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George Wythe

A Biographical Sketch

by

Harold G. Owens

Submitted to the History  
Department of the University  
of Richmond in application  
for the degree of Bachelor  
of Arts

June, 1941

\* \* \*

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## Preface

George Wythe is not nearly as well known or appreciated by Virginians as he should be. It is surprising how little has been done in Virginia in remembrance of him, who left so much for his state and for his country. In this thesis, which is more than an eulogy, I have attempted to show just how important George Wythe was to the development of our state and to the growth of the American Republic. If this paper ever finds its way into the hands of one reader who has never heard of George Wythe, its purpose will have been accomplished.

Harold G. Owens

## George Wythe, A Biographical Sketch

There has, as yet, been no biography written of George  
<sup>1</sup>Wythe. Those authors who have attempted sketches of his  
life have fallen far short of their mark in treating the  
subject with the dignity it deserves.<sup>2</sup> This is because of  
no fault of the writers, but of Wythe himself who left lit-  
tle or nothing of fact with which his biographers could work.  
He wrote little and said less; the few of his letters that  
have been found are of scarcely no value at all. As a stat-  
esman, teacher, and jurist, this patriotic American was en-  
tirely unassuming and reserved, desiring neither praise nor  
fame for his services.<sup>3</sup> His whole life was spent in rever-  
ent patriotism, and his deeds in public life are so blend-  
ed with the normal course of the history of our country,  
his name so inseparable from the other patriots of revolut-  
ionary America, that there is very little left of distinct  
or particular detail.<sup>4</sup> Of his private and domestic exist-  
ence,<sup>5</sup> Wythe himself has been careful to leave nothing.

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1. Malone, Dictionary of American Biography, XX, 589.

2. Sanderson, Biography of the Signers to the Declaration  
of Independence, p. 633.

3. Tyler, Great American Lawyers, I, 52.

4. Sanderson, op. cit.

5. Tyler, op. cit.

Consequently, the little that has been recorded of his long and useful life partakes more of the panegyristic<sup>6</sup> and of the eulogistic<sup>7</sup> than of the biographical.

George Wythe was born during the year ~~of~~ 1726 (the exact date has not been recorded)<sup>8</sup> on his father's plantation on the Black River in Elizabeth City County, Va.<sup>9</sup>

He was the second of three children born to Thomas Wythe and his wife, Margaret Wythe, the former Margaret Walker.<sup>10</sup> The other two children were Thomas, a brother of whom very little has ever been known, and a sister, Anne. This sister<sup>11</sup> became in time Mrs. Charles Sweeney, whose grandson played a sinister role in the life of George Wythe.<sup>12</sup>

Of his parents not a great deal is known, but it is certain, however, that the man inherited his great genius from his maternal ancestors and was descended from highly respectable families on both sides.<sup>13</sup> At the time of the birth of George, Thomas Wythe was a member of the House of Burgesses of Virginia.<sup>14</sup> He lived only a short while during the life of his second child, dying in 1729 when this son was a mere infant of three years.<sup>15</sup>

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6. Sanderson, op. cit.

7. Wythe, Decisions of Cases in Virginia by the High Court of Chancery, p. 11.

8. Sanderson, op. cit.

9. Malone, op. cit., p. 587.

10. Ibid.

11. Ibid.

12. Tyler, op. cit., p. 51.

13. Sanderson, op. cit.

14. Malone, op. cit.

15. Tyler, op. cit., p. 52.

D.A.B.

D.A.B.

Wythe's father was the son of Thomas Wythe who had come from England about 1680 and settled in Elizabeth City County.<sup>16</sup> Some authorities contend that he was of the family of one Simon Withe who was in Virginia earlier in the century.<sup>17</sup>

There is, however, no proof of connection of these two families and all that is actually recorded is the following taken from Elizabeth City County records: "Withe, Simon (in Virginia 1623), Elizabeth City, of London, bricklayer."<sup>18</sup>

It is generally accepted that George Wythe was the grandson of Thomas Wythe of England.

Of his maternal ancestors there are more known facts. His mother was the daughter of George Walker, a devoted Quaker of good fortune and learning.<sup>19</sup> It is said that Wythe received his Christian name, not from this grandfather, but from his maternal great grandfather, George Keith, a celebrated preacher and scholar, both in England and in America.<sup>20</sup> Undoubtedly Wythe inherited much of his talent and wisdom from this source of ancestry. A few facts about George Keith may be of some interest in connection with Wythe who seems to have gotten so much from him. Keith received his Master's Degree in Scotland, and at one time became a strong leader of the Quakers in that country, even travelling to America to help the Quaker movement here.<sup>21</sup>

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16. Malone, op. cit.

17. Stanard, Some Emigrants to Virginia, p. 91.

18. Ibid.

19. Malone, op. cit.

20. Tyler, op. cit.

21. Ibid.



Later he broke off from this group for reasons unknown, and returning to England became just as actively involved in the Church of England.<sup>22</sup> He received fame particularly in his religious work, but he was not confined to this field alone, having a very extensive mind and being well learned. His characteristic activity and intellect were often displayed in his more famous great-grandson.<sup>23</sup>

Wythe's father and mother were married in 1719, and Thomas Wythe died ten years later leaving his widow with three small children.<sup>24</sup> The family was in better than moderate circumstances when the father died, and the children were blessed in having a mother like Margaret Walker.<sup>25</sup> She possessed an unusual education for the period and a natural intelligence and strength of character evident in her family.<sup>26</sup> Besides possessing a singular learning, she had acquired an accurate knowledge of the Latin language, and her tuition <sup>under</sup> George Wythe received all the rudiments of his education.<sup>27</sup> It is also related that his mother taught him all he ever knew of Greek, although she herself had never before studied the subject.<sup>28</sup> Regarding these circumstances of Wythe's early education, John Sanderson says: "The instructions which he received at school, by some unaccountable negligence, were extremely limited; being con-

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22. Ibid.

23. Ibid.

24. Ibid., p. 54.

25. Malone, op. cit.

26. Sanderson, op. cit.

27. Ibid.

28. Tyler, op. cit.

fined to mere reading and writing the English language, with a very superficial knowledge of arithmetic. But his powerful mind, exerting its own efforts, soon supplied his defect of scholastic education; for, with the sole assistance afforded by his mother, he became one of the most accomplished Latin and Greek scholars of his country; and by his unaided exertions, attained a very honourable proficiency in other branches of learning. To grammar, rhetoric, and logic, . . . , he added, at an early age, an extensive acquaintance with civil law; a profound knowledge of mathematics, as well as of natural and moral philosophy.<sup>29</sup> It is easy to see from this how influential was his mother in regards to his remarkable initiative, which characteristic through his entire life was an honor to his genius.

While in his minority George Wythe was bereaved of his excellent mother.<sup>30</sup> He continued his education in only a smattering manner, depending entirely on the sturdy foundation of the limited scholastic education he had acquired under her guidance.<sup>31</sup> Wythe spent a short time at the College of William and Mary in Williamsburg, probably in the grammar school,<sup>32</sup> in the year 1741.<sup>33</sup> From here he went to Prince George County where he studied law under Mr. Stephen Dewey, an eminent lawyer who had married his aunt, Elizabeth Walker,<sup>34</sup> who had apparently neglected him before.<sup>35</sup>

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29. Sanderson, op. cit.

