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Essays on Legal Education in Nineteenth Century Virginia

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# Essays on Legal Education in Nineteenth Century Virginia

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PREFACE


The letters, which are printed here for the first time, were kindly supplied by E. Lee Shepard. They are published here with the kind permissions of the Library of Virginia, the University of Virginia Library, and the Virginia Historical Society.

The portraits that are used here as illustrations are published with the kind permissions of the owner of the Creed Taylor drawing, who wishes to remain anonymous; The Muscarelle Museum of Art, College of William and Mary, for the drawing of Nathaniel Beverley Tucker; The Library of Virginia for the paintings of Briscoe G. Baldwin, John T. Lomax, John B. Minor, John W. Brockenbrough, and Henry St. G. Tucker; the Virginia Historical Society for the paintings of Benjamin W. Leigh and William Green; and the University of Virginia School of Law for the painting of Stephen O. Southall.

In reprinting these essays and letters, modern punctuation has been used, abbreviations have been extended, and typographical errors have been silently corrected.

An abbreviated version of the introductory essay was presented at the Thirteenth British Legal History Conference, July 1997, in Cambridge. I would like to thank Professor Peter G. Stein and Dr. John W. Cairns for the kind and very helpful comments that they gave me on that occasion.

W. H. Bryson

Richmond, Virginia
April 21, 1998
INTRODUCTION

A. Law Schools in Virginia

Learning the law by means of an apprenticeship under an experienced lawyer was the usual approach to legal education in the eighteenth and nineteenth centuries in Virginia. However, from the beginning of academic training in the common law in Oxford University by William Blackstone in 1753, this latter method was recognized as a superior one. From then on, more so in Virginia than in England, law schools were established and patronized so far as the financial resources of the community permitted.

The first law school in Virginia was established in 1779 at the College of William and Mary in Williamsburg. The founders were Thomas Jefferson, who was then governor of Virginia and rector of the board of visitors of the College, and George Wythe, who was then a judge and who had been Jefferson's legal mentor. Wythe was the first law professor, and when his judicial position required him to move to Richmond, he was succeeded by St. George Tucker.

The second law school in Virginia was a proprietary venture by Judge Creed Taylor. There is some evidence that Judge Taylor had a law school in Richmond in 1810, but little is known about it other than that it had moot court exercises. In 1821, Taylor moved to his home near Farmville, which is equidistant between Richmond and Lynchburg, where his judicial duties required his attendance. Here, he maintained a law school that flourished for several years.

In 1824, Judge Henry St. George Tucker, the older son of St. George Tucker, set up a law school in Winchester. This institution was quite successful but was closed in 1831 when its proprietor was appointed to the Court of Appeals of Virginia and moved to Richmond. (When Tucker retired from the bench in 1841, he accepted the post of professor of law at the University of Virginia.) Tucker's lecture notes from the Winchester Law School grew into a two-volume treatise on Virginia law entitled Commentaries on the Laws of Virginia.

The second university law school in Virginia was established in Charlottesville in 1826 at the University of Virginia under the watchful eye of Thomas Jefferson. The first law
professor there was John Tayloe Lomax. Lomax left the groves of academe, which were in his case far from serene, in 1830 to accept a judgeship in Fredericksburg.

In 1831, Judge Lomax opened a private law school in his house in Fredericksburg. This venture was quite successful and remained in existence for over ten years. Lomax also found the time to write his three-volume *Digest of the Laws Respecting Real Property* (1839) and his *Treatise on the Law of Executors and Administrators* (1841) in two volumes.

Also in 1831, a proprietary law school was founded in Staunton by Briscoe G. Baldwin. Sometime before 1839, Baldwin gave up his law teaching, and in that year, Judge Lucas P. Thompson opened his law school in Staunton. Not very much is known about either of these.

Federal judge John W. Brockenbrough established a law school in Lexington, thirty-five miles south of Staunton, in 1849. This school was highly successful by the standards of the time, averaging seventeen students a year until 1861, when the war closed the school.

During the Civil War, only the University of Virginia remained open. After the war, Brockenbrough reopened his law school and soon merged it into Washington and Lee University. The law department of the College of William and Mary did not reopen until the 1920s. However, a new law school was established at Richmond College (now called the University of Richmond) in 1870; the distinguished lawyer and scholar, William Green, was one of the first three law professors. Thus, there were law schools in the eastern, central, and western sections of the state. Nevertheless, only the one at the University of Virginia flourished; it was not until relative prosperity returned to the state in the 1890s that the other two did more than barely maintain their existence. After 1870 and until his death in 1895, Professor John B. Minor and his law lectures dominated the law school at the University of Virginia and, through their publication as *Institutes of Common and Statute Law* (1875–95), the entire legal community of Virginia.

B. English Ideas on Legal Education in Virginia

This essay considers next the use of English ideas on legal education in Virginia in the eighteenth and nineteenth centuries. Then it focuses upon the content and the purposes of legal education in England and in Virginia during that period.

In 1700 the only medieval laws in Virginia were those of the common law: barrister, a solicitor, or a judge. The American law books; most persons in the profession did an apprenticeship, studying law books, observing the courts in action, and since ceased to provide instruction in law. England and Virginia had the obvious importance of having schools on either side of the Atlantic. The Books, which were published in England and America, 

Introduction

In 1700 the only methods of legal education in England and Virginia were apprenticeship to a practicing lawyer, either a barrister, a solicitor, or a court clerk, and independent reading of law books; most persons seeking active membership in the legal profession did an apprenticeship supplemented by reading and observing the courts in action. In 1700 the inns of court had long since ceased to provide legal instruction, and the universities in England and Virginia had not yet begun to do so. However, the obvious importance of legal education was not overlooked on either side of the Atlantic Ocean.

