

1925

## The School of Jurisprudence (Academic Year 1924-1925)

College of William & Mary

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BULLETIN

The College of William and Mary  
in Virginia



Two Hundred and Thirty-second Year

CATALOGUE 1924-1925

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*Announcements 1925-1926*

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## THE SCHOOL OF JURISPRUDENCE

Through the efforts of Thomas Jefferson, himself an alumnus of the college, the School of Law was established in 1779 with George Wythe, a Judge of the High Court of Chancery of Virginia and a signer of the Declaration of Independence, as its first professor. This was the first chair of law to be established in America and the second in the English-speaking world, the first being the Vinerian Chair at Oxford, filled by Sir William Blackstone. The School of Law was in continuous operation from the date of its establishment until May, 1861, when the college was closed on account of the hostilities in the vicinity during the Civil War. The revival of this department, which is here announced, has been long desired by the alumni and friends of the college and marks a distinct forward step in the progress of the institution.

Prior to the American Revolution the only preparation for the bar was study under some practitioner, except in the case of the few who were so fortunate as to afford a residence in England and a training in the Inns of Court.

The establishment of the law course at William and Mary is thus described by Jefferson in his Autobiography:

On the 1st of June, 1779, I was elected Governor of the Commonwealth, and retired from the Legislature. Being elected also one of the Visitors of William and 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 and the Oriental Languages, and substituting a professorship of law and police, one of Anatomy, Medicine and Chemistry, and one of Modern Languages.

The resolution of the Board of Visitors making this change was dated December 4, 1779.

On December 28, 1779, the faculty carried it into effect by a resolution which is noteworthy as the first application of the elective system. It reads:

For the encouragement of Science, Resolved, That a student on paying annually one thousand pounds of Tobacco shall be entitled to attend any two of the following professors, viz., of Law & Police, of Natural Philosophy and Mathematics, of Moral Philosophy, the Laws of Nature and Nations & of the Fine Arts, & that for fifteen Hundred pounds he shall be entitled to attend the three said professors.

The College Board of Visitors included, among others, Jefferson, Blair, Madison, Randolph, Nelson and Harrison. They elected as the first professor George Wythe, styled by Jefferson the American Aristides, and a signer of the Declaration. He was one of the Chancellors of Virginia, and was notable as one of the first if not the first American judge to pronounce a legislative act unconstitutional. This he did in *Comth. v. Caton* (4 Call 5), saying:

Nay more, if the whole legislature, an event to be deprecated, 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 no further."

His course was both thorough and practical. It was based upon Blackstone as a text book, accompanied by lectures showing the difference between English and Virginia law. R. H. Lee, in a letter to his brother, Arthur, in 1780, says of Wythe that he discharges his duties as professor "with wonderful ability, both as to theory and practice."

John Brown (later one of Kentucky's first senators), then a student under Wythe, writes in 1780 describing the Moot Court and Parliament organized by the latter as part of his instruction. And Jefferson, in a letter to Ralph Izard written in 1788, gives substantially the same account of it.

Among Wythe's distinguished pupils were Thomas Jefferson, James Monroe, John Marshall, Spencer Roane, John Breckenridge and Littleton Waller Tazewell.

In 1789 Wythe was made sole chancellor, which necessitated his removal to Richmond and the resignation of his professorship. He was succeeded by St. George Tucker, whose edition of Blackstone is an American classic and was one of the first law books written and published on this continent.

In more than one respect this pioneer law school blazed a path. One of the live subjects before the profession to-day is the amount of preparation requisite for a law degree. Certainly as early as 1792, and probably as early as 1779, an A. B. degree was required here as a condition of a law degree. The compilation of the college statutes of 1792 provided:

For the degree of Bachelor of Law, the student 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.

For the session 1925-26 in the School of Jurisprudence only thirty hours of instruction will be given each term. The subjects and credits will be announced at the beginning of each term.