30. Ibid., p. 634.

31. Tyler, op. cit.

32. Ibid.

33. Tablet on Wrenn Building at William and Mary College.

34. Tyler, op. cit., p. 55.

35. Malone, op. cit.

When his father died in 1729, George Wythe had inherited "an estate amply sufficient for all the purposes of ease and independence."<sup>36</sup> Now, in 1746, at twenty he was just beginning to feel the real independence afforded by his fortune. Several authors are quoted as saying that Wythe spent the next ten years of his life (from 20 to 30) in utter dissipation and recklessness.<sup>37</sup> This is not altogether true, and very much exaggerated. It is known that he left Prince George County and returned to Elizabeth City County in 1746, definite proof being the following item taken from the clerk's records of the court of Elizabeth City County, dated June 18, 1746: "George Wythe and John Wright, Gent, produced a commission to practice as attorneys, where-upon they took the oath appointed by law and also took the usual oaths to her majesty's person and government and are admitted to plead in this court."<sup>38</sup> Now,<sup>39</sup> only twenty-one years old and already admitted to the bar, Wythe proceeded to Spotsylvania County where he became an associate of one John Lewis.<sup>40</sup> Practicing and studying at the same time under Mr. Lewis, Wythe became quite settled in the community and developed some very intimate friendships which lasted through his lifetime. One of these quickly surpassed the bounds of friendship when in December, 1747 Wythe married Anne Lewis, sister of the lawyer with whom he was studying.<sup>41</sup> This unfortunate marriage

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36. Sanderson, op. cit., p. 633.

37. Tyler, op. cit.

38. Tyler's Quarterly, IX, 96.

39. Malone, op. cit.

40. Sanderson, op. cit., p. 634.

41. Malone, op. cit.

ended in the untimely death of Mrs. Wythe the next year, there being almost no definite conclusions about the circumstances of this tragedy.<sup>42</sup> Wythe, still a youth, was depressed for a while at experiencing such a blow so early in life, but, strong of character as he was, soon regained his normal activities. He remained in Spotsylvania with his wife's people, continuing the practice of law; and it is during these years that so much unjust criticism has been showered upon George Wythe.<sup>43</sup> It is said that he remained here for the next eight years "indulging in the amusements and dissipations of society."<sup>44</sup> There has been a great deal of discussion about just what kind of life George Wythe did live during these few years, and it is surprising how little there is of factual knowledge of the man during this period. One author maintains that since he was in the possession of money, "and exposed, in the luxuriance of youthful passions, to the seductions of pleasure, he suspended during several years, all useful study, and spent his whole time in idle amusements and dissipation. But to whatever levities he may have been betrayed, it is evident from the subsequent events of his life, that his principles of honour remained uncorrupted."<sup>45</sup> On the other hand, there are those who say after studying the man, that in his reckless course of ten years there does not appear to have been any great depravity of conduct at all.<sup>46</sup> "Having the means to 'live like a gentleman' he felt no in-

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42. Ibid.

43. Tyler, op. cit.

44. Malone, op. cit.

45. Sanderson, op. cit.

46. Wythe, op. cit., p. 13.

centive to exertion." Pro or con, the fact still remains that of all the many years of a somewhat veiled private life those from twenty to thirty yet remain the most shadowed.

At any rate, his conduct at the age of thirty underwent a definite change for the better, which may have been due to the death of his elder brother, Thomas, in 1755, devolving upon him a large estate.<sup>48</sup> "Wythe returned to lower Virginia, took leave forever of all the frivolities of youth, and opening his office in Williamsburg, applied himself, unassisted by any tutor, vigorously to the study of law, of the dead languages, and of the liberal sciences."<sup>49</sup> From this time to the close of his long life of eighty years, he lived in the practice of the most rigid and inflexible virtue.<sup>50</sup> Often, Wythe told his closest friends of his regret at having wasted those valuable years, but in his generous repentance in service to his country and in his gift of wisdom to all the world, he has more than rectified that loss.<sup>51</sup>

Wythe had never taken the practice of law very seriously until he moved to Williamsburg. He had, however, in the year 1754, while he was still in Spotsylvania County, been appointed Attorney-General of Virginia by Governor Dinwiddie.<sup>52</sup> This appointment came as a result of the absence of Peyton Randolph, the official Attorney-General, in England. Wythe

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47. Ibid.

48. Tyler, op. cit.

49. Ibid.

50. Sanderson, op. cit.

51. Ibid.

52. McIlwaine, Official Letters of the Governors of Virginia, I, 9.

accepted the office to retain it only a few months until  
the return of his friend to Virginia in the fall of 1754. <sup>53</sup>

The office turned out to be almost an honorary one and did not engage him in too much law for the short time in which he held it. At the time he settled down to a steady practice in Williamsburg, he was already representing that city in the House of Burgesses. <sup>54</sup> Just at this time, too, in 1755, he married a second time. This time to Elizabeth Taliaferro of "Powhattan," James City County. <sup>55</sup> The only child George Wythe ever had died in infancy, and he outlived his second wife by several years. <sup>56</sup> It seems that fate left him little to enjoy of the happinesses of a private life; he was born to be a public figure and devoted his whole life to that end.

After only a short time as a practitioner in Williamsburg, he was admitted to the bar of the General Court in 1757, <sup>57</sup> and it is said that here, with the assistance of Governor Francis Fauquier, Wythe's brilliant career made its true beginning. <sup>58</sup> The Governor was a devoted friend of the young lawyer and is attributed with starting Wythe on his remarkable career by appointing him to the General Court. <sup>59</sup> As a lawyer, George Wythe was unparalleled. In his hands the dignity of the profession was never prostrated to the support of an unjust case: in this he was so scrup-

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53. William and Mary College Quarterly, July 1901, p. 34.

54. Malone, op. cit.

55. Ibid.

56. Tyler, op. cit., p. 83.

57. Ibid., p. 57.

58. Malone, op. cit.

59. Ibid.

ulous, that where doubts were entertained of the truth of his client's statements, he required the solemnity of an oath previous to his defense; and if deception was in any manner practiced upon him, the fee was returned, and the cause abandoned.<sup>60</sup> Following this policy, Wythe quickly rose to the highest esteem in the eyes of his clients and of his associates and of other followers of the profession. As a practitioner, he created for himself the highest possible standards of propriety, candor, and fidelity.<sup>61</sup> He had passed rapidly along the course of a normal career in law, and in the General Court "his industry was quickened, and his emulation excited" by a competition with eminent lawyers who had studied in the English courts and possessed much wider experience.<sup>62</sup> In debate, Wythe was usually cool and intellectually subtle, but sometimes when aroused by some improper remark, he would quickly retort with terrible severity, indulging proficiently in the bitterest sarcasm.<sup>63</sup> He was undoubtedly the most popular lawyer of his day. His eminence continued through his entire legal career, at the bar and on the bench, and for many years after his death he remained the idol of those seeking the Law. It is interesting to note how famous he had become through his unusual integrity in practice. We find an example of his popular appeal along these lines in a letter written to the

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60. Sanderson, op. cit.

