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The Highest Aim

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THE HIGHEST AIM

... TO PREPARE EACH OF ITS GRADUATES FOR A LIFE IN THE LAW WHICH, IF PURSUED WITH PERSISTENCE AND INTEGRITY, WILL BE MARKED BY SIGNIFICANT LEGAL ACHIEVEMENT AND UNFAILING ADHERENCE TO THE HIGHEST IDEALS OF THE PROFESSION.

By Lisa Heuvel

The words quoted above express the highest aim of the Marshall-Wythe School of Law. They could be the words of George Wythe, first occupant of the chair of law in 1779, or those of his successor, St. George Tucker, another pioneer in American legal education. However, this statement is not the hope of another era: it is taken from a 1982-83 publication for prospective students, to give them a sense of what William and Mary's law school represents.

That such an ideal spans the centuries should surprise no one associated with America's oldest chair of law, one of the most ancient in the English-speaking world. It is more than a heritage studded with the names of many law luminaries over the years. It is a heartbeat that has kept time through the centuries, sometimes falteringly. No one should assume that the progress of the Marshall-Wythe School of Law — now so apparent in the soundness of its academic program, its faculty and students — has been without cost and effort.

That effort can be traced back to Thomas Jefferson, a William and Mary alumnus, who as Governor of Virginia during the American Revolution, made his greatest contribution to his alma mater. As a member of the College's Board of Visitors, the visionary Jefferson was instrumental in persuading his peers to revise the curriculum and create new professorships, including establishment of a chair of law modeled after the Vinerian chair at Oxford. Those changes made William and Mary the nation's first true university, and the birthplace of university-related American legal education.

Jefferson recommended his friend and mentor, George Wythe, as the logical person to teach future American lawyers. A man devoted to learning and teaching, Wythe detested the rote learning usually imposed on young men clerking under often indifferent lawyers. He taught some of the finest legal minds of the era — Thomas Jefferson, John Marshall, Henry Clay, John Breckenridge and Spencer Roane among them — during his lifetime. A description of Wythe's teaching methods is best left to one who knew them well. Thomas Jefferson wrote this of the William and Mary professor he called "the pride of the institution":

He gives lectures regularly, and holds moot courts and parliaments, wherein he presides, and all the young men debate regularly in law and legislations, learn the rules of parliamentary proceeding and acquire the art of public speaking.

By incorporating law into its curriculum, William and Mary offered an alternative in legal education at an opportune time. As America made the cultural and economic transition from a British possession to an independent country, its laws changed rapidly. All law books were of English law, something Wythe's successor, St. George Tucker, would remedy.

President Graves and Dean Spong are joined by Wayne O'Bryan, former president of the Law Alumni Association, at groundbreaking ceremonies in 1976.
A former student of Wythe's, Tucker was Rector of the Board of Visitors when George Wythe moved to Richmond as sole chancellor of the High Court of Chancery in Virginia. Succeeding Wythe as professor of law at William and Mary in 1790, Tucker chose Blackstone's Commentaries as his basic text, supplementing it with notes made during his ten years in law practice.

Like Jefferson and Wythe, Tucker realized that English law notes would not suffice for his law students, so he lectured them in U.S. Constitutional law and the changes taking place in American law. Tucker's work turned into the first American edition of Blackstone, which was the standard reference on American law for a generation. He also drafted a formal description of the requirements for a law degree at the College, which included qualifying examinations in pre-law subjects. As early as 1792 — and possibly earlier, it is believed — an A.B. degree was required at William and Mary as a prerequisite for a law degree.

Following St. George Tucker's resignation in 1803 to devote full time as a Justice of the Court of Appeals in Virginia, a succession of distinguished lawyers taught at the flourishing law school. However, the War Between the States and the College fires of 1859 and 1862 crippled the school, draining it of students and destroying the law library. (From the bits of remaining evidence, it is believed that the library collection was substantial.) Indeed, the poverty and destruction of war almost sounded the death-knell of William and Mary, and left its law school dormant for the next 60 years as the College struggled to regain its momentum.