Books, which were designed to aid the law student, were published in England and read in Virginia. Edmund Plowden's Queries (1620?, 2d ed. 1662) was owned by Richard Hickman, clerk of the Council of Virginia, in 1732 and by Henry Churchill of Fauquier County in 1762. The subtitle to the second edition of this book is "a Moot Book for Young Students." Robert Carter owned a copy of William Fulbeck, Direction of, or Preparative to, the Study of the Law (1600, 2d ed. 1620). Robert "King" Carter was not a lawyer, but he was the land agent for the Fairfax proprietary of the Northern Neck, a member of the House of Burgesses from 1691 to 1699, and a member of the General Court of Virginia from 1699 to 1732, the year of his death. Fulbeck advised the law student to keep a commonplace book and listed the various English law books in print, which were to be commonplace. John Doddridge, Lawyer's Light; or, a True Direction

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for the Study of the Law (1629), was owned by John Mercer.\(^5\)

Mercer, who died in 1768, had a very successful law practice in Virginia and was the author of *An Exact Abridgment of All the Public Acts of Assembly of Virginia, in Force and Use* (Williamsburg, 1737; 2d ed. Glasgow, 1759). Doddridge gave only general advice as to the study of the law, and he provided a list of principles and maxims. William Phillips, *Studii Legalis Ratio; or, Directions for the Study of the Law*, went through four editions in the late seventeenth century, in 1662, 1667, 1669, and 1675. There were copies in the libraries of Arthur Spicer\(^6\) and William Byrd, II.\(^7\) Spicer, who died in 1699, was a practicing lawyer, a justice of the peace, and a member of the House of Burgesses from 1685 to 1696. Byrd, a barrister of the Middle Temple, never practiced law, but he was a justice of the peace, a member of the House of Burgesses from 1696 to 1697, and a member of the General Court from 1709 to 1744.\(^8\) Phillips gave a list of English law books and then recommended a course of study. These books for students were thin in size and in content; one may very well speculate as to their lack of utility but source of disappointment to their long distance purchasers.

However, these seventeenth century books for law students were superseded in 1708 by William Bohun, *Institutio Legalis; or, Introduction to the Study and Practice of the Laws of England*, of which there were four editions by 1732 and at least eight copies present in colonial Virginia.\(^9\) This work was soon, in 1720, overshadowed by the first edition of Thomas Wood, *An Institute of the Laws of England*. This popular book went through eleven editions in the eighteenth century; there were ten copies known to be present in Virginia before the Revolution.

In 1708 and again in 1709, Doddridge gave a lengthy essay advocating the study of English law in the English universities. The Virginia Gazette, which are known to have been current in late 17th century Virginians were acquainted with current English ideas; they had been published in the mother country and the Virginia Gazette suggests that they might teach the law by a course of study.

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was owned by John Mercer. 5 Every successful law practice in Exact Abridgment of All the
in Force and Use (Williams-
Doddridge gave only general
, and he provided a list of
lips, Studii Legalis Ratio; or,
went through four editions in
62, 1667, 1669, and 1675.
Arthur Spicer 6 and William
, was a practicing lawyer, a
r of the House of Burgesses
of the Middle Temple, never
f the peace, a member of the
pills gave a list of English
course of study. These books
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century books for law students
Bohun, Institutio Legalis; or,
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32 and at least eight copies
work was soon, in 1720,
Thomas Wood, An Institute
ar book went through eleven
ere were ten copies known to

be present in Virginia before 1776. 10

In 1708 and again in 1727, Thomas Wood published a
lengthy essay advocating the teaching of the English municipal law
in the English universities. 11 Although no copies of this pamphlet
are known to have been present in colonial Virginia, eighteenth
century Virginians were certainly not isolated from England and
current English ideas; there was regular communication between
the mother country and the colony. In 1745, an essay in the
Virginia Gazette suggested that, as a means to improving the
quality of the bench and bar of Virginia, “Our own University”
might teach the law by a skilled professor. 13

However, the first teaching of English law in a university
was William Blackstone’s course of lectures at Oxford in 1753.
Whether Blackstone should have the credit for the idea is unclear.
In 1752, the preceding year, Charles Viner had made a will
leaving money to Oxford University to establish a professorship
of English law, and, independently, Sir William Murray (later
Lord Mansfield) had urged Blackstone to offer lectures on English
law, his application to
 teach
these havin~
unsuccessful. However, Blackstone is due the
credit for havmg put
the idea into execution. In 1756, Viner died, and, two years later,
Blackstone was elected the first Vinerian Professor of English
Law. 14 (In the 1760s, English common law began to be taught at
Trinity College Dublin. 15)

Blackstone’s lectures were an immediate success, and they

10 Bryson, Census, p. 81.

11 T. Wood, Some Thoughts Concerning the Study of the Laws of England,
Particularly in the Two Universities (1708, 2d ed. 1727); reprinted in M. H.