61. Wythe, op. cit., p. 24.

62. Tyler, op. cit., p. 73.

63. Call, Report of Cases in the Court of Appeals of Virginia, IV, 12.

Bishop William Meade by his friend, Colonel Stoddert of Wycomico House, Maryland. The letter concerned the life of the Colonel's grandfather, The Rev. Thomas Massey, who died in 1814. Speaking of his grandfather's life, he tells Bishop Meade that The Rev. Massey began as a lawyer and that he "tried to follow in the lead of Chancellor Wythe, to examine cases placed in his care, and to accept the good and reject the bad."<sup>64</sup> The Colonel goes on to say in the letter that his grandfather often advised him not to follow the legal profession, saying that Mr. Wythe was the "only honest lawyer he ever knew."<sup>65</sup> This was certainly the popular opinion of Wythe, and it lasted through the entirety of his legal career which extended in actual practice from 1746 to 1777, comprising almost a third of his life.<sup>66</sup> Having attained such glory as a lawyer, Wythe was elected to the House of Burgesses in 1758 as a representative of the College of William and Mary.<sup>67</sup>

As his predecessors in this capacity of Burgesser had been the most eminent lawyers in the colony, this election itself was proof of the eminence to which he had already attained, and suggestive of the still greater success which the future had in store for him.<sup>68</sup> He held this position in the House of Burgesses from 1758 until the year 1761.<sup>69</sup>

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64. Meade, Old Churches, Ministers, and Families of Virginia, II, 238.

65. Ibid.

66. Tyler, op. cit.

67. Ibid., p. 58.

68. Ibid.

69. Malone, op. cit.



At that time he moved from Williamsburg back to his estate in Elizabeth City County, and beginning again in 1763 continued to serve as a Burger, representing that County until 1768.<sup>70</sup> In that year, residing again in Williamsburg, he was elected Mayor of the town<sup>71</sup> and clerk of the House of Burgesses.<sup>72</sup> He remained in the chair of the clerk for six years, and "though he had no vote, his opinions had much weight, and <sup>his</sup> influence was potent in shaping the affairs of the colony."<sup>73</sup>

During the middle sixties, George Wythe was very active in his service in the Burgesses, An ardent opponent of the Stamp Act of 1764<sup>74</sup> and a warm friend of American Independence, Wythe still came to clashing debate many times with Patrick Henry, strongly opposing Henry's resolutions asserting the power of the colony as the sole authority for taxation.<sup>75</sup> Regardless of Wythe's fiery opposition, the resolutions were passed and adopted,<sup>76</sup> but Wythe kept his firm stand, displaying his characteristic independence and boldness. "No human consideration was equivalent to his love of liberty and fidelity to his country."<sup>77</sup> The independent conduct of Wythe never lost the esteem of gov-

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70. Tyler, op. cit., p. 60.

71. Malone, op. cit.

72. Tyler, op. cit.

73. Ibid.

74. Sanderson, op. cit., p. 635.

75. Ibid., p. 636.

76. Ibid.

77. Ibid.

ernment; for he was always very intimate with all the royal governors of Virginia except Lord Dunmore, whose want of literature and habits were not agreeable to  
 78  
 Wythe. Utterly fearless of popular influence, as in the example of Patrick Henry's resolutions, he continually displayed that distinctive strength and independence of character that won him so much success.  
 79

These eight or ten years before the Revolution, George Wythe spent in active legislative service in Williamsburg. During this time, however, he was also occupied with several other minor duties. In 1769 he had been appointed a member of the William and Mary Board of  
 80  
 Visitors by the Governor, which duty paved the way for more noble services to his country. He was also at this time very active in the church at Williamsburg. Some authors maintain that Wythe in his lifetime had little regard for the church or for religion, but this is not the case in reality. The first appearance of Wythe's name on the church records was in 1769 on the list of vestrymen of Bruton Parrish  
 81  
 Church in Williamsburg. This fact is significant primarily because it implies the high standing of Wythe in the colony  
 82  
 at the time. According to Bishop Meade, "anyone wishing to find out who were truly the few educated men of the day might resort to the William and Mary catalogue of 1720 to

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78. Call, op. cit.

79. Tyler, op. cit.

80. Malone, op. cit.

81. William and Mary College Quarterly, Jan. 1895, p. 180.

82. Meade, op. cit., I, 191.

the Revolution. Let him also examine whatever lists of Burgesses, Henning's volumes, and the old Virginia almanacs furnish, and he will see who they were that may be considered the chief men of Virginia. I have been recently examining another set of records which show who were her first men. I allude to the vestry elections; and nine times in ten we are confident one of their body was a delegate. They were the ruling men of the parrishes, the men of property and education. As we have said before, from an early period they were in training for the Revolution, by the steady and ever successful struggle with commissaries, Governors, Bishops of London, and the Crown, on the subject of the calling and induction of ministers. They also spoke through the House of Burgesses, which was made up of themselves. We will venture to affirm that <sup>few</sup> very statesmen of the Revolution went into it without this training. Even Mr. Jefferson, and Wythe, who did not conceal their disbelief in Christianity, took their parts in the duties of the vestry men, the one in Williamsburg, the other in Albemarle; for they wished to be men of influence.<sup>83</sup> Not only does all this tend to show Wythe's importance in the society of Williamsburg, but it seems to imply that being on the list of vestry of Bruton Parish Church was a prerequisite to being a statesman during the Revolutionary period. At any rate, it gives us proof that Wythe took an active part in the religious activities at this time. Even Wythe himself defended his views on re-

ligion when questioned on the subject by saying: "Why, Sir, as to religion, I have ever considered it as our best and greatest friend . . . . It has always, thank God, struck me as my great duty, constantly to think of this -- God is love; and he that walketh in love, walketh in God and God in Him."<sup>84</sup> Hardly would a man as noble and honest as George Wythe have uttered such a convincing statement of his own philosophical view on religion had he not truly felt it within himself. Though, as Bishop Meade says, he tried not to conceal his disbelief of religion, apparently Wythe was far from being an infidel. And so in this mode of life we find George Wythe just before the Revolution -- an active Burger and loyal citizen of Williamsburg.

For many years prior to 1775, Wythe had "continued an unabated exertion in favor of independence."<sup>85</sup> When war threatened in that memorable year, Wythe wisely recommended a regular army instead of a militia, and stood firmly for it in the House.<sup>86</sup> On the first rising of the colonists, he joined a corp of volunteers, and "evinced his promptness to support the cause which he had advocated in the senate, by a resort to arms in the field."<sup>87</sup> It is said that in June, 1775, George Wythe was one of the twenty-

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84. Virginia Magazine of History, July 1898, pp. 102-03.