The first stirrings of life for the school of law came on May 31, 1920, when William and Mary president J. A. C. Chandler recommended to the Board of Visitors that a pre-legal course be inaugurated. "which shall have at least one year of introductory law, to be expanded later as may seem best..." During the 1920-21 session of the Marshall-Wythe School of Government and Citizenship, only one year's work of the professional course was offered, as Chandler had suggested. On January 14, 1922, the College formally opened the Marshall-Wythe School of Government and Citizenship. Aided by the support and encouragement of a number of individuals, the school survived and grew. In 1924, the first law degree since the War Between the States was granted, and during its first decade, the revived law program had ten graduates.

The catalog of 1933-34 shows that the law school was named the William and Mary School of Jurisprudence, was approved by the American Bar Association, and occupied the second and third floors of the Brafferton. Its library collection of 8,000 volumes was shelved on the third floor of the College Library (now known as St. George Tucker Hall).

Yet, law students and graduates had to fight for the continuing existence of their law school. In 1939, the challenge came not from war or catastrophe, but from the Board of Visitors, who voted to abolish the law school altogether. (The stirring account of how a small group of William and Mary law students saved their school is included in this publication — a memoir of one of those students, R. William Arthur.)

In "A Plea for the William and Mary Law School," alumnus Robert M. Hughes of the Norfolk Bar, anticipating efforts to close the school, said in 1935:

It was in successful operation till destroyed by the torch of the enemy in 1862. To make its misfortune an excuse for crippling it, is to make us an accomplice after the fact with the vandals of the regiment who set the College on fire and surrounded it with drawn swords to prevent any effort to save it.

Of course, the William and Mary Law School did not die. It was saved by the vision and loyalty of some extraordinary people, like Theodore Sullivan Cox, its Dean from 1930 to 1947. Cox stands out as an administrator who gave the law school a much needed stability during difficult times. With a faculty of five (which included gifted law professor Dudley Warner Woodbridge and Walter Hoffman, later a distinguished federal judge), Cox infused the student body and the faculty with enthusiasm and renewed faith in the future of their school. Cox also planned and pushed higher standards and greater financial support. As alumnus Blake T. Newton, Jr., puts it, "The result was that the Law School became quickly accredited under his leadership and slowly but surely began to rise in the esteem of the Bar." (It was on December 13, 1932 that the ABA extended formal accreditation to William and Mary's law program.)

Beginning in 1935, law classes were conducted in the Marshall-Wythe Building (now James Blair Hall), where administrative offices, the Department of Business Administration and the separate Department of Jurisprudence, of which Cox was Dean, were all located.

It has been said that without the support and warm personality of Theodore Cox, William and Mary would surely have lost its finest law professor to one of many law schools seeking him. Dudley Warner
Woodbridge came to the College in 1927, accepting an appointment as assistant professor of law. From that time forward, he devoted his life to teaching law, spending 39 years on the William and Mary faculty. He succeeded Cox as Dean in 1947, remaining in the post until 1962. For most of that period, Woodbridge was also Chancellor Professor of Law, and at various times was a visiting professor at the Universities of Florida, Illinois and Virginia. In 1951, Life magazine included him on a list of America’s eight greatest college teachers. The College of William and Mary further honored him in 1965, when Woodbridge received the first Thomas Jefferson Award for teaching excellence.

During Dean Woodbridge’s administration, the Marshall-Wythe School of Law (as renamed in 1953), moved its library, offices and classroom space into the center wing of William and Mary’s newest building, Bryan Hall. The move consolidated the law school facilities from scattered locations all over campus to one central location.

In 1954, the law school made national headlines with the Marshall-Wythe-Blackstone symposium, held September 25. Chief Justice of the United States Earl Warren and the Lord Chief Justice of England, Rayner Goddard, participated in the College program to commemorate the forthcoming bicentennial of the birth of John Marshall. A Chair of Taxation was created, and the 175th anniversary of the establishment of the first chair of law in America was also celebrated on this date.

Although its stature was growing, the law school’s troubles were far from ended. In 1957, its program once again came perilously close to being eliminated, this time by the State Council of Higher Education’s recommendation. Although the school’s enrollment was approximately 45 students, the University of Virginia Law School was seeking additional enrollment, and elimination of William and Mary’s program seemed probable.

