1931

More Anent the First Law School

Theodore S. Cox
William & Mary Law School

Robert M. Hughes

Repository Citation
http://scholarship.law.wm.edu/history/19

Copyright c 1931 by the authors. This article is brought to you by the William & Mary Law School Scholarship Repository.
http://scholarship.law.wm.edu/history
More About the First Law School

Believing that our readers will be interested in the discussion relative to the first American law school, we present herein additional data received following the publication of Mr. Walter Mack's letter in the January 1931 issue. Due to lack of space we were unable to publish this information earlier.

College of William and Mary

School of Jurisprudence,
February 10, 1931.
The American Law Book Company, Brooklyn, N. Y.

Gentlemen:

I would like to call to your attention a number of inaccuracies in the article entitled "The First American Law School", which appeared in the January issue of The Law Student, a periodical published by your company. I am not unmindful of the fact that the article in question is largely in the form of a letter to the editor, for which you might disclaim responsibility, but it is disconcerting to find in a publication of an eminent law publishing company, without so much as a footnote by way of correction, such obvious errors as are noted below:

(1) The caption "Litchfield Law School—1763" hardly coincides with the statement that "Aaron Burr, later Vice President of the United States ... was the first student", for Mr. Burr, being born in 1756, would have been seven years old when the law school of which he was the first student is alleged to have been established;

(2) But further along in the article there is a contradiction of the statement that the Litchfield Law School was established in 1763, for if Tapping Reeve graduated from Princeton in 1763 (as stated), and ten years after his graduation moved to Litchfield (as stated), and three years later began teaching law to Aaron Burr, his brother-in-law, (as further stated), then the earliest possible date (according to these statements) which can be claimed for the Litchfield Law School would be 1776, thirteen years later than the date carried in your article; incidentally, Mr. Burr began his law study in 1774 and the next year went into the Revolution (3 Dict. of Am. Biog. 314-5);

(3) The law school of the College of William and Mary never was known as the Thomas Jefferson School and, furthermore, the College of William and Mary since its founding in 1693 has been located in Williamsburg, the old colonial capital of Virginia, and not at Williamson, West Virginia, as your readers might be led to believe.

(4) It is wholly inaccurate to state that the law school of the College of William and Mary died prior to 1833, the date of the discontinuance of the Litchfield Law School.

With no desire to enter into a controversy, either in your pages or elsewhere, I am giving below a brief summary of the history of the law school of the College of William and Mary. In an article by Robert M. Hughes, Esq., entitled "William and Mary, The First American Law School", 2 William and Mary Quarterly, 2d ser. 40-48 will be found citation of authorities:

The School of Law of the College of William and Mary was established December 1779, under Jeffersonian influence, George Wythe being appointed Professor of Law and Police. He began his instruction almost immediately and continued until 1789 when he removed to Richmond to become sole Chancellor of Virginia. He was succeeded by St. George Tucker and the law school, under various professors, functioned continuously until May 1861 when the College closed on account of the Civil War. The College reopened in 1865, but during the precarious years which followed, the law school remained dormant. It was revived in 1922 and shortly thereafter the name was changed to the School of Jurisprudence. It functions today, supplementing the study of history, economics, and government, as well as affording professional training in the law. Incidentally, since 1792 at least, and probably from its establishment, an academic degree has been a prerequisite for a law degree.

That private instruction in law was given in the United States prior to Chancellor Wythe's appointment to the faculty of the College of William and Mary undoubtedly is true, but to maintain that Judge Reeve by teaching his brother-in-law thereby became the first professor of law in the United States and his home the first American law school seems extravagant.

Very truly yours,

Theodore S. Cox,
Professor of Jurisprudence and Head of School.

The following is a copy of a letter sent to Mr. Mack by Mr. Robert M. Hughes at the request of Governor Pollard of Virginia:

(Continued on next page)
Mr. Walter Mack,
Indianapolis, Indiana.
Dear Sir:

My friend, Governor Pollard, has referred to me your favor of October 30, 1930, in reference to the question whether the William and Mary Law School or the Litchfield Law School was the first American Law School. I am familiar with the literature on the subject, which accounts for the reference to me.

In my judgment there can be no question that the William and Mary School is the oldest, having been founded in 1779. Your letter says that the Litchfield School was founded in 1763. In this you are mistaken. You were misled by an ambiguous sentence in the quotation contained in your letter which really means that Reeves graduated at Princeton in 1763, not that he started his school then. As he was born in 1744, he was hardly old enough to teach law especially as Princeton did not teach law. You are also mistaken that the school was discontinued in 1833 “before which date the law course at William and Mary College had been born and had died.”