85. Sanderson, op. cit., p. 637.

86. Malone, op. cit.

87. Sanderson, op. cit.

four persons, among whom were Monroe, Bland, and Harrison, who "seized upon the arms and amunition in Dunmore's house in Williamsburg, carrying the powder to the magazine, and dividing the arms among themselves for safekeeping and the service of the country."<sup>88</sup> These leaders of colonial Virginia were fervently determined in their patriotic endeavors to free their beloved country from British tyranny. But the country, at this important period, required the united talents of her ablest statesmen, and Williamsburg considered George Wythe too valuable a man to fight in the field.<sup>89</sup> So in August 1775, Wythe was appointed by the Convention of Virginia to fill a vacancy in the Continental Congress,<sup>90</sup> and "in that body he strongly advocated in June of the next year, the resolutions for independence proposed by Richard Henry Lee, ..., and he demonstrated the fervor of his patriotism not long after by attaching his signature to the Declaration of Independence drawn up by Jefferson."<sup>91</sup> Throughout the entire course of the Revolutionary War, George Wythe played his part as a statesman with unequalled zeal.

While the war was going on, Wythe performed one of the most important of all the many services rendered to his beloved Virginia. This came as a result of his serving on a committee with Thomas Jefferson and Edmund Randolph for the purpose of revising the laws of Virginia.<sup>92</sup> In Henning's

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88. Meade, op. cit., p. 294.

89. Sanderson, op. cit.

90. McIlwaine, op. cit.

91. Tyler, op. cit., p. 61.

92. Malone, op. cit.

Statutes at Large of Virginia, we find the following resolution in pursuance of an act for revising the laws of the Colony:<sup>93</sup>

In General Assembly, Tuesday the 5th. day of November 1776. Resolved, That Thomas Jefferson, Edmund Pendleton, George Wythe, George Mason, and Thomas Ludwell Lee, esquires, be appointed a committee to revise the laws of the commonwealth.

Teste,

John Tazewell, C. H. D.  
John Pendleton, Jun. C. S.

This committee first met in Fredericksburg, Va. on January 13, 1777.<sup>94</sup> The two last named members, Mason and Lee, dropped out soon after the work was begun, because they could not find time to leave their interests in their various localities.<sup>95</sup> This left a committee of only three, and in the final analysis, Wythe and Jefferson did almost all of the real work in revising the laws.<sup>96</sup> They worked over their task for nearly three years, and did not make an official report until June 18, 1779,<sup>97</sup> as the following document proves:

In the House of Delegates, the 18th. day of June, 1779. The Speaker laid before the House a letter from Thomas Jefferson, esquire, governor of the commonwealth, and George Wythe, esquire, two of the committee of revisors, in the words following: ....<sup>98</sup>

Then in a very lengthy letter signed by Jefferson and Wythe and dated in Williamsburg on the same date of the document, there is recorded the story of the facts concerning the preparation of the revision of the laws in 126 bills which

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93. Henning, The Statutes at Large of Virginia, IX, 175.

94. Tyler, op. cit., p. 75.

95. Henning, op. cit.

96. Ibid.

97. Ibid., p. 176.

98. Ibid.

were sent with the letter. The Speaker also laid these  
 bills before the House.<sup>99</sup> During the succeeding sessions  
 of 1779, 1785, and 1786, most of these bills seem to have  
 been enacted into laws,<sup>100</sup> but "the bills never seem to  
 have been taken up by the legislature as a complete code."<sup>101</sup>  
 Wythe had done a remarkable piece of work on this committ-  
 ee, his portion in the revision of the laws covering the  
 period from the revolution in England to American Independ-  
 ence.<sup>102</sup>

Almost as creditable a piece of work, was Wythe's part  
 as a member of the committee to Prepare a seal for the com-  
 monwealth.<sup>103</sup> Virginia is indebted to Wythe for the design  
 of its famous Romanistic seal.<sup>104</sup> He was appointed in 1776  
 to a committee of four in the Virginia Convention to pre-  
 pare a seal for the new Commonwealth of Virginia, and it  
 is believed that he was the originator of <sup>the design</sup> for the seal with  
 its Latin motto -- Sic Semper Tyrannis. The motto in itself  
 is almost enough to intimate that George Wythe was the  
 author, for it is certain that "this classical man would  
 choose a classical seal for his beloved state, an emblem  
 of republican virtue."<sup>105</sup>

In 1777, Wythe was made Speaker of the House of Del-  
 egates,<sup>106</sup> and a very few months later was appointed one of

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99. Ibid.  
 100. Ibid.  
 101. Ibid.  
 102. Malone, op. cit.  
 103. Ibid.  
 104. Tyler, op. cit., p. 62.  
 105. Ibid.  
 106. McIlwaine, op. cit.

the three judges of the new Court of Chancery.<sup>107</sup> Of this period of Wythe's life, Thomas Jefferson, writing to a friend, says: "Mr. Wythe, while Speaker in the two sessions of 1777. between his return from Congress [member in 1775] and his appointment to the Chancery, was an able and constant associate in whatever was before the committee of the whole. His pure integrity, judgement, and reasoning powers gave him great weight."<sup>108</sup>

In regards to Wythe's appointment to the High Court of Chancery, we find the following statement in the records of the House of Delegates dated Monday, April 6, 1778:<sup>109</sup>

Pursuant to an Act of Assembly intituled An Act for Establishing a High Court of Chancery, the Governor did this day in open Court and in presence of the Council of State, administer the Oaths required by the said Act to be taken by the judges of the said Court, unto Edmund Pendleton, George Wythe, and Robert Carter Nickolas, esquires, who have been chosen by the Joint Ballot of both Houses of Assembly - and then his Excellency delivered to each his Commission under the seal of the Commonwealth and signed by him.<sup>110</sup>

Sometime before the appointment, when there was talk of establishing such a court and when the salaries and civil status of the judges were in question, Jefferson had written to Wythe in July 1776,<sup>111</sup> summarily expressing his views on the subject. The letter in part stated, in true Jeffer-

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107. Ibid.

108. Ford, The Writings of Thomas Jefferson, I, 56.

109. McIlwaine, op. cit., p. 259.

110. Ibid.

111. Ford, op. cit., II, 59.



sonian style, that "the dignity and stability of government in all its branches, the morals of the people, and every blessing of society, depend so much upon an upright and skillful administration of justice, that the judicial power ought to be distinct from both the legislative and executive, and independent upon both, that so it may be a check upon both, as both should be checks upon that. The judges, therefore, should always be men of learning and experience in the laws, of exemplary morals, great patience, calmness and attention; their minds should not be distracted with jarring interests; they should not be dependent upon any man or body of men. To these ends they should hold estates for life in their offices, or, in other words, their commissions should be during good behavior, and their salaries ascertained and established by law."<sup>112</sup> Nearly every standard set forth in this epistle was incorporated in the Act when the Chancery Court was established, and George Wythe's appointment fulfilled them in every respect.