## THE COURSE IN JURISPRUDENCE LEADING TO THE DEGREE OF BACHELOR OF LAW

### THREE YEARS

#### *First Year*

First Semester		Second Semester	
	Credits		Credits
101. Introductory Law.....	2	102. Common Law Pleading..	3
103. Contracts.....	3	104. Suretyship and Guaranty	1
105. Real Property I.....	3	106. Private Corporations....	2
107. Personal Property.....	1	108. Partnership.....	1
109. Public Utilities I.....	2	110. Real Property II.....	3
111. Criminal Law and Pro- cedure.....	2	112. Persons.....	2
113. Agency.....	2	114. Torts.....	2
	<hr/>	116. Damages.....	1
	15		<hr/> 15

#### *Second Year*

First Semester		Second Semester	
	Credits		Credits
201. Mortgages.....	1	202. Sales.....	1
203. Evidence.....	3	204. Future Interests.....	2
205. Trusts.....	2	206. Public International Law	2
207. Equity.....	2	208. Quasi Contracts.....	1
209. Negotiable Instruments..	3	210. Equity Pleading.....	2
211. Taxation.....	2	212. Municipal Corporations..	2
213. Insurance.....	2	214. Federal Procedure.....	2
	<hr/>	216. Legal Ethics.....	1
	15	218. Public Utilities II... ..	2
			<hr/> 15

<i>Third Year</i>			
First Semester	Credits	Second Semester	Credits
301. Constitutional Law.....	3	302. Insolvency and Bank-	
303. Civil Law Doctrines I ...	1	ruptcy.....	2
305. Roman Law I.....	3	304. Conflict of Laws.....	2
307. Court Practice.....	1	306. Roman Law II.....	3
309. Legal History I.....	3	308. Civil Law Doctrines II..	1
311. Jurisprudence I.....	2	310. Legal History II.....	3
313. Administrative Law.....	2	312. Office Practice .....	1
	—	314. Jurisprudence II.....	2
	15	316. Admiralty Law.....	1
			—
			15

## JURISPRUDENCE

The design of the courses in Jurisprudence is to afford such a training in the fundamental principles of English and American jurisprudence as will furnish a good knowledge of law to those desiring to enter the public service or to become lawyers. With that end in view the program of study, which is designed to occupy the student three full years of two semesters each, will consist of the following subjects:

### *First Year*

101. INTRODUCTORY COURSE. *First semester; two hours; two credits.* Hours to be arranged.

Legal analysis and terminology; legal bibliography, use of library; reading of selected cases and a standard text book on elementary law, together with a series of lectures on the development of law.

This course is intended to serve as an introduction to the study of the law and to give the student a clear understanding of the nature and sources of law, legal rights and duties and other fundamental legal conceptions.

103. CONTRACTS. *First semester; three hours; three credits.* Hours to be arranged.

Mutual assent and its communication; offers and their expiration or revocation; consideration; requisites of contracts under seal; rights of beneficiaries; joint and several contracts; the Statute of Frauds, novation, release, arbitration and award; alterations and merger.

105. REAL PROPERTY I. *First semester; three hours; three credits.* Hours to be arranged.

Tenure, estates, seisin, future and incorporeal interests, joint ownership, disseisin, uses and trusts; adverse possession, prescription, accretion; mode of conveyance, execution of deeds; description of property; creation of easements; estates created; covenants for title; estoppel; priority, notice and record. Real Property II (110) must be taken in connection with this course in order to obtain credit.

107. PERSONAL PROPERTY. *First semester; one hour; one credit.* Hour to be arranged.

Characteristics of personal property; irregular species of property; fixtures, emblements; modes of acquiring title; limitations; insurance; legacies and distributive shares; stock and stockholders; miscellaneous species of personal property; and devolution on death of owner.

109. PUBLIC UTILITIES I. *First semester; two hours; two credits.* Hours to be arranged.

The origin of common callings, the peculiar duties and liabilities incident thereto, the modern law applicable to those engaged in public service, such as the operation of railroad, express, telegraph, telephone, power, light and water companies, hotels, etc., together with a consideration of the circumstances which permit the public control of business. The course deals particularly with the law of common carriers, with special reference to the Interstate Commerce Act and similar state statutes.