12 I.e. the College of William and Mary.

13 Virginia Gazette, October 10, 1745, p. 1.

14 H. G. Hanbury, The Vinerian Chair and Legal Education, pp. 12-13, 15
(1958).

15 In 1761, a chair of Feudal and English Law was established; the first
professor was Francis S. Sullivan; the second was Patrick Palmer: R. B.
(1982); the chair was held from 1776 to 1816 by Patrick Duigenan: J. V. Luce,
were soon published under the title of Commentaries on the Laws of England (1765-69). An edition was published in Philadelphia in 1771; both the English and the American editions sold widely in Virginia.16

In 1773, Clementina Rind’s Virginia Gazette published a substantial essay commenting on the projected addition to the fabric of the College of William and Mary. The author, an anonymous justice of the peace, eloquently advocated the establishment of a professorship of law at the College of William and Mary once the addition was finished.17 The inspiration for this essay must have been the successful lectures of Blackstone at Oxford. The 1745 essay in the Virginia Gazette would most likely have been forgotten by 1773, and contacts with Ireland at the time were slight compared to England. On the other hand, most, if not all, Virginia lawyers would have been familiar with Blackstone’s Commentaries.

Six years after the 1773 essay, the suggestion was acted on, and lectures on the common law were begun at William and Mary. Considering the turbulence of those years in America, it is not likely that any earlier action could have been taken. In 1779 under the leadership of Thomas Jefferson, a member of the board of visitors, the curriculum of the college was substantially changed. One of the most significant changes was the establishment of the professorship of law and police, and Jefferson’s former legal mentor, George Wythe, was installed in this chair.18 Chancellor Wythe, as is evident from his published opinions,19 was a true scholar of the law, and he looked to Blackstone’s Commentaries as the foundation of the educational system for the law students. Wythe’s legal education consisted of the study of Blackstone’s Commentaries, which he used throughout his life, and he is known as the “Father of American Legal Education.”

In 1790 Wythe resigned his position as a professor at the College of William and Mary, and for the next 10 years he practiced law in Williamsburg. In 1804, Wythe returned to the professorship of law and continued to teach until his death in 1806. During this time, Wythe’s influence on the legal education of American lawyers was significant.

Tucker resigned his position as a professor at the College of William and Mary in 1804, and for the next 10 years he practiced law in Williamsburg. In 1804, Tucker resigned his position as a professor at the College of William and Mary, and for the next 10 years he practiced law in Williamsburg. In 1804, Tucker resigned his position as a professor at the College of William and Mary, and for the next 10 years he practiced law in Williamsburg. In 1804, Tucker resigned his position as a professor at the College of William and Mary, and for the next 10 years he practiced law in Williamsburg.


21 Tucker’s edition of Blackstone’s Commentaries was published in 1841, and contains numerous footnotes that discuss the differences between Blackstone and modern constitutional law. See E. Dumbauld, Thomas Jefferson and the Law (1978); J. E. Morpurgo, The Essential Blackstone (1994).

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Taries as the foundation of his own lectures. The most famous person to hear Wythe's lectures was John Marshall, whose formal legal education consisted of attending them for three months in 1780.

In 1790 Wythe was succeeded as Professor of Law and Police at the College of William and Mary by St. George Tucker. Like Wythe under whom he had read the law, Tucker based his own lectures on Blackstone's Commentaries. The close connection between Blackstone and Tucker is shown by Tucker's preparing for publication an American edition of the Commentaries. Tucker's edition of Blackstone, which was published in 1803, contained numerous footnotes to Virginia and federal statutes that had changed the basic common law. Moreover, the first volume has such extensive additional appendices relating to Virginia and federal constitutional law that it had to be published in two books.

Tucker resigned his position on the faculty of William and Mary in 1804, and for the next thirty years, the chair was held by undistinguished local judges, of whom very little is known. Then in 1834, Tucker's younger son, Beverley Tucker, was appointed to the professorship of law. Beverley Tucker chose as his textbook his father's edition of Blackstone's Commentaries. However, as it


was for his father's course, Blackstone was not the entirety of the course but was rather the foundation and point of departure.\textsuperscript{24}

Beverley Tucker died in August, 1851, and little is known about the teaching methods of his immediate successor. In 1855 the chair of Law and Police in the College of William and Mary was given to Lucian Minor, and among the textbooks he assigned was Blackstone's \textit{Commentaries}.\textsuperscript{25}

Before passing on to the next university law school to be established in Virginia, we pause to consider several proprietary law schools. The first was that of Chancellor Creed Taylor, which was founded in 1821 in Needham, Virginia; Needham was roughly half way between Richmond and Lynchburg.\textsuperscript{26} Taylor's law school was organized to revolve around a series of moot courts at the trial level; Taylor did not lecture to his students. However, before a student could begin the moot court exercises, he was required to pass an examination based on a substantial list of books. This list, which was to be read in a prescribed order, began with \textit{Coke upon Littleton}; the second book was Tucker's edition of Blackstone's \textit{Commentaries}.\textsuperscript{27}

In 1824 Judge Henry St. George Tucker, the older son of St. George Tucker, began his law school in Winchester, Virginia. Henry Tucker found Coke's \textit{Institutes} to be "profound" and a "mine of learning." However, it was Blackstone who worked this mine and "brought order out of chaos and placed the study of the law in the rank of the sciences by system and classification." Blackstone's \textit{Commentaries}, on the other hand, "is to be regarded less as an institute of law than as a methodical guide or elementary work adapted to the commencement of a course of study. [Blackstone] treats most subjects in a manner too general and cursory to give to the student. Therefore, although Henry St. George Tucker aimed his students over the sections on government in Blackstone's \textit{Commentaries}, he did not believe in teaching "by textbooks with examination" as today call Socratic teaching. He based his course were \textit{Cruise, A Digest of the Law of Virginia} (New York 1827), Tucker's \textit{Commentaries for the Use of Virginia Lawyers}, and Common and Statue Law.\textsuperscript{28}

In 1831, Judge Taylor resigned his professorship, opened a law school in Richmond, and did not believe in teaching "by textbooks with examination." He based his course were \textit{Cruise, A Digest of the Law of Virginia} (New York 1827), Tucker's \textit{Commentaries for the Use of Virginia Lawyers}, and Common and Statue Law.\textsuperscript{28}


\textsuperscript{25} A. J. Rosser, Jr., "Lucian Minor," \textit{Legal Educ. in Va.}, p. 441.

