsburg Conference Center, offer further opportunities for service by the Law School. Government contracts, tax law, judicial administration and international law have been typical to subjects of recent institutes.
Dudley W. Woodbridge, renowned teacher and dean of the Law School from end of World War II until retirement in 1964.

Publications and Projects

Among a variety of publications of the Law School are the quarterly *William and Mary Law Review*, the *Papers* of the annual Tax Conference, a quarterly *Law School News Letter*, the *Bar Notes*, an authoritative review course for candidates for the Virginia state bar examinations, and the *Colonial Lawyer*, an occasional viewbook of the life of students at the Law School. A reprint series from the Documentary Supplement to the *Law Review*, and a syllabus for the periodic professional short course in *Government Contracts*, are other specialized publications.

Typical of recent research projects for state and national government agencies are the Virginia study commissions on constitutional revision, conflicts of interest, and revenue resources, on which members of the law faculty served. The *Law Review* has undertaken a nationwide study of post-conviction procedures for the Federal Judicial Center, and the Law School was project headquarters for a comprehensive study of the Virginia state court system. A major training program for junior tax executives, is undertaken jointly with the Tax Executives Institute, and continuing research in legislative trends and judicial administration represent other facets of a diversified and productive program of scholarly activity in which America's oldest law school continues to contribute to the improvement of the profession in America.
APPLICATION FOR ENROLLMENT INFORMATION

Office of the Dean
Marshall-Wythe School of Law
College of William and Mary
Williamsburg, Virginia 23185

Please send me additional literature on the following aspects of your program (check box):

- Law School announcement (catalog)
- Graduate Tax Program (M. L. & T.)
- Summer School of Law in England
- Other

Name

Address