111. CRIMINAL LAW AND PROCEDURE. *First semester; two hours; two credits.* Hours to be arranged.

The criminal act; criminal attempts; consent; criminal intent, specific and constructive; circumstances affecting intent; justification; parties in crime; agency, joint principals, accessories; jurisdiction over crimes; crimes against the person, especially murder and manslaughter; larceny and kindred offenses.

Lectures and assigned cases embracing the provisions of the Constitution of the United States and the Constitution of the Commonwealth of Virginia bearing on criminal procedure; venue and jurisdiction; arrest;

extradition; preliminary examination; bail, indictment, and all methods of reaching defects therein or in record extrinsic thereto, and the features of the law of evidence peculiar to criminal law.

113. AGENCY. *First semester; two hours; two credits.* Hours to be arranged.

Name of relation; appointment; liabilities of principal; contracts, admission, liabilities of agent; parties to writings; undisclosed principal; obligations between principal and agent; delegation of agency; termination of agency.

102. COMMON LAW PLEADING. *Second semester; three hours; three credits.* Hours to be arranged.

The common law forms of action, especially the causes of action which could be litigated in each form of action and the relation of the forms of action to each other; the substantial allegations required in a declaration or complaint founded on any of the usual causes of action at law; the pleas of the defendant, the defenses available under each and especially the nature and scope of the common law general issues.

104. SURETYSHIP AND GUARANTY. *Second semester; one hour; one credit.* Hour to be arranged.

Kinds of suretyship; the surety distinguished from the guarantor, the guaranty insurer, and the indorser; Statute of Frauds; surety's defence due to original defects in his obligation or its subsequent discharge; surety's right of subrogation, indemnity, contribution and exoneration; creditor's right to surety's securities.

106. PRIVATE CORPORATIONS. *Second semester; two hours; two credits.* Hours to be arranged.

Nature of a corporation and relation to its stockholders; its creation; stock subscriptions; promotion; interpretation of charters; functions of the State Corporation Commission of Virginia in issuing charters and amending the same; formalities of contracts; powers and duties of directors; rights of stockholders; dividends; transfer of stock; forfeiture of charter; corporate liability; ultra vires transactions; rights and remedies of creditors; preferences; stockholder's liability; inter-corporate relations; purchase by a corporation of its own stock; dissolution.

108. PARTNERSHIP. *Second semester; one hour; one credit.* Hour to be arranged.

Nature of a partnership, its purpose and members, creation of partnership, nature of partner's interest; firm name and good will; mutual rights and duties of partners; actions between partners at law and in equity; powers of partners; liability of partners, dissolution; notice; consequences of dissolution; debts; distribution of assets; limited partnerships.

110. REAL PROPERTY II. *Second semester; three hours; three credits.* Hours to be arranged.

This course is a continuation of Real Property I, and must be taken in connection with it in order to obtain credit.

112. PERSONS. *Second semester; two hours; two credits.* Hours to be arranged.

Husband and wife; marriage and divorce; incidents of marital relations between spouses and against third parties; husband's liability for torts and contracts of wife; incapacities of wife; statutory changes in common law. Parent and child; custody; support; earnings and services; parental rights against third persons; parental liability for torts of or to children. Infants; contracts and conveyances; necessities; affirmance, disaffirmance, restoration of benefits; particular obligations; torts; crimes.

114. TORTS. *Second semester; two hours; two credits.* Hours to be arranged.

This course includes a study of the fundamental differences between trespass and case actions at common law, the principles of legal cause and legal damages, with special attention given to wrongs, such as assault, battery, false imprisonment, trespass to realty and personalty, conversion, deceit, defamation, injuries caused by negligence, malicious prosecution; and other injuries where maliciously inflicted with an examination of the increasing number of instances of absolute liability.