Continuing in this office for the next ten years,<sup>113</sup> he became the most prominent jurist in Virginia, and in a few years - in the entire country. In 1780, the Court moved to Richmond, but Wythe remained in charge of his district from his seat in Williamsburg.<sup>114</sup> According to one biographer, by virtue of his office as one of the three Chancellors of the state, "Mr. Wythe was also a member of

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112. Ibid.

113. Sanderson, op. cit.

114. Wythe, op. cit., p. 18.

the Supreme Court of Appeals ...in 1782." <sup>115</sup> His election to this office is confirmed in a letter from the President of Congress to George Wythe, dated in Philadelphia on Feb. 2, 1780. <sup>116</sup> It said: "By the enclosed Acts of Congress of the 15 and 22 Ulto herewith enclosed together with your commission you will be informed that Congress have constituted and established a Court of Appeals for the final Trial and determination of all appeals from the Court of Admiralty in the several States in Cases of Capture, and that you are elected one of the Judges of that Court." <sup>117</sup> His duties in this capacity must not have been very important for there is little or nothing of record about this work.

It was, however, at this time that George Wythe rose to the highest eminence as a jurist, when in 1782 <sup>118</sup> he came forth with his Doctrine of Judicial Review which has been the basis of much of our Constitutional Law and a monument to the integrity of Wythe. This masterpiece of judicial precedence emanated from Wythe's decision in the case of Commonwealth vs. Caton, a case involving the overruling power of the judiciary. Wythe wrote, "...II, in administering the public justice of the country, will meet the united powers at my seat in the 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'." <sup>119</sup>

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115. Tyler, op. cit., p. 76.

116. Burnett, Letters of the Members of the Continental Congress, V, 24.

117. Ibid.

118. Tyler, op. cit., p. 78.

119. Ibid.

The principle thus eloquently affirmed by George Wythe, for the first time in the history of the world, and now after so many years still universally accepted as the most current source, has been pronounced by Lord Brougham, "the greatest refinement to which any state of circumstances has ever given rise or to which any age has ever given birth."<sup>120</sup> Whatever esteem Wythe had not before this decision, he had now, and continuing for many years, his course in Chancery was "deeply impressed with the most scrupulous impartiality, rigid justice, unremitting assiduity, and the purest unselfishness."<sup>121</sup>

Going back a few years, we find George Wythe entering on a channel of his life that proved to be his greatest distinction.<sup>122</sup> On December 4, 1779, the Board of Visitors of the College of William and Mary, led by Jefferson, then governor of Virginia and a member of the board, established the "Professorship of Law and Police," the first chair of law in an American College, at William and Mary.<sup>123</sup> George Wythe became its incumbent, and from it literally charted the way in American jurisprudence, beginning that part of his career which, perhaps, constitutes his greatest service to America.<sup>124</sup> According to Lyon G. Tyler, president of William and Mary a century and a half after Wythe taught

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120. Ibid., p. 79.

121. Ibid., p. 80.

122. Malone, op. cit., p. 588.

123. Ibid.

124. Ibid.

there, Wythe had taught at the college for a while in the early 1760's, for here and Dr. William Small had been the teachers together of Thomas Jefferson,<sup>125</sup> in various subjects. Confirmation on this is found in Jefferson's auto-<sup>126</sup> biography dated January 6, 1821 at the age of 77. Writing of his early education, he says: "He [meaning Dr. William Small] returned to Europe in 1762, having previously filled up the measure of his goodness to me, by procuring for me, from his most intimate friend, George Wythe, a reception as a student of law, under his direction .... Mr. Wythe continued to be my most affectionate friend through life. In 1767, he led me into the practice of the law at the bar of the General Court, at which I continued until the re-<sup>127</sup>volution shut up the courts of justice." This is just one example of the high esteem in which he was held by his students, and of the reverence with which his associates regarded him.

Jefferson was always an ardent admirer of Wythe and his work as a professor of the law. On July 26, 1780,<sup>128</sup> while Governor of Virginia, he wrote a letter to James Madison in which he spoke of the College of William and Mary and the new professorship, saying: "Our new institution [Wythe's Law Class] at the College has had a success which has gained it universal applause. Wythe's school

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125. Tyler, op. cit., p. 67.

126. Ford, op. cit., p. 4.

127. Ibid.

128. McIlwaine, op. cit., II, 141.

is numerous, they hold weekly Courts and assemblies in the Capitol. The professors join in it, and the young men dispute with eloquence, method and learning. This single school by throwing from time to time new hands well principled, and well informed into the legislature, will be of infinite value." <sup>129</sup> George Wythe was of definite value to the college, and "his reputation for learning, was doubtless chiefly attributable to the talent for teaching, which was early displayed by him, and which led to his election, ..., to fill the chair of law ...." <sup>130</sup> Wythe remained in this professorship for twelve years, carrying with him the honor of being the first university law professor in the United States and the second in the English speaking world, Sir William Blackstone, who had the Vinerian chair <sup>131</sup> of law at Oxford in 1758, being the first.

Wythe was the teacher of the law for some of the most prominent jurists and statesmen in America. On his class <sup>132</sup> records of 1780, there appear the names of John Marshall, the celebrated Chief Justice, and James Monroe, who is today world-famous because of the governmental doctrine which bears his name. These two names alone are a reasonably good indication of the intellectual superiority of Wythe's students. As a professor, Wythe was one of the first to introduce the lecture system of instruction, and dealt in municipal and constitutional law. <sup>133</sup> He was also first to use

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129. Ibid.

130. Tyler, op. cit.

131. Ibid.

132. Ibid., p. 68.

133. Ibid.

the moot court and the moot legislature in training students in law and parliamentary procedure, The results that he obtained from this type of instruction are <sup>✓</sup>unestimable. <sup>134</sup>

William and Mary had reason to be proud of her new institution of law and of the professor who was in charge of it; nor did she make any inclinations of concealing that pride. Thomas Jefferson offered more to the praise of Wythe than did any other man who knew him. In a letter of August 7, <sup>135</sup> 1785, Jefferson told Dr. Richard Price, an advocate of emancipation with whose pamphlet Jefferson agreed, that the College of William and Mary in Williamsburg, "since the remodelling of its plan, is the place where are collected together all the young men (of Virginia) under preparation for public life. They are there under the direction (most of them) of a Mr. Wythe, one of the most virtuos of characters, and whose sentiments on the subject of slavery are unequivocal." <sup>136</sup> As has been said, he held the professorship for twelve years, and he was as popular with his students, his associates, and the public in general, the last year of his office as he was the first. Again Jefferson <sup>137</sup> praised him in a letter of July 17, 1788 to Ralph Izard, a citizen who was considering sending his son to William and Mary, in the following manner: "I cannot but approve your idea of sending your eldest son, destined for the law, to

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<sup>134.</sup>Ibid.

<sup>135.</sup>Ford, op. cit., IV, 83.

<sup>136.</sup>Ibid. Wythe also favored emancipation.

<sup>137.</sup>Hughes, William and Mary College Quarterly, Jan. 1922, pp. 42-43.

