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The Department of Jurisprudence (Academic Year 1939-1940)

College of William & Mary

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THE COLLEGE OF WILLIAM AND MARY
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CATALOGUE
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The College of William and Mary
in Virginia



TWO HUNDRED AND FORTY-SEVENTH YEAR

1939-1940

Announcements, Session 1940-1941

WILLIAMSBURG, VIRGINIA

1940

THE DEPARTMENT OF JURISPRUDENCE

(In co-operation with the Marshall-Wythe School of Government
and Citizenship)

Faculty

- JOHN STEWART BRYAN, B.A., M.A., LL.B., Litt.D., LL.D.....*President of
the College*
- THEODORE SULLIVAN COX, A.B., LL.B.....*Dean of the Department; Professor
of Law and Police*
- DUDLEY WARNER WOODBRIDGE, A.B., J.D.....*Professor of Jurisprudence*
- EDGAR MARIA FOLTIN, J.U.D.....*Professor of Jurisprudence*
- FREDERICK KEATING BEUTEL, A.B., LL.B., S.J.D.....*Professor of
Jurisprudence*
- JOHN LATANÉ LEWIS, A.B., LL.M.....*Instructor in Jurisprudence;
Law Librarian*
- WALTER EDWARD HOFFMAN, B.S., LL.B.....*Instructor in Jurisprudence*
- CHARLES P. SHERMAN, D.C.L., LL.D.....*Lecturer in Jurisprudence*

History

The Department of Jurisprudence, formerly called the School of Law, was established December 4, 1779, when, by resolution, the Board of Visitors created a professorship of Law and Police. Antedated only by the Vinerian professorship at Oxford, established twenty-one years earlier and held by Sir William Blackstone, the chair of law at the College of William and Mary thus became the second in the English-speaking world and the oldest in the United States.

The part played by Thomas Jefferson in placing law among the subjects taught at his *alma mater* is told briefly in his *Autobiography* :*

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, 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.

*Ford's edition, I, 69-70.

On December 28, 1779, the faculty of the College passed the following resolution, which is noteworthy as the first application of the elective system:

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., Law & Police, of Natural Philosophy and Mathematics, or 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 fees to be paid at that period of the year when the Courses of Lectures commence.

The Board of Visitors elected as the first law professor George Wythe in whose office Jefferson had studied. A signer of the Declaration of Independence and styled by Jefferson the American Aristides, Wythe was a judge of the Virginia High Court of Chancery and one of the earliest jurists to enunciate the doctrine of judicial review. In 1782, in the case of *Commonwealth v. Caton*, (4 *Call* 5), he took occasion to declare vigorously:

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 not further."

Wythe's system of instruction was based on Blackstone's *Commentaries*, accompanied by lectures showing the differences between English and Virginia law, and supplemented by a Moot Court and Parliament. He discharged his professorial duties "with wonderful ability, both as to theory and practice."* Prior to the Revolution, prospective lawyers could gain their legal training only by reading law in the office of some practitioner, unless they were so fortunate as to be able to go to England and study in the Inns of Court; now they could learn at the feet of the great Chancellor. Among Wythe's students were John Marshall and his great rival Spencer Roane, John Breckenridge, and Littleton Waller Tazewell.

The elevation of Wythe to the sole chancellorship of Virginia, ten years after the chair of law was established, necessitated his removal to Richmond and his resignation from the faculty. He was succeeded by St. George Tucker, whose edition of Blackstone is a legal classic and one of the first law books published in America. Among the last to hold the professorship at Williamsburg prior to 1861 was Lucian Minor, a member of another Virginia family intimately associated with the law.

Soon after its foundation, and probably from the very beginning, the law school of the College of William and Mary demanded an academic

*R. H. Lee to his brother Arthur, 1780.

baccalaureate degree as a requirement for a law degree, the College statutes compiled in 1792 providing:

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.