\textsuperscript{26} S. A. Riggs, "Creed Taylor," \textit{Legal Educ. in Va.}, pp. 589–95.

\textsuperscript{27} C. Taylor, \textit{Journal of the Law School}, pp. 9–13 (1822), see below, p. 39.

\textsuperscript{28} H. St. G. Tucker, \textit{Commentaries for the Use of Virginia Lawyers} (Richmond, 1831), \textit{Commentaries for the Use of Virginia Lawyers} (Richmond, 1831), \textit{Commentaries for the Use of Virginia Lawyers} (Richmond, 1831).
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gage Tucker, the older son of school in Winchester, Virginia. es to be “profound” and a Blackstone who worked this s and placed the study of the system and classification.” her hand, “is to be regarded methodical guide or element of a course of study. a manner too general and

cursory to give to the student an adequate knowledge of them.”\textsuperscript{28} Therefore, although Henry Tucker based his course on Blackstone's \textit{Commentaries}, he added material on Virginia and federal law. Tucker aimed his law course at future lawyers and skipped over the sections on government and politics at the beginning of Blackstone's \textit{Commentaries}; it was his intention to come back to those topics at the end of the course, if time permitted.

Not only did Tucker base his law course on Blackstone's great publication, but Tucker also based his own two volume \textit{Commentaries on the Laws of Virginia, Comprising the Substance of a Course of Lectures Delivered to the Winchester Law School} on Blackstone. These two substantial volumes were first published in 1831 and were an encyclopedia of Virginia law. Tucker’s \textit{Commentaries} has a substantial basis in and numerous lengthy quotes from Blackstone’s \textit{Commentaries}, but the discussion of the British constitution and monarchy was replaced. By 1831 there was much Virginia material to be worked into Blackstone's outline, and Tucker must have labored long and hard to accomplish it. Tucker’s \textit{Commentaries} was the first substantial treatise on Virginia law, except for several earlier books written for justices of the peace. It continued to be the major work for Virginia lawyers and judges until John B. Minor’s \textit{Institute of Common and Statute Law} (1875–78).

In 1831, Judge John Tayloe Lomax, who had recently resigned his professorship of law at the University of Virginia, opened a law school in his home in Fredericksburg. Lomax did not believe in teaching law by lecturing to students but instructed “by textbooks with examinations and explanations” what we would today call Socratic teaching. The textbooks upon which Lomax based his course were Blackstone’s \textit{Commentaries}, William Cruise, \textit{A Digest of the Laws of England Respecting Real Property} (New York 1827), Tucker’s \textit{Commentaries}, and James Kent, \textit{Commentaries on American Law}.\textsuperscript{29}

John W. Brockenbrough, United States judge for the Western District of Virginia, opened his law school in Lexington in 1849. It is interesting to note that Judge Brockenbrough had received his legal education in Judge Henry Tucker’s Winchester

\textsuperscript{28} H. St. G. Tucker, “Introductory Lecture,” \textit{Notes on Blackstone’s Commentaries for the Use of Students}, p. 10 (1826), see below, p. 48.

Law School during the 1827–28 term. Brockenbrough taught by means of what he referred to as the “catechetical system of instruction.” This Socratic method of teaching consisted of a daily oral class room examination of the student that was based upon previously assigned texts; it was supplemented by the teacher’s explanations of the more difficult points. The textbooks that were assigned to the junior class, the beginners, were Blackstone’s *Commentaries* and H. J. Stephen, *Treatise on the Principles of Pleading*, plus an American book on the law of evidence and a digest of Virginia statute law.

Brockenbrough recognized that “law is a science,” and he recognized Blackstone’s work as “an elegant outline of the common and statute law of England.” “But,” the Virginia judge and law teacher continued, “the peculiar and distinguishing merit of this great work will be found in its beautiful analysis, the original suggestion of which is due to the master mind of Sir Matthew Hale.” He went on to state that Blackstone’s *Commentaries* was used as a text in every law school in England and the United States.

The second university law school in Virginia was begun in 1826 at the new University of Virginia in Charlottesville. Like the first one, it existed as a result of the inspiration and the personal efforts of Thomas Jefferson. Much effort was made to attract an eminent lawyer, jurist, or judge of Jefferson’s political persuasion to accept the chair of law, but the financial rewards were quite inadequate. Ultimately, the University had to settle on a young and unknown practitioner, John Tayloe Lomax.

Lomax assigned his law students a course of reading which he supplemented with lectures. Heading the list of textbooks was Blackstone’s *Commentaries*; other English law books assigned were Cruise on *Real Property*, Selwyn on *Nisi Prius*, and Maddock on *Chancery*.

John B. Minor, who taught law at the University of Virginia for fifty years, 1845 to 1895, based his lectures on Blackstone’s *Commentaries*. He assigned his first year students to read it along with other texts. The law books were given to the student followed Blackstone’s own *Commentaries on the Laws of England* from Blackstone through Smollett.

When the Richmond (Richmond) law school was founded, William Green, a prominent lawyer and jurist, chose Blackstone as the foundation of his course on American law. Green chose Blackstone’s work as an admirable restatement of the basic principles of law, founded on English law, and useful as a starting point for American students.

Even though for many years it was not available, it was an excellent textbook for those who wished to enter the field of law. Thus reading for the law schools was Blackstone. Often, prominent lawyers would read it in preparation for a case or argument that this writer could still find useful.