The State Superintendent of Public Instruction, Davis Y. Paschall (a member of William and Mary’s Board of Visitors and later President of the College from 1960 to 1971), also served on the State Council. Learning of the proposal, he urged the Council to hold that action in abeyance, reminding them that such an abolition would be interpreted as a betrayal of Virginia heritage. “I also described the master teacher, Dudley Woodbridge,” says Dr. Paschall, “and how his Bar Notes had become a recognized reference before the Bench in Virginia, and how a unique pro-

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gram in Law and Taxation was being launched.”

Supported by two other members of the Council, Paschall succeeded in persuading the rest of the group to accept his suggestion. But he adds it was not until William and Mary obtained a state appropriation to renovate the old library building, when he was William and Mary’s president, that he knew the law school was “safe at last” from being restricted or eliminated.

When Earl Gregg Swem Library was completed in 1966, the Marshall-Wythe School of Law at last moved into its own building. In a November, 1967, editorial, The Colonial Lawyer stated, “Now that the Marshall-Wythe School of Law has emerged from the bowels of Bryan Dormitory to bask in the shadow of the historic Wren Building, it is time to consider what this transition portends. . . .” The move brought about an almost overnight increase in enrollment, from 175 to 450, as well as a corresponding growth in course offerings. Deans Joseph Curtis and James P. Whyte guided the school from 1962 to 1975, followed by Acting Dean Emeric Fischer (1975-76).

When William B. Spong, Jr. became Dean in 1976, the Marshall-Wythe School of Law entered a new era, one which in 1979 would celebrate the bicentennial of the establishment of the First Chair of Law in America, see construction of the first new law school facility in its history, dedicated in 1980 and establishment of a Chapter of the Order of Coif. The modern school, in its handsome setting, is the culmination of everything that has gone before. From a small school with a student body of 50, meeting in three rooms in the 1940’s, Marshall-Wythe today enrolls 518 students from across the United States.

In a study completed last year by law Professor Scott Van Alstyne of the University of Florida (published in the American Bar Foundation Research Journal), William and Mary was listed as one of the nation’s top 36 law schools. The schools Van Alstyne selected, from a total of 165, were cited as providing “a superior legal education.”

Poised on the threshold of greater recognition, Marshall-Wythe today bears a growing responsibility to the state, to the bar of Virginia, and to its students. The cycle between a law school and the outside world is deceptively simple. The hiring process is easier if the student body is better, and if the law school is perceived as better, then more highly qualified students apply. If the law school attracts better students, they find better jobs, and are in a better position to support their law school.

It is essential for any law school to seek to improve the quality of its student body, to
increase its library collection and to want competitive salaries for its faculty. It is a responsibility, because today, students want to know that their degrees will be worth the effort and cost of earning them.

In the end, it has been the students and alumni of the Marshall-Wythe School of Law who have given it life and refused to let it die. And alumni involvement, one of the school's strongest resources, is again being sought through the Marshall-Wythe School of Law Foundation. Created to establish a separate endowment for the law school, the foundation will raise funds to be invested and used exclusively for Marshall-Wythe.

Most of the better law schools have had their own foundations for decades, sustained by alumni participation and support. For the Marshall-Wythe School of Law Foundation, the immediate objective will be to ask alumni for sizeable gifts to be paid over a three-year period, with the initial contributor's names to be placed on a plaque in the main hall of the school as "Founders of the Foundation."

It is a major step to create such a foundation, but one of many that have given the Marshall-Wythe School of Law an identity and sense of purpose. What Dean Spong said in his address at the dedication of the new law school facility on September 13, 1980, is true today:

The long history of legal education at William and Mary, replete with instances of survival despite adversity, is on a plateau. A struggle for adequate facilities is ended. Today is a beginning. A higher plateau of excellence and service is reachable.

The Coif inspection team, after a three-day visit to the law school in 1981, wrote a succinct summary of the present state of the law school and the challenge it faces in the future. The Coif inspection report stated:

The inspection team found the law school to be worthy of its heritage as part of the second oldest institution of higher learning in America. The law school now has a momentum that has enlarged the vision of its students, enriched the quality of its intellectual life, and is bringing national recognition to many members of its faculty. The challenge that the law school faces in the years ahead is to maintain that momentum, but the present stature of the law school as a scholarly institution providing legal education of a high and exciting quality is not in doubt.