In May, 1861, with the closing of the College, because of the exigencies of war, the law school ceased to function. During the precarious years in the life of the institution following the Civil War this school remained largely dormant. Its revival, begun in 1920, was completed with the session of 1922-23. Shortly thereafter, with augmented faculty and increased facilities, it was renamed the Department of Jurisprudence to indicate more adequately the broad field in which it serves the Commonwealth through supplementing the study of economics, government, history, and sociology, as well as affording a thorough study of the fundamental principles of English and American law.

The Department of Jurisprudence is registered by the State Department of Education of the University of the State of New York, is approved by the American Bar Association, and is a member of the Association of American Law Schools.

Library

The Library of the Department of Jurisprudence, occupying the third floor of the College library, contains approximately 12,500 volumes. Included among them are the English Reprint and other English reports; the reports of the United States Supreme Court and other Federal courts; reports of the Virginia Supreme Court of Appeals; reports of many of the state courts prior to the National Reporter System; the National Reporter System; the leading selected and annotated reports; Federal and state statutes; the principal encyclopedias; the American Digest System, with other modern search-books; many treatises and textbooks; and a number of law reviews and other legal periodicals. A collection of about two thousand volumes from the library of the late Alton B. Parker, presented to the College following his death, bears the name of the distinguished jurist. Additions are made to the library annually.

Miscellaneous Information

No fees other than the regular College fees are charged for courses in Jurisprudence. (See pp. 57-61 inclusive.)

The Dean and Faculty of the department are readily accessible, either in their offices or in their homes, to all students who may desire to consult them.

Class instruction is based largely on the case-discussion-problem method. In addition, students are expected to make extensive use of the materials in the library.

The most important extra-curricular activity in the Department of Jurisprudence is the Wythe Law Club, to which faculty, students, and members of the local bar may be elected. Named for the first professor of law, George Wythe, the club conducts moot courts and offers an annual prize of twenty dollars to the most outstanding student in the Department. The John Garland Pollard prize, a gold seal of the College, is offered annually by Mrs. John Garland Pollard, the widow of a former Governor of Virginia and member of the Board of Visitors, and is awarded to the student who attains the highest average for the three years' work. The Charles P. Sherman prize of fifty dollars, established in 1938 by a lecturer in the department, is awarded to the student graduating in Jurisprudence with the best essay on a subject connected with Roman Law. Other prizes offered by Callaghan and Company, West Publishing Company, and Baker-Voorhees Company are awarded annually to the student who attains the highest average for the first, second, and third years, respectively.

Admission Requirements

The following persons may be admitted to courses in Jurisprudence:

1. Students holding an academic baccalaureate degree from an institution of approved standing may enter the Department of Jurisprudence and take any subject approved by the Dean of the Department; provided, however, that students who expect to become candidates* for the degree of Bachelor of Civil Law shall follow the regular course of study.

2. Students of academic senior standing, who select Jurisprudence as a field of concentration (see page 80), may apply a maximum of thirty-two semester credits in Jurisprudence (one year's work) toward the degree of Bachelor of Arts, provided the course is approved by the Dean of the Department. A student who desires to apply one year's work in Jurisprudence toward the degree of Bachelor of Arts must have a quality point average of at least two in his liberal arts work. (In regard to commencing the study of Jurisprudence during the junior year, see 3 below.)

3. Students of academic junior standing, who have completed satisfactorily *sixty* semester credits in liberal arts subjects in an institution of approved standing, and who wish to apply one year of law toward the degree of Bachelor of Arts as provided in 2 above, may take a maximum of sixteen credits in Jurisprudence during the junior year (the remainder to be taken during the senior year), provided the course is approved by the Dean of the Department.

4. Subject to the provisions stated in 2 and 3 above respectively, students of academic junior and senior standing may take, as electives, subjects in Jurisprudence approved by the Dean of the Department.

*To be admitted to candidacy for the law degree, a student must hold an academic baccalaureate degree or be taking the combined six year course in this college for the two degrees.