Although Jefferson was described in a letter to John Minor, 1818, as “the last perfect digram,” the *Commentaries* of Blackstone has always recommended Blackstone’s work.

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Brockenbrough taught by the "catechetical system of teaching", which consisted of a daily student that was based upon the teacher's comments. The textbooks that were beginners, were Blackstone's "Treatise on the Principles of Law" and a "law is a science," and he chosen Blackstone's because it was an admirable restatement of the law of England at the point of the separation of the American colonies. Since American law is founded on English law, he believed that it was a particularly useful starting point for American law students. Even though formal legal education in a law school was available, it was an expensive opportunity that many young men who wished to enter the legal profession simply could not afford. Thus reading for the law was the route more frequently taken. Often, prominent lawyers were asked to give advice as to what to read in preparation for a career at the bar, and all of the responses that this writer could find include Blackstone's "Commentaries."

Although Jefferson was skeptical of Blackstone, in 1814 in a letter to John Minor, he described Blackstone's "Commentaries" as "the last perfect digest of both branches of law." Jefferson always recommended Blackstone's "Commentaries" as a part of a


35 W. Green, Address to the Law Class of Richmond College, pp. 16-18 (1870), see below, pp. 197-200.

course of reading the law. On the other hand, Jefferson always recommended that *Coke upon Littleton* be read before Blackstone, and the edition of Blackstone would have been that of St. George Tucker. Tucker was firmly committed to Jeffersonian political principles, as appears from his appendices to Blackstone’s text.

William Wirt wrote in 1813 to Francis W. Gilmer suggesting a course of reading law. He advised beginning with St. George Tucker’s edition of Blackstone’s *Commentaries*, then consulting J. Chitty’s *Treatise on Pleading* and Matthew Bacon’s *Abridgment*, and finally reading the most recent reports of cases from England, America, and Virginia. Several months before he died, Wirt again responded with a letter of advice to a law student. This time he emphasized the need for a broad liberal education and mentioned, almost in passing, *Coke upon Littleton*, *Coke’s Reports*, *Plowden’s Reports*, Charles Fearne on *Contingent Remainders*, and Blackstone’s *Commentaries*.

In 1850 William Wirt Henry asked Professor John B. Minor of Charlottesville for advice on a course of reading for the bar. The then youthful teacher recommended that Henry make himself familiar with European political history, feudalism, and political science as a preliminary to the study of law. The order of law reading was first international law, then constitutional law, and lastly municipal law. Sufficient international law could be found in Kent’s *Commentaries*; *The Federalist Papers* and James Madison’s *Report of 1799–1800* would be enough constitutional law.

“Coming now to municipal law, I think your studies should embrace in succession *Commentaries*, and Tuck law would probably . . .

views of the federal Co Virginia, Minor advised P. Upshur’s *A Brief Em of Our Federal Govern time permit, it would be *History of the English L Gilbert’s Tenures, Sull Chancellors and [Lives: Smith’s *Leading Cases* events, to read at inter mastered Blackstone."

In mid–1838, Edwards began evenings. He began with the next two years, read thr and American legal tre; Snap 19, 1880, pp. 112-17 (1977).

42 See, e.g. Henry St. Baldwin, below, p. 61.
embraced in succession Blackstone’s Commentaries, Kent’s Commentaries, and Tucker’s Commentaries, which with the statute law would probably ... occupy you for a year.” Since Kent’s views of the federal Constitution were not generally accepted in Virginia, Minor advised Henry to reread Madison’s essay and A. P. Upshur’s A Brief Enquiry into the True Nature and Character of Our Federal Government (1840). Minor continued: “Should time permit, it would be of great service to you to read Reeves’ History of the English Law, Hale’s History of the Common Law, Gilber’s Tenures, Sullivan’s Lectures, Campbell’s Lives of the Chancellors and [Lives] of the Chief Justices of England, and Smith’s Leading Cases. The latter, indeed, you ought, at all events, to read at intervals, as soon as you have completed and mastered Blackstone.”

In mid-1838, eighteen-year-old Robert R. Howison of Fredericksburg began reading law in his spare time in the evenings. He began with Blackstone’s Commentaries, and for the next two years, read through a substantial number of basic English and American legal treatises. Then in 1840 he entered the local law school of Judge John T. Lomax.

The primary purpose of legal education in eighteenth and nineteenth century England and Virginia was to train future members of the legal profession how to practice in that profession in order to serve clients. It is fair to say that, then as now, this is the only interest of students. Nor can one be too critical of teenagers for having this limited approach to legal education. First, they are too young and inexperienced to have a very broad perspective, and second, they, for the most part, need an income to establish themselves and cannot afford to give time to public service at first.

On the other hand, the teachers of law, who will be much

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40 See below, pp. 153-55.


42 See, e.g. Henry St. G. Tucker’s letter of 5 June 1831 to Briscoe G. Baldwin, below, p. 61.
older than their students, will have a broader perspective and wider interests. They will want to introduce their students to the fullest extent of the law in its political and social aspects. Furthermore, teachers of the law will want to expose the general public to the law, particularly the members of the legislature who enact the law and the lay justices and constables who enforce it.

The law student and the law teacher, then as now, do not always appreciate fully the perspectives and goals of the other. It was obvious that legal education is important to those preparing to enter into the practice of law. It was not so straightforward that the study of law should be a part of a liberal education. However, in 1693, John Locke published the following much-read passage.