116. DAMAGES. *Second semester; one hour; one credit.* Hour to be arranged.

Respective functions of court and jury in estimating damages; exemplary, liquidated, normal, direct and consequential damages; avoidable consequences; counsel fees; certainty; compensation; physical and mental suffering; aggravation and mitigation; value, interest; special rules in certain actions of tort and contract.

*Second Year*

201. MORTGAGES. *First semester; one hour; one credit.* Hour to be arranged.

Essential elements of legal and equitable mortgages; rights of mortgagee at law and in equity; title; possession; dower; curtesy; waste; priorities; collateral agreements; foreclosure; redemption, extension assignment and discharge of mortgages.

203. EVIDENCE. *First semester; three hours; three credits.* Hours to be arranged.

The court and jury; presumptions and burden of proof; judicial notice; admission and exclusion of evidence. Witnesses, competency, privileges, examination. Hearsay; exceptions to hearsay rule; former testimony; dying declarations; admissions and confessions; statements against interest; regular entries; official entries and certificates; reputation; statements of relationship; spontaneous statements. Opinions and conclusions from lay and expert witnesses. Circumstantial evidence; character; conduct; miscellaneous facts; physical objects. Preferred evidence; original documents; extrinsic evidence to contradict, vary, explain, or apply written instruments.

205. TRUSTS. *First semester; two hours; two credits.* Hours to be arranged.

Nature and requisites of a trust; express, resulting, and constructive trusts; charitable trusts; appointment and office of trustee; nature of *cestui's* interest; transfer of trust property by trustee or by *cestui*; *cestui's* interest as affected by death, marriage or bankruptcy of trustee or *cestui*; duties of trustee; extinguishment of trust; removal or recognition of trustee; accounting; assignment of choses in action.

207. EQUITY. *First semester; two hours; two credits.* Hours to be arranged.

Nature of jurisdiction; relation of common law and equity; specific performance of contracts; affirmative contracts; negative contracts; third persons; legal consequences of right of specific performance; partial performance; consideration; marketable title; specific reparation and prevention of torts; waste, trespass, nuisance; defamation; injuries to personality; plaintiff's conduct as a defence; mistake; hardship; mutuality; statute of frauds; bills *quia timet*; reformation and rescission of contracts for mistake.

209. NEGOTIABLE INSTRUMENTS. *First semester; three hours; three credits.* Hours to be arranged.

Formal requisites; acceptance; indorsement; transfer; purchase for value without notice; overdue paper; extinguishment; obligations of parties; checks; defence; presentment; dishonor; protest; notice; the Negotiable Instruments Law.

211. TAXATION. *First semester; two hours; two credits.* Hours to be arranged.

A comprehensive course covering the law of taxation; taxes, their nature and kinds; the nature of the power to tax; purposes of taxation; equality and uniformity in taxation; construction of tax laws; assessment, levy and collection; relief from erroneous tax; relief from illegal tax.

213. INSURANCE. *First semester; two hours; two credits.* Hours to be arranged.

Fire, life and accident insurance, with respect to insurable interest, concealment, misrepresentation, warranties, other causes of invalidity of contract, amount of recovery, subrogation, conditions, waiver, estoppel, election, and powers of agents, assignees and beneficiaries.

202. SALES. *Second semester; one hour; one credit.* Hour to be arranged.

Executory and executed sales; bills of lading and *jus disponendi*; stoppage *in transitu*; fraud; factor's acts; warranty and remedy for breach of warranty; statute of frauds.

204. FUTURE INTERESTS. *Second semester; one hour; one credit.* Hour to be arranged.

Classification of future interests; rule against perpetuities; rule in Shelly's Case; construction of limitations; conditions; restraints on alienation; powers.

206. PUBLIC INTERNATIONAL LAW. *Second semester; two hours; two credits.* Hours to be arranged.

This course treats of the general principles of international law, as it has been developed by positive agreement, in the form of treaties and conventions, and by common usage, as shown in legislation, in the decisions of international tribunals and of municipal courts, and in the conduct of nations.