Williamsburg . . . . The pride of the institution is Mr. Wythe, one of the Chancellors of the State, and Professor of Law in the college. He is one of the greatest men of the age, having held without competition the first place at the Bar of our General Court for twenty-five years, and always distinguished by the most spotless virtue."<sup>138</sup>

In 1789, George Wythe resigned this professorship at William and Mary for various reasons.<sup>139</sup> Thomas Jefferson in a letter to William Short, written from Eppington on December 14, 1789, discussing miscellaneous events in the State, mentioned that "Mr. Wythe has abandoned the College of William and Mary, disgusted with some conduct of the professors, and particularly of the ex-professor Brachen, and perhaps, too, with himself for having suffered himself to be too much irritated with that. The visitors will try to condemn what gave him offense and press him to return: otherwise it is over with the college."<sup>140</sup> Whether this reason for his departure from the college is valid or not, it is certainly not the only one. For, in 1788, Wythe became sole Chancellor of Virginia, and held this position until 1801 when the three Chancery Districts were created and he was placed in charge of the Richmond area.<sup>141</sup> So with this new and more strenuous duty on his hands, he resigned his professorship and moved to Richmond in 1790, where he could

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<sup>138.</sup> Ibid.

<sup>139.</sup> McIlwaine, op. cit.

<sup>140.</sup> Ford, op. cit., V, 135.

<sup>141.</sup> Malone, op. cit.

handle his judicial activities more efficiently. He  
 took a house alone on what is now lower Franklin Street  
 around Fifth,<sup>143</sup> for his second wife had died not long be-  
 fore in Williamsburg. In the obituary of the Virginia  
 Gazette dated August 23, 1787, there is the following  
 note: "On Saturday, the 18th. Instant in the 48th. year  
 of her age Mrs. Elizabeth Wythe, spouse of Hon. George  
 Wythe Esq., of the city of Williamsburg Died."<sup>144</sup>

But before Wythe had accepted the High Chancellorship  
 of Virginia and taken up his permanent abode in Richmond,  
 he had performed in 1788 one of the noblest services of  
 statesmanship which he ever rendered to his beloved Virgin-  
 ia. Some biographers have stated that Wythe was a member  
 of the Convention of 1787, which framed the Constitution  
 of the United States, but this is a mistake.<sup>145</sup> He was, how-  
 ever, appointed one of the seven deputies from Virginia,<sup>146</sup>  
 and participated in the organization of the Convention,<sup>147</sup>  
 but his double duties as Professor and Chancellor prevent-  
 ed him from staying very long and he never took his seat  
 in that body.<sup>148</sup> But he did play one of the most import-  
 ant roles of his career as a representative of Williams-  
 burg at the Virginia Convention of 1788 to ratify the new

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142. Ibid.

143. Tyler, op. cit.

144. Tyler's Quarterly, IX, 212.

145. Wythe, op. cit., p. 21.

146. Ibid.

147. Malone, op. cit.

148. Wythe, op. cit.



Constitution that had been drawn up by the Convention of  
 149  
 1787. He was chairman of the Committee of the Whole for  
 almost the entire course of the Convention. 150 Wythe's im-  
 portance in the Convention lies in his fiery fight in fav-  
 or of the Constitution and in his proposed scheme of ratifi-  
 cation. His cohorts in this fight for the Constitution were  
 some of the most illustrious gentlemen of colonial America.  
 "No four men excited more influence in favor of the Consti-  
 tution in Virginia, than George Washington, Edmund Pendleton,  
 George Wythe, and James Madison, and four names purer were  
 probably never recorded in profane history ...." 151 Pendle-  
 ton and Wythe had spent their entire political careers op-  
 posing each other in the Senate, the forum, and the court,  
 and now they were working together toward the accomplish-  
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 ment of a remarkable task. At this time, Pendleton's fame  
 as a jurist was more wide spread than Wythe's, but except-  
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 ing him, Wythe was second to none in the Convention. In  
 the fight for the Constitution, the coordinated attacks of  
 these two great jurists proved very successful. The same  
 policy which had induced the friends of the Constitution to  
 select Pendleton to open the debate on the judiciary, im-  
 pelled them to select Wythe as the proper person to bring  
 154  
 forward the resolution of ratification. In presenting

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149. Malone, op. cit.

150. Ibid.

151. Grigsby, "The History of the Virginia Federal Convent-  
 ion of 1788," in Collections of the Virginia  
 Historical Society, I, 42.

152. Ibid., p. 36.

153. Ibid., p. 74.

154. Ibid., p. 306.

his proposal for ratification, Wythe argued that the Constitution should be adopted as it stood then without amending it at that time, but, if necessary, using the privilege of amendment at a latter date after the document had been put into force.<sup>155</sup> This proposal met with immediate opposition from Patrick Henry and others who thought the Constitution was too domineering, and that they ought to do all the changing now before it was accepted.<sup>156</sup> After quite a lengthy debate, pro and con, Edmund Randolph rose and made "an eloquent and patriotic invocation to the members" in which he considered the scheme proposed by Wythe, which had already been presented to the clerk of the Convention.<sup>157</sup> He showed, by a minute examination of its words, that it secured all other rights as well as the liberty of speech, and of the press, and trial by jury.<sup>158</sup> Randolph displayed a view in line with that of Wythe, and was quite influential in mellowing the opposition. The proposal, however, did not go through immediately, and the Convention passed a resolution that a set of amendments should be drawn up and placed before the Convention, and that they should present these amendments to the other States for consideration if they were acceptable to Virginia.<sup>159</sup> A committee "to prepare and report such amendments as shall by them be deemed necessary to be recommended in pursuance

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155. Ibid., p. 307.

156. Ibid., p. 308.

157. Ibid., p. 312.

158. Ibid.

159. Ibid., p. 344.

of the second resolution" was appointed, and George Wythe  
 was named its chairman. <sup>160</sup> After much work on the part of  
 this committee, together with a committee headed by Randolph  
 for the purpose of shaping the form of the ratification,  
 the Convention on June 26, 1788 passed and signed the bill  
 of ratification. <sup>161</sup> Concerning this form of ratification

that was passed, one author, writing of the history of the  
 Convention, has this to say: "The form of ratification has  
 been usually attributed to the pen of Madison; but I am  
 compelled to give up this opinion, which was common thirty  
 years ago. It is but an enlargement of the preamble offer-  
 ed by Wythe, and doubtless from internal evidence written  
 by him. That preamble is not such as in my opinion Mad-  
 ison or Randolph would have drawn, and is very probably  
 ammended in a vital part in the form of ratification. As  
 Randolph was chairman of the committee which reported the  
 form, and was a critcal writer, and as the form was main-  
 ly an enlargement of the preamble presented by Wythe, the  
 safer conjecture is that its merit belongs jointly to Ran-  
 dolph and Wythe." <sup>162</sup> From these statements it is easy to

understand how much Virginia is indebted to George Wythe,  
 vice-president of this famous State Convention that rati-  
 fied the Federal Constitution. <sup>163</sup>

Not long after the close of this Convention, George  
 Wythe took up his residence in Richmond, where he remained

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160. Ibid., p. 347. The second resolution was the one  
 stating that the ammendments were to be drawn.