It would be strange to suppose an English gentleman should be ignorant of the law of his country. This, whatever station he is in, is so requisite that from a justice of the peace to a minister of state, I know no place he can well fill without it... And to that purpose [service to his country], I think the right way for a gentleman to study our law, which he does not design for his calling, is to take a view of our English constitution and government in the ancient books of the common law and some more modern writers who out of them have given an account of this government. And having got a true idea of that, then to read our history and with it join in every king's reign the laws then made. This will give an insight into the reason of our statutes and show the true ground upon which they came to be made and what weight they ought to have.

Copies of Locke's famous book were present in eighteenth century Virginia in the libraries of Thomas Jefferson, William Key, Samuel Peachy, and William Custis. Also, copies were stated succinctly the value of a country gentleman.

A competent man is a good foundation of a country gentleman, but I am in doubt whether it is safe to conclude that he is not a studious man in this [i.e., the giving] service to his country, both in giving good and enabling him to bring suits; and, which is a gentleman's ambition.

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45 J. Locke, Some Thoughts Concerning Education, § 187 (1693).


A competent measure of the knowledge of the law is a good foundation for distinguishing a gentleman; but I am in doubt whether his being for some time in the inns of court will contribute much to this if he is not a studious person . . . . A competent skill in this [i.e., the law] makes a man very useful in his country, both in conducting his own affairs and in giving good advice to those about him; it will enable him to be a good justice of peace and to settle matters by arbitration so as to prevent lawsuits; and, which ought to be the top of an English gentleman’s ambition, to be an able parliament man.  


John Clarke in his *Essay upon Study* (1731) expressed similar opinions. "The proper business of gentlemen as such is, I presume, to serve their country in the making or execution of the laws as likewise in preventing the breach and violation of them by preserving the peace and good order of the world about them . . . ." In Clarke's view, "the studies of most use to a gentleman . . . are . . . logic, eloquence, morality, and history, especially of his own country, with some knowledge of its laws and trade." “As for morality, or the law of nature and nations, the knowledge thereof is very useful and necessary for a gentleman, whether he be concerned in the making or execution of laws, and especially, in preventing of lawsuits by the arbitration of differences amongst neighbors . . . .” “I shall say no more upon this head than that a gentleman can hardly read Grotius, Pufendorf, and Barbeyrac too much.”

Thomas Wood, writing in 1720, approached the study of law primarily from a vocational point of view. His *Institute of the Laws of England* was a textbook for those reading the law in preparation for careers as barristers or solicitors. But Wood was also trying to reach the young gentlemen in the universities. In his preface, he wrote, “My intention, by this institute, is not only to help the students in the inns of court and chancery, but moreover to recommend the study of the English laws to our young nobility and gentry and to the youth in our universities.”

It may be that the primary object of Wood’s words were to sell more copies of his book. However, the idea of teaching law at a university to young persons who were not aiming at the practice of law was taken up and put into practice by Blackstone at Oxford. Blackstone offered his university lectures on the laws of England to both the future political leaders of Great Britain and the future practicing lawyers of the nation and its empire.

Although George Wythe’s lecture notes have been lost, there is other evidence that Wythe taught more than a narrow technical legal education, and indeed addressed the broader view of the legal education expected by Jefferson and the College of William and Mary’s Visitors when they created the chair of Law and Politics in 1779. In the eighteenth century, the education of future political leaders and the economy or public order were seen as the key goals of a university. It is thus not surprising that the College expected Wythe to offer his university lectures on the broader view of the legal education that Blackstone and his classmate and colleague, C. T. Cullen, argued that the teaching of political science also included teaching of political science. Wythe was thus expected to offer a political science education, and indeed he did.

Wythe’s immediate predecessor at the College of William and Mary, Beverley Tucker, based his *Lectures on the Science of the Student for the Study of Law* (1845) on Blackstone’s *Commentaries*. Tucker too was well aware that the law were taught to young men who were not aiming at the practice of law, and indeed his book was intended to be a guide for all young men. He addressed only principles of law and observed that he was not teaching technical legal education, and indeed addressed only principles of law and observed that he was not teaching technical legal education.
There is other evidence that he followed Blackstone’s dual educational goals of preparing practicing lawyers and future politicians. Not only did he lecture to his students and conduct a moot court, but also he presided over a mock legislature for his students in order to prepare them for future political service. Moreover, this broad view of the legal curriculum at William and Mary was expected by Jefferson and the other members of the Board of Visitors when they created the new chair of Law and Police in 1779. In the eighteenth century, the word police meant political economy or public order; today, they would have named it the chair of Law and Political Science. Thus, the visitors of the College expected Wythe to aim at both targets.

Wythe’s immediate successor, St. George Tucker, also had the broader view of legal education. Based on the appendices to his edition of Blackstone’s Commentaries, which had its genesis in his classroom lectures, Tucker appears to have limited his teaching of political science to what we would today call constitutional law. But, perhaps in 1800, that distinction would not have been recognized.

Beverley Tucker, on the other hand, was much more interested in the political science aspect of his professorship than the strictly legal aspect. His major published work was A Series of Lectures on the Science of Government, Intended to Prepare the Student for the Study of the Constitution of the United States (1845). This is not to say that the latter was neglected; in 1846, he published a law book entitled The Principles of Pleading.

Tucker based his lectures on Blackstone’s Commentaries, but he changed the order of presentation so that the principles of the law were taught first and the principles of government followed. However, his introductory lecture to his law students addressed only principles of government and politics, and he observed that he was required by the College to teach constitutional law. Tucker stated:

But this is not a mere school of professional education, and it is made my duty, by the statutes

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essays on legal education in virginia

of the College, to lecture especially on the constitution of this state and of the United States. In the discharge of this duty it may be necessary to present views more important to the statesman, than to the mere practitioner . . .