208. QUASI CONTRACTS. *Second semester; one hour; one credit.*  
Hour to be arranged.

Nature of obligation; restitution at law for benefits conferred under mistake of fact or mistake of law; benefits conferred in mis-reliance upon contract invalid, illegal, unenforceable or impossible of performance; benefits conferred through intervention in another's affairs; benefits conferred under restraint; restitution as alternative remedy for breach of contract and for tort.

210. EQUITY PLEADING. *Second semester; two hours; two credits.*  
Hours to be arranged.

Bills in equity, including parties, general requisites, and multifariousness, disclaimer and default; demurrer, pleas, answers, replications; cross bills, and amended and supplemental bills; decrees.

212. MUNICIPAL CORPORATIONS. *Second semester; two hours; two credits.* Hours to be arranged.

Their creation and dissolution; the control of the legislature over them; their liability for torts; their power to make contracts and incur obligations; their police and governmental powers; and the remedies open to individuals against their actions.

214. FEDERAL PROCEDURE. *Second semester; two hours; two credits.* Hours to be arranged.

The source of Federal jurisdiction and the law administered by Federal courts; the district court, its criminal jurisdiction and practice; bankruptcy; particular classes of jurisdiction; jurisdiction to issue extraordinary writs; original jurisdiction over ordinary controversies; jurisdiction by removal; other courts vested with original jurisdiction; courts of law and equity; the Circuit Court of Appeals; the Supreme Court; procedure on error and appeal.

216. LEGAL ETHICS. *Second semester; one hour; one credit.* Hour to be arranged.

Canons of ethics adopted by the Virginia State Bar Association and the American Bar Association; Costigan's *Cases on Legal Ethics*; lectures; selected readings.

218. PUBLIC UTILITIES II. *Second semester; two hours; two credits.* Hours to be arranged.

A study of the problems arising from the determination of reasonable rates for public service companies, as developed in the decisions of commissions and courts, with particular attention to the questions of valuation, apportionment of costs, classification, discrimination, and priority.

*Third Year*

301. CONSTITUTIONAL LAW. *First semester; three hours; three credits.* Hours to be arranged.

A consideration of the law of the American Constitution and Federal system, with special reference to interstate commerce, the powers of Congress and governmental relations between the States and the United States. The course also includes the interpretation of the constitutional limitations for the protection of life, liberty and property, police power, taxation, eminent domain, obligations of contracts, and protection to persons accused of crime.

303. CIVIL LAW DOCTRINES I. *First semester; one hour; one credit.* Hour to be arranged.

The following topics will be examined on the basis of the French, Italian, Spanish and German codes and compared with analogous common law doctrines: *bona fide* purchase; adverse possession; future interests; *mortis causa* succession and administration; infancy; parent and child; husband and wife; notarial acts.

Civil Law Doctrines II (308) must be taken in connection with this course in order to obtain credit.

305. ROMAN LAW I. *First semester; three hours; three credits.* Hours to be arranged.

This course traces the historical development of the Roman Law and treats of the law of persons, of things, of obligations and succession. Lectures with assigned readings. Roman Law II (306) must be taken in connection with this course in order to obtain credit.

307. COURT PRACTICE. *First semester; one hour; one credit.* Hour to be arranged.

The various proceedings in an action from the commencement thereof, through trial and appellate courts, to final satisfaction of judgment, including the drafting of pleadings.

309. LEGAL HISTORY I. *First semester; three hours; three credits.*  
Hours to be arranged.

Introduction to the history of law. Maine's *Ancient Law*; Holmes' *Common Law*; special topics in *Select Essays in Anglo-American Legal History*; and Holdsworth's *History of English Law*. The history of some of the more important recent changes in the law.

311. JURISPRUDENCE I. *First semester; two hours; two credits.*  
Hours to be arranged.

The theory of law and legislation, the province of the written and unwritten law and problems of law reform. Jurisprudence II (314) must be taken in connection with this course in order to obtain credit.