The William and Mary School was in continuous existence till the spring of 1861. The Virginia Peninsula then became the scene of hostilities in the war between the sections, and the College was closed. In September, 1862 it was set on fire by Northern troops, as a result of which only the walls were left standing. At the close of the war its endowment, already impaired, had to be used in rebuilding, and the insurance was not recoverable for an act of war; and the College reopened in a crippled condition without funds to reopen the law department. It had to suspend in 1881 for lack of funds, but was reopened in 1888 under a small state appropriation which did not permit the reopening of the law school. For the past few years it has been quite prosperous and the Law School has been reopened, though under every disadvantage due to lack of funds.

Coming now to the question of priority, the faculty minutes and contemporaneous publications show the establishment of the William and Mary School in 1779 under Wythe (a Signer) as professor. I hand you the following literature on the subject:

Photostat of correspondence between Mr. Woodruff and myself on the question of priority.

Article of mine on the William and Mary School published in the American Bar Association Journal, June 1921.

Carbon copy of article of mine written at the request of a friend. It is substantially the same as the Bar Journal article, except that it gives a list of some of the distinguished men who took the law course at William and Mary.

The Fifty Founders of Phi Beta Kappa. This describes some of the earlier alumni, such as John Marshall and Bushrod Washington.

The Marshall-Wythe School of Government and Citizenship, intended to teach the young the necessary learning for the proper exercise of the suffrage, whether they intend to study law or not.

Bulletin of the College for August 1926, full of interesting information.

Roll of Fame of the College, showing the distinguished men who were educated there.

New York World editorial of June 9, 1920, in reference to the campaign to raise an endowment for the College. (Its present endowment is only $300,000).

On the subject of the Law School specially, I refer you to a discussion between Hon. Hampton L. Carson, of Philadelphia, and myself, in which he contended that the Law School of the University of Pennsylvania was the oldest. It was published in the William and Mary Quarterly for January, 1922, p. 40. It is specially informing because it quotes the contemporary documentary evidence.

See also Bulletin No. 15 (A.D. 1921) of the Carnegie Foundation for the advancement of teaching, pp. 116-117. This gives the priority to William and Mary.

See also “History of the American Bar” by Charles Warren (Little Brown & Co., 1913), p. 343, which gives the priority to William and Mary.

You will observe from Mr. Woodruff’s letter that he does not deny our priority, but attempts to get around it by the contention that our course was merely part of a liberal education and not intended as a preparation for practicing law.

The letters from students under Wythe (quoted in my reply) disprove this contention. Many took law there who had not taken the academic course. Some came there to take law after having taken an academic course at other colleges.

I presume you can find the books to which I refer in your public library.

I have written you thus fully because we are anxious for every one to understand the claims of the College on the sympathy of the public. Its suspension broke its continuity and made it like an old lawyer who had retired from practice and tried later to resume practice. During its adversity it had no funds for publicity and was almost forgotten. Its only endowment is its history and traditions, and our ambition is to bring it back into public notice.

I have no official connection with the College, my only interest being that of an alumnus.

Yours truly,

ROBT. M. HUGHES.

(Continued on next page)
The article below, which appeared in the July 19th issue of the New York Times, states that the Litchfield Law School was built in 1784, and that Judge Tapping Reeve began the teaching of law in 1772.

First Law School in America to be Reopened as a Museum

The Tapping Reeve house at Litchfield, Conn., and the little building adjacent to it that once housed the first law school in America are to be opened to the public in August as a permanent memorial to Judge Tapping Reeve, founder of the school, and Judge James Gould, who later helped to conduct it. Here men famous in Colonial law, politics and pedagogy were trained, and the school has long been an object of curiosity to the historically minded. The Litchfield Historical Society has arranged for its use as a museum.

Tapping Reeve, a graduate of the College of New Jersey (Princeton) in the class of 1763, settled in Litchfield in 1772, began the practice and teaching of law, and built a home. Under him his brilliant brother-in-law, Aaron Burr, studied for the bar, and soon Mr. Reeve’s classes held twenty students. In 1784 he erected the law school in which to accommodate them.

For fifty years the school flourished, 1,000 pupils attended it, coming from all parts of the United States. Few institutions, it is held, contributed more distinguished men to this country. John C. Calhoun, a Vice President, studied there. Three of its pupils became Justices of the United States Supreme Court, six were members of Cabinets, twenty-five became Senators, twelve were Governors of States and eighty-eight members of Congress.

In 1798 Mr. Reeve, then a judge, was joined by James Gould, a graduate of Yale in the class of 1791, and they conducted the school together until 1820, when Judge Reeve retired. Eleven years later the school was discontinued.

After the death of Judge Reeve’s widow the property was acquired by Lewis B. Woodruff of New York, and in 1927 it passed into the hands of Yale University. It was acquired by the Litchfield Historical Society in 1929.