The mind of the student of law is the ground in which correct constitutional opinions and sound maxims of political law should be implanted. The study of the common law involves the study of all the rights which belong to man in a state of society. 56

On the other hand, Beverley Tucker concluded his course with a valedictory address that said nothing about politics or constitutional law. He stressed heavily the importance of the "science of pleading" and the rules of evidence, and he ended with much common sense advice for the young practicing lawyer. 57

The law curriculum of the University of Virginia, from its beginning, included a liberal education within the perspective of training legal practitioners. However, in three years, this was modified to emphasize the more practical side of legal education to benefit impecunious law students who could afford only one year at a university. The subjects that were most basic to the practice of law were rearranged so that they could all be completed in one year. 58 John A. G. Davis succeeded John T. Lomax in 1830 as professor of law. Davis restructured the law curriculum to include in the first year junior course natural law, international law, political science, constitutional law, and English legal history along with the basic subjects of municipal law. The senior course included more details of common and statute law, plus equity and maritime law.

George Tucker retired from the faculty in 1841 to succeed Davis with a drunken student, he continued to teach, law, government, and constitutional law, but they were not the favorites of John B. Minor. Minor also taught while he taught the basic "science of pleading, Statute Law." 59

The proprietary war appear not to have affected the law, or jurisprudence, but the curriculum of the new law school.

Thus one is left with the question of Blackstone's Commentaries, indirectly, the authority on which Davis was this work the general legal education was generally followed and his lectures on the subject that the older books were superior. However, the publication of Blackstone's work, the immediate reaction. More 60

56 N. B. Tucker, A Lecture on the Study of Law, p. 19 (1834), see below, p. 93.

57 N. B. Tucker, "Professor Beverley Tucker's Valedictory Address to His Class," Southern Literary Messenger, vol. 1, pp. 597-602 (July 1835), see below, pp. 103-12.

58 P. A. Bruce, History of the University of Virginia 1819-1919, vol. 2, pp. 102-03 (1920).
especially on the constitution of the United States. In the future it may be necessary to teach law to the statesman, than the lawyer.

The importance of law is the ground for all opinions and sound judgments to be implanted. The study of all sciences helps to resolve the study of all laws in a state of society.

Tucker concluded his course on natural law, teaching nothing about politics or government. He recognized the importance of the study of evidence, and he ended his lectures by teaching the young practicing lawyers.

The university of Virginia, from its opening within the perspective of the American Revolution, in three years, this was the beginning of the legal education of lawyers who could afford only one school and the academic side of legal education. Tucker structured the law curriculum in 1841 to succeed Davis who had been murdered by a rowdy and drunken student, he continued to teach natural law, international law, government, and constitutional law. These subjects continued in the law school curriculum after his resignation in 1845, but they were not the favorite subjects of his successor, Professor John B. Minor. Minor assigned them to his assistant professors while he taught the basic course, which was entitled Common and Statute Law.

The proprietary law schools before the American Civil War appeared not to have taught constitutional law, international law, or jurisprudence, but these subjects were a part of the law curriculum of the new law school at Richmond College in 1870.

III

Thus one is left with the observation that after the publication of Blackstone’s Commentaries, Blackstone was, directly or indirectly, the authority for legal education in Virginia. Not only was this work the general beginning for the study of law, but it was generally followed as to its broad scope of legal study. The ideas on the subject that preceded it were incorporated into it, and the older books were superseded and forgotten.

However, the publication of the Commentaries provoked an immediate reaction. Most of the responses were positive, but a few were critical.


60 H. St. G. Tucker, Introductory Lecture, pp. 9–11 (1841), see below, pp. 134–36; his lectures on constitutional law were published in 1843, and those on government and on natural law in 1844.

61 J. Ritchie, The First Hundred Years: A Short History of the School of Law of the University of Virginia for the Period 1826–1926, pp. 37, 45, 48 (1978).


63 Tucker’s edition of Blackstone’s Commentaries “fixed the Blackstone tradition” in America: A. Z. Reed, Training for the Public Profession of the Law, p. 117 (1921).
few were highly critical.

In reference to Blackstone’s opinions that “the common law of England, as such, has no allowance or authority” in the American colonies, Land Carter noted with ire in 1774 in his private diary:

By this doctrine the colonists are in a legal view considered by the parent state as infidel or a conquered people; and are only subject to the Parliament and not as her children with her consent establishing societies. Further he [Blackstone] adds they are not only subject to the control of Parliament but the king may alter and impose what laws on them he pleases. What does he mean here by the word principally? Can he allude to the humanity and justice of the first settlers of some colonies who purchased the lands of the natives? If he does, it must be an ill directed humanity or a very useless exercise of their virtue to posterity; for if by accident they had settled an uninhabited country the invaluable rights of the common law would have attended them; but when they dared to attempt a settlement by humanity and justice, they forfeited all right to the common law to the latest ages. In support of this law, which every man of common sense must shudder at, he cites cases, every one of which make a distinction between settlements

64 W. Blackstone, Commentaries, vol. 1, p. 105 (1765).

65 Blankard v. Galdy, 2 Salkeld 411, 91 Eng. Rep. 356 (K.B. 1693) (Jamaica); the second case cited by Blackstone supports him rather than Carter in that Chief Justice Holt said “for the laws of England do not extend to Virginia, being a conquered country their law is what the king pleases”: Smith v. Brown, 2 Salkeld 666, 91 Eng. Rep. 566, 567; Anonymous, 2 Peere Williams 75, 24 Eng. Rep. 646 (Ch. 1722); Calvin’s Case, 7 Coke Rep. 1, 17, 77 Eng. Rep. 377, 397, 398 (Ex. Cham. 1608) (Scotland; the case of the postnati; the exact distinction discussed by Blackstone and Carter is not made in this case); Calvin’s Case was discussed in the argument of Dutton v. Howell, Shower Parl. Cas. 24, 31, 1 Eng. Rep. 17, 21 (H.L. 1693) (Barbados). Calvin’s Case determined that a Scot born after the king of Scotland became king of England was a subject of the king of England and entitled to the civil rights of Englishmen, e.g., to own land in England, but Calvin’s Case did not discuss the settlement of a vacant land.