161. Ibid., p. 349.

162. Ibid., p. 348.

163. McIlwaine, op. cit.

for the rest of his life. When he left his chair at William and Mary, he took the degree of Doctor of Laws.<sup>164</sup> Not desiring to give up teaching entirely, he conducted a private school of Law in Richmond for his own enjoyment as an instructor, and continued to delve into the languages as a student.<sup>165</sup>

Wythe lived a secure and peaceful life in Richmond during the time that he was sole Chancellor of Virginia. His eminence as a statesman, teacher, and jurist had become so firmly fixed in the public mind that he had little time for private life, and was continually sought after for his wise and accurate advice. Distinguished for the simplicity of his character, his bland and amiable manners, his uprightness and steadfast devotion to duty, he was universally beloved and accepted in the best society of Richmond.<sup>166</sup> His knowledge and wisdom in judicial matters had for a long time been considered the 'last word' by the eminent men in Virginia. Noteworthy are the remarks made by Thomas Jefferson in a letter to Wythe dated January 22, 1797 from Monticello, in which he praised Wythe for his knowledge in parliamentary law, saying: "It seems probable that I will be called on to preside in a legislative chamber. It is now so long since I acted in the legislative line, that I am entirely rusty in Parliamentary rules of

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164. Tyler, op. cit., p. 71.

165. Ibid.

166. Kennedy, Memoirs of the Life of William Wirt, I, 141.

167. Ford, op. cit., VII, 110.

procedure. I know they have been more studied and are better known by you than by any man in America, perhaps by any man living."<sup>168</sup> Jefferson goes on to ask Wythe to send him any notes he might have on the subject of parliamentary law so that he may freshen his knowledge in the matter.<sup>169</sup> Many times he referred to Wythe as the "only spark of parliamentary science now remaining with us."<sup>170</sup> Again on February 18, 1800 when Jefferson was a member of the Senate, he wrote *V. B.* Wythe asking his aid in correcting or appraising some rules of parliamentary law which he had drawn up in preparation of a Manuel on the subject which he intended leaving with Congress "which lacke so in Parliamentary procedure."<sup>171</sup>

For months after this everytime Jefferson wrote to Wythe, he stressed the latter's importance in helping him write his Manuel. So from this we see how much this quiet and reserved little man was respected for his knowledge by the greatest of men.

His legal career in Richmond was not as peaceful as it could have been, for as sole Chancellor some of his dynamic and coldly independent decisions brought much criticism to his person.<sup>172</sup> Many of these decisions suffered reversals at the hands of the higher courts, and these reversals did not altogether please Wythe. In 1795, he published a work under the title of Chancery Decisions, in

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168. Ibid.

169. Ibid.

170. Ibid., p. 428.

171. Ibid., p. 426.

172. Wythe, op. cit., p. 23.

order to review particular sentences of the Court of Appeals, reversing some decrees made by himself.<sup>173</sup> The book is written in an apparent stiff and affected style; but it is quite caustic, and animadverts with great asperity upon the judgements of the Court of Appeals.<sup>174</sup> The tone of these comments on the reversal of his decrees by the Court of Appeals, suggests the idea that there was "some pique or jealousy between him and some of the judges of the higher court."<sup>175</sup> Wythe, a master of sarcasm, was just the one who could publish such a work, and, in general, his style may have deserved the compliments sometimes paid it.<sup>176</sup> At any rate, Wythe published his book because he was convinced of the justice of his decrees, and undoubtedly desired vindication.<sup>177</sup>

In 1801 the State was divided again into three Chancery Districts, and Wythe was moved from sole Chancellor of Virginia to Chancellor of the Richmond District.<sup>178</sup> In this capacity, he continued in active judicial service until he was eighty years old.<sup>179</sup> The Chancellor's long life of public usefulness came to an abrupt close in the summer of his eighty-first year, 1806. George Wythe died as a result of one of the most violent of crimes on Virginia records;<sup>180</sup> he was murdered by his great-nephew, George Wythe Sweeney.<sup>181</sup>

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173. Call, *op. cit.*, p. 14.

174. *Ibid.*

175. Wythe, *op. cit.*

176. *Ibid.*

177. Malone, *op. cit.*

178. Tyler, *op. cit.*

179. *Ibid.*

180. Sanderson, *op. cit.*, p. 639.

181. Wythe, *op. cit.*, p. 26.

The confused and varied facts about Wythe's death are not altogether clear, but the circumstances involved give enough evidence to show the story of his murder to be more truth than fiction. Like Jefferson and all the leading men of that day, George Wythe was in favor of the emancipation of slaves.<sup>182</sup> He had liberated three - a man, woman, and boy, and by his will made suitable provision for their support.<sup>183</sup> To test the theory that there was no natural inferiority of intellect in the negro, compared with the white man, he had the negro boy and his great-nephew educated exactly alike.<sup>184</sup> He himself imparted instructions to the negro boy in Latin and Greek.<sup>185</sup> His benevolence was extended even further to this negro boy, when the man whom Wythe had freed died, and he increased the boy's legacy by a codicil to his will, with a provision, that if the boy should die before his full age, the bequest to him should enure to his sister's grandson, George Wythe Sweeney.<sup>186</sup> This clause in the will is believed to have been the sole, innocent cause of Wythe's death.<sup>187</sup> The legatee of the greatest proportion of the estate was Sweeney anyway, but he was still envious of the negro boy's share in the will. The former slave boy died suddenly around the first of June, 1806,<sup>188</sup> and Wythe immediately changed his will on his own dying bed.

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182. Ibid.

183. Ibid.

184. Kennedy, op. cit., p. 142.

185. Sanderson, op. cit.

186. Ibid.

187. Tyler, op. cit., p. 84.

188. Wythe, op. cit.

A second codical to the will, stating that the negro boy had died that morning, revoked all of the devices in behalf of Sweeney,<sup>189</sup> and the whole of the Chancellor's estate was left to the other grandchildren of his sister,<sup>190</sup> to be divided equally among them.

These known facts and the circumstances attending the venerable Chancellor's sickness immediately preceding his death excited suspicion that poison had been administered to him; and Sweeney, who lived in Wythe's house, was subjected to a public prosecution for the crime of murder, accompanied by the blackest ingratitude for what George Wythe had done for him all his life.<sup>191</sup> The Court hauled him up, and he submitted to trial, calling as his attorney, Mr. William Wirt.<sup>192</sup> It was an unsuccessful trial for the state, and the acquittal by the jury has caused a veil to be hung over the whole affair forever.<sup>193</sup> Sweeney was indicted on several other counts, but they all proved unsuccessful in Court, and he finally got by with a sentence of six months in jail and one hour at the public pillary.<sup>194</sup> These sentences were never carried out, and Sweeney, chased out of a peaceful abode in Richmond by a public opinion strongly against him,<sup>195</sup> sought refuge in the West.

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189. Ibid.