313. ADMINISTRATIVE LAW. *First semester; two hours; two credits.* Hours to be arranged.

Nature of office; eligibility; appointment; nomination and election; acceptance; qualifying; officers *de facto*; validity of contracts concerning offices and officers; resignation; removal; acceptance of incompatible office; rights, duties and liabilities of officers. Mandamus; quo warranto, prohibition; certiorari; procedendo; habeas corpus.

302. INSOLVENCY AND BANKRUPTCY. *Second semester; two hours; two credits.* Hours to be arranged.

This course gives a complete exposition of the rights of creditors against insolvent debtors and of the means that may be resorted to in order to make those rights effective, and includes a consideration of insolvent assignments and conveyances in fraud of creditors as well as the study of the National Bankrupt Act of 1898.

304. CONFLICT OF LAWS. *Second semester; two hours; two credits.*  
Hours to be arranged.

Jurisdiction; sources of law and comity; territorial jurisdiction; jurisdiction *in rem* and *in personam*; remedies, rights of action and procedure; creation of rights; personal rights; rights of property; inheritance; obligations *ex delicto* and *ex contractu*; recognition and enforcement of rights; personal relations; property; administration of estates; judgments; obligations.

306. ROMAN LAW II. *Second semester; three hours; three credits.*  
Hours to be arranged.

This course is a continuation of Roman Law I (305), and must be taken in connection with it in order to obtain credit.

308. CIVIL LAW DOCTRINES II. *Second semester; one hour; one credit.* Hour to be arranged.

This course is a continuation of Civil Law Doctrines I (303), and must be taken in connection with it in order to obtain credit.

310. LEGAL HISTORY II. *Second semester; three hours; three credits.* Hours to be arranged.

This course treats of early German law, including a comparison of Anglo-Saxon and Continental German customs; of the development of law in the Frankish Empire; of feudal law; of canon law; of the law merchant; of the "reception" of Roman law; and of the genesis and character of modern civil codes.

312. OFFICE PRACTICE. *Second semester; one hour; one credit.* Hour to be arranged.

Practical exercises in drafting important legal instruments, such as contracts, conveyances, mortgages, trusts, wills; preparing income tax returns; corporation practice; and abstracts of title.

314. JURISPRUDENCE II. *Second semester; two hours; two credits.* Hours to be arranged.

This course is a continuation of Jurisprudence I (311), and must be taken in connection with it in order to obtain credit.

316. ADMIRALTY LAW. *Second semester; one hour; one credit.* Hour to be arranged.

An exposition of the leading principles of admiralty jurisdiction and of the maritime law of England and the United States, including the law governing maritime liens, bottomry and respondentia obligations, affreightment and charter parties, salvage and marine torts, collisions, etc.

### ADMISSION OF STUDENTS

The following students will be admitted without examination to the School of Jurisprudence.

1. Graduates of colleges and universities of satisfactory grade, upon producing their diplomas.

2. Students who have completed the first three years of the course leading to the degree of Bachelor of Arts in Government.

3. Students from other colleges and universities of satisfactory grade who have completed a course equivalent to the three-year course mentioned in the foregoing paragraph.

### ATTENDANCE

Work in either the School of Jurisprudence or the School of Government cannot be done *in absentia* nor can it be satisfactorily pursued by students who are irregular in their attendance. Academic standing will be forfeited and registration cancelled whenever a student becomes so irregular in attendance as to satisfy the faculty of this school that it is unwise for him to continue.

All students are admitted subject to the statutes and rules of the college in respect to discipline.

### LIBRARY

The library of the school contains a complete set of the English and Irish Reports and a considerable number of American reports, including all those of the Supreme Court of the United States. There are also many digests and treatises. A number of valuable works of reference on subjects relating to the courses in Government have recently been received. Every effort will be made to enlarge the library until it includes all of the American reports and a complete collection of the statutes of America and Great Britain.