5. In exceptional cases within the discretion of the Faculty of the Department, persons over twenty-three years of age, who fail to meet the above requirements, may be admitted as special students† and may take subjects in Jurisprudence approved by the Dean of the Department, *but under no other circumstances may a student who has not completed satisfactorily sixty semester credits in liberal arts subjects take any subject in Jurisprudence.*

Subject to the above provisions, registration is the same as for the College at large, of which the Department of Jurisprudence forms an integral part. Inquiries should be addressed to the Registrar of the College or to the Dean of the Department.

The Department of Jurisprudence conducts no summer session.

Concentration in Jurisprudence and the Combined Six Years' Course

As provided on page 80 Jurisprudence constitutes an approved field of concentration for the degree of Bachelor of Arts. Students concentrating in Jurisprudence are required to consult with the Dean of the Department before selecting specific courses.

While no specific academic subjects, apart from the general requirements for the degree of Bachelor of Arts as given on pages 78-81 are required by the Department of Jurisprudence as preparation for law, students who expect to concentrate in Jurisprudence or proceed to the law degree are urged to complete the general degree requirements before commencing their work in Jurisprudence. It is recommended that such students consult with the Dean of the Department as early in their college careers as possible regarding the scope and distribution of their academic work.

By selecting Jurisprudence as a field of concentration and applying one year's work in Jurisprudence toward the degree of Bachelor of Arts, students may secure the degree of Bachelor of Civil Law in two more years.

Advanced Credit

Within the discretion of the Faculty of the Department, credit may be allowed for subjects satisfactorily completed at approved law schools, not to exceed the equivalent of fifty-five semester hours.

Degree Requirements

Students holding an academic baccalaureate degree from an institution of approved standing, who have been in residence at the Department of Jurisprudence for three academic years (or, in case advanced credit has been allowed, have been in residence in this school at least during their third and last year), who have completed satisfactorily the prescribed course of study, or its equivalent, and who have demonstrated

†The number is limited in accordance with the recommendation of the Legal Education Section of the American Bar Association.

their ethical fitness, will receive the degree of Bachelor of Civil Law (B.C.L.), the historic law degree of the College of William and Mary in Virginia.

Course of Study for the Degree of Bachelor of Civil Law

First Year

<i>First Semester</i>	<i>Credits</i>	<i>Second Semester</i>	<i>Credits</i>
Contracts I	3	Contracts II	3
Criminal Law	3	Sales	3
Constitutional Law I	5	Constitutional Law II	5
Legal History	3	Torts	5
Legal Bibliography	2		
	—		—
	16		16

Second Year

<i>First Semester</i>	<i>Credits</i>	<i>Second Semester</i>	<i>Credits</i>
Business Associations I	3	Business Associations II ..	3
Equity	3	Equity	3
Pleading and Practice I	5	Pleading and Practice II..	5
Property	5	Property	5
	—		—
	16		16

Third Year

<i>First Semester</i>	<i>Credits</i>	<i>Second Semester</i>	<i>Credits</i>
Roman Law	3	Negotiable Instruments ...	3
Conflict of Laws	3	Jurisprudence	3
Insurance	2	Bankruptcy	2
Evidence	3	Administrative Law	3
International Law	5	Public Utilities	3
		Legal Ethics	2
	—		—
	16		16

Description of Courses

Administrative Law. Mr. Cox.

Second semester; lectures three hours; three credits.

The exercise of administrative authority and the extent of judicial control over it, with particular attention to administrative law in the United States.

Bankruptcy. Mr. Lewis.

Second semester; lectures two hours; two credits.

An examination of the law relating to insolvent debtors and their creditors, with particular attention to the Federal Bankruptcy Act.

Business Associations I-II. Mr. Beutel.

Continuous course; lectures three hours; three credits each semester.

The general principles of the law of private corporations, partnership, with special attention to the Uniform Partnership Act, agencies, and other forms of business relationship.

Conflict of Laws. Mr. Beutel.

First semester; lectures three hours; three credits.