190. Sanderson, op. cit., p. 640.

191. Ibid.

192. Kennedy, op. cit.

193. Sanderson, op. cit.

194. Wythe, op. cit.

195. Ibid.



Other facts that have been uncovered concerning the murder make it almost a narrative. It seems that at the time of the poisoning, the Chancellor had been confined at home by a slight cold or some other indisposition.<sup>196</sup> Sweeney, indignant at the kindness and munificence of his great-uncle to the colored boy, intended to poison the boy, and make himself the sole legatee of the will. With this in mind, one morning in early June he put the poison in the coffee for the family breakfast.<sup>197</sup> The colored cook said that Sweeney came into the kitchen and dropped something white into the coffee-pot, making some excuse to her for doing so.<sup>198</sup> During the trial the coffee grounds were examined and arsenic was found in abundance mingled with them.<sup>199</sup> Sweeney, knowing the Chancellor to be sick, had no idea of him coming from his chamber for a meal or of being in any danger of partaking of the coffee. But during his absence, Wythe did make his appearance and drank of the coffee without any reason to believe he was in danger.<sup>200</sup> The negro boy and one of the women servants had previously drunk of the coffee, and both died prior to the Chancellor.<sup>201</sup> Wythe was taken sick from the poison immediately and lingered on for several days, but all the efforts of medical science of that day to save him were futile.

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196. Ibid., p. 28.

197. Ibid.

198. Kennedy, op. cit.

199. Ibid.

200. Wythe, op. cit.

201. Ibid.

George Wythe breathed his last on the eighth day of June, 1806 in a state of anxiety at not being able to complete his duties at the Court. <sup>202</sup> Even to the last his respect for duty and love for his fellow man never dimmed the slightest, and he passed away worrying about the trouble his death would cause his clients.

Though the evidence from every angle pointed the finger of guilt to Sweeney, the trial terminated in favor of the accused one. <sup>203</sup> The whole thing revolved on a single issue of a defect in evidence, by no means unusual in the states at the time. The Virginia statutory law disqualified a witness from giving testimony upon objections founded merely in the race or blood of the person acquainted with the facts. <sup>204</sup> The cook in this case, who apparently was the only direct witness, was a negro, and forbidden to be heard in a court of justice in Virginia. <sup>205</sup> The only source of actual information about the death of one of her greatest sons, and the Virginia law forbade the witness to testify! This presents a very striking and cogent example of the impolicy of a law so prevalent in the United States at that time. But be that as it may, "the solemn decision of a criminal court, has shown to the world, that although the lamented Wythe died by poison, yet legal certainty cannot be attached to his murderer." <sup>206</sup>

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202. Sanderson, op. cit., p. 639.

203. Kennedy, op. cit., p. 144.

204. Ibid.

205. Ibid.

206. Sanderson, op. cit., p. 640.

George Wythe's death was a greivous loss to Virginia, and was mourned bitterly by all those who knew him. He was buried in state in his beloved Richmond, in the churchyard of historic St. John's,<sup>207</sup> but after so many years the grave is no longer to be located now.<sup>208</sup> His funeral was one of the most largely attended ever held in Richmond, and was beautifully carried out with all the dignity and preciseness of a state funeral. The funeral oration delivered by William Munford, a very intimate friend of George Wythe,<sup>209</sup> is unexcelled in eulogistic technique. His opening paragraph sets a perfect atmosphere of benevolence such as Wythe would have wanted: "On Sunday morning the 8th. inst. departed his life, the venerable Chancellor of the Richmond District, George Wythe. Over the inspected cause of his death, let us for a moment draw the veil. Every situation in life has its rights and its duties. Let us therefore respect the rights of the accused."<sup>210</sup> Certainly if George Wythe could have written his own auto-biography to the very end, he would have been just as blameless in respect to his murderer; just and honorable as he was, he considered everything that happened as necessary. Munford goes on in a lengthy address to review the life of this great Virginian, worthy of fame which has not been accorded him, and to tell of the services and duties he carried out so well in every capacity. "With the spirit of a philosopher,"

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207. Malone, op. cit.

208. Tyler, op. cit.

209. The Enquirer, June 13, 1806.

210. Ibid.

praised Munford, "he lived a lawyer, and was indeed the  
 brightest ornament of the bar."<sup>211</sup> Spending almost thirty  
 years of his life as a Chancellor in one capacity or an-  
 other, "in that office he continued 'till the day of his  
 death, because he believed himself better qualified to  
 serve his country in that station than in any other ...."<sup>212</sup>  
 In his time, Wythe was certainly never surpassed in Virginia  
 in patriotism, learning, and judgement. Ever active in ev-  
 ery situation in which he found himself, his remarkable  
 lifetime embodied at least three entire careers. Any one  
 phase of his course - lawyer, teacher, or statesman - would  
 have been enough to occupy the lifetime of any man with  
 fewer abilities than George Wythe. Always a student, he  
 never ceased seeking for knowledge. As Munford says in his  
 oration, Chancellor Wythe was often referred to as the  
 "walking library."<sup>213</sup> As a patriot, a philosopher, or a  
 philanthropist, he was equally adapt, and all who knew him  
 held him in noble esteem. He was never a fanatically relig-  
 ious man, but certainly he must have been a Christian to  
 have lived the noble life that he did.<sup>214</sup> Although he was  
 a vestryman in the Episcopal Church, he deemed forms and  
 modes of faith unimportant, and expressed his beliefs as  
 he saw fit.<sup>215</sup> This is the thing which brought most of the  
 criticism to his religious life. But it is proof enough of

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211. Ibid., June 17, 1806.

212. Ibid., June 13, 1806.

213. Ibid.

214. Ibid.

215. Malone, op. cit.

his spiritual inclinations when one who stood by his bedside and saw him draw his last breath said that often "he prayed to Jesus Christ his Savior for relief."<sup>216</sup>

One cannot deny his eminence, nor the fact that only a portion of the credit due him has been paid. His life as a jurist "was profound and absolutely just,"<sup>217</sup> and his memory after almost a century and a half still commands the same respect that his person did in 1806. The most characteristic description of this venerable judge comes from the lips of Nathaniel Beverly Tucker, son of St. George Tucker, who remembered seeing Wythe in Richmond: "I have still in my mind's eye, a tall, pale, extenuated, old man that I used to see walking silent and alone before the door, and whom we boys always beheld with a feeling akin to superstitious awe."<sup>218</sup> That was George Wythe - beheld in awe.

Probably the best 'epitaph' ever written in praise of this noble Virginian was penned by John Sanderson: "George Wythe, living, was the fountain of justice - dead, his spotless integrity has erected him a durable monument in the memory of his countrymen."<sup>219</sup>

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216. The Enquirer, June 17, 1806.

217. Tyler, op. cit., p. 90.

218. Ibid., p. 88.

219. Sanderson, op. cit., p. 638.

I declare upon my honor as a gentleman that the foregoing work is of my own creation, that I have gotten all of my information from the material listed in the bibliography, and that every fact and direct quotation taken from that material has been indicated,

Harold Owens