Private international law, comprising the principles by which a court in one jurisdiction will apply the law of another jurisdiction to determine the rights of litigants.

Constitutional Law I-II. Mr. Cox.

Continuous course; lectures five hours; five credits each semester.

American constitutional law, comprising a study of the general principles of constitutional law applicable to the several states, and the law of the Federal system under the United States Constitution, including the principles of taxation and the jurisdiction of the Federal courts.

Contracts I-II. Mr. Woodbridge.

Continuous course; lectures three hours; three credits each semester.

The general principles underlying the formation, operation, and discharge of obligations based upon agreement.

Criminal Law. Mr. Foltin.

First semester; lectures three hours; three credits.

Crime and punishment. Sources of criminal law. The overt act, criminal capacity and intent; error and justification. Attempt to commit crime. Conspiracy. Parties in crime. The different offences.

Equity. Mr. Lewis.

Year course; lectures three hours; six credits. Credit determined on an examination given at the end of the year on work of the entire course.

The origin, nature, and fundamental principles of equity jurisprudence and the remedies afforded by a court of equity.

Evidence. Mr. Woodbridge.

First semester; lectures three hours; three credits.

The principles relating to the burden of proof, the competency of witnesses, and the admission and exclusion of evidence.

Insurance. Mr. Beutel.

First semester; lectures two hours; two credits.

The contract of insurance with particular attention to the provisions of the standard policies.

International Law. Mr. Cox.

First semester; lectures five hours; five credits.

The law of nations, as derived from custom, common usage, and formal international agreement.

Legal Philosophy. Mr. Foltin.

Second semester; lectures three hours; three credits.

The nature of law. Law and justice. Might and right. Sources of law. Development of the idea of law and the state in ancient, medieval, and modern times. Interdependence of legal philosophy and cultural evolution.

Legal Bibliography. Mr. Lewis.

First semester; lectures two hours; two credits.

Legal terms and nomenclature; the use of law books; and the analysis and headnoting of cases.

Legal Ethics. Mr. Cox.

Second semester; lectures two hours; two credits.

The ethical standards of the legal profession, with special emphasis on the Canons of the American Bar Association.

Legal History. Mr. Foltin.

First semester; lectures three hours; three credits.

Law among the primitives. The law of ancient Eastern cultures; of Greek democracy and of the Roman Empire. The law of the Catholic Church. Medieval and modern law in Italy, Germany, and France. The legal history of England.

Negotiable Instruments. Mr. Beutel.

Second semester; lectures three hours; three credits.

The law of negotiable paper with particular attention to the Uniform Negotiable Instrument Law.

Pleading and Practice I-II. Mr. Hoffman.

Continuous course; lectures five hours; five credits each semester.

The growth and scope of the common law actions; criminal procedure; common law pleading; procedural changes under statutes and codes; the preparation of business and legal documents; the examination of titles; pleading in equity; administration of estates; and the conduct of cases before trial and appellate courts.

Property. Mr. Woodbridge.

Year course; lectures five hours; ten credits. Credit determined on an examination given at the end of the year on work of the entire course.

A comprehensive study of the several kinds of property, the estates and interests therein and the modes of acquiring title thereto.

Public Utilities. Mr. Beutel.

Second semester; lectures three hours; three credits.

The public utility concept and its incidents, including the extraordinary liabilities of common carriers of goods and passengers.

Sales. Mr. Lewis.

Second semester; lectures three hours; three credits.

The sale of personal property with particular attention to the Uniform Sales Act, including a brief survey of the law of personal property.

Roman Law. Mr. Foltin.

First semester; lectures three hours; three credits.

A survey of the development of Roman Law and its offspring, the Romanesque or so-called Civil Law, with an examination of the various doctrines evolved and comparison of them with those of the Common Law.

Torts. Mr. Woodbridge.

Second semester; lectures five hours; five credits.

The nature of tort liability; legal causation; particular wrongs; and the measure of damages therefor, including a survey of employer-employee relationships as affected by modern labor legislation.