Jefferson’s skepticism was grounded on two fears. A student finds and his indolence understands that the body of the law. Second, Jefferson to John Tyler, 26 A. E. Bergh, eds., Writings of Thomas Jefferson to Thomas


67 Thomas Jefferson to Jefferson to John Tyler, 26 A. E. Bergh, eds., Writings of Thomas Jefferson to Thomas
INTRODUCTION IN VIRGINIA

Jefferson’s skepticism of Blackstone’s Commentaries was grounded on two fears. First, he thought that law students and practitioners would think too highly of the work and not go beyond it in their legal researches and preparations.

A student finds there a smattering of everything, and his indolence easily persuades him that, if he understands that book, he is master of the whole body of the law. The distinction between these and those who have drawn their stores from the deep and rich mines of Coke [upon] Littleton seems well understood even by the multitude of common people, who apply the appellation of Blackstone lawyers to these ephemeral insects of the law.\textsuperscript{67}

Second, Jefferson thought that by reading Blackstone’s law book, the youth of America would be turned into anti-republican political conservatives. In 1814, Jefferson wrote in a letter, “In truth, Blackstone and Hume . . . are making tories of those young Americans whose native feelings of independence do not place

- composed of English subjects and those composed of conquered people. Therefore, according to his reasoning the conquerors are the conquered, and the drivers out of the natives are the very natives themselves; and those who owned by fair purchases are the very infidels driven out and no longer possessing. This is the species of law in many instances which has given that monster a reputation in the courts of law. Is he not then either an ass or a villain?\textsuperscript{66}


them above the wily sophistries of a Hume or a Blackstone."

Before the revolution, Coke (upon) Littleton was the universal elementary book of law students, and a sounder whig never wrote, nor of profounder learning in the orthodox doctrines of the British constitution, or in what were called English liberties. You remember also that our lawyers were then all whigs. But when his black-letter text, and uncouth but cunning learning got out of fashion and the honied Mansfieldism of Blackstone became the student’s hornbook, from that moment, that profession (the nursery of our Congress) began to slide into toryism, and nearly all the young brood of lawyers now are of that hue. They suppose themselves, indeed, to be whigs because they know no longer what whigism or republicanism means.

The most famous negative response was that of Jeremy Bentham with his A Fragment on Government: Being an Examination of What is Delivered on the Subject of Government in General in the Introduction to Sir William Blackstone’s Commentaries (1776). Bentham’s ideas were incorporated into the lectures of John Austin.

Austin in a preparatory note to a lecture, which he never completed, wrote:

The method observed by Blackstone in his far too celebrated Commentaries is a slavish and blundering copy of the very imperfect method which Hale delineates roughly in his short and unfinished Analysis. From the outset to the end of his Commentaries, he blindly adopts the mistakes of his rude and compendious model missing invariably, with a nice and surprising infelicity, the pregnant but obscure suggestion and correction of attention, and which was fitted to satisfy an impatient and inventive mind comparatively just. Nor in the detail, nor in the particle of originality (as commonly believed), of his reading with criticism. He owed the effectual art of a but effectual artifice of the mischievous flattered the over-entertained by the manner which sufficed a but effectual artifice of the manner which sufficed an unaffected yet graceful and inflexible statue.

William Green Blackstone and then complemented it with quotations from respecting them Sir William Jones say:

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70 This was first published in the works: J. Austin, Lectures on Legislation (1886). W. Green, Address, p. 15 (1878).

71 W. Green, Address, p. 15 (1878).
Hume or a Blackstone." 68

[upon] Littleton was of law students, and not of profounder tenets of the British lawyers were then in Black-letter text, and not out of fashion and Blackstone became the moment, that profession began to slide the young brood of They suppose themselves because they know no republican means. 69

Response was that of Jeremy Blackstone's Commentaries incorporated into the lectures of a lecture, which he never

Blackstone in his far too lavish and blundering method which Hale short and unfinished the end of his Commentaries the mistakes of his missing invariably, felicity, the pregnant

William Green quoted John Austin's snide opinions of Blackstone and then countered them with numerous laudatory quotations from respected English lawyers and judges, among them Sir William Jones and Justice Coleridge. 71 Green went on to say:

This was first published in Robert Campbell's 1869 edition of Austin's works: J. Austin, Lectures on Jurisprudence, vol. 1, p. 71 (1869); quoted in W. Green, Address, p. 16 (1870), see below, p. 198.

W. Green, Address, pp. 16–17 (1870), see below, pp. 198–99.
The fault, if fault it be, which doubtless first and most provoked Mr. Austin's ire, was Blackstone's optimism, as it has been called; his propensity to praise the constitution and laws of England in their existing state at the time he wrote, as being not only the best then in the world, but also the best that could be. That he sincerely thought so, Mr. Austin, with his estimate of Blackstone's force of mind, should in common candor have believed, from his own statement of what was then an almost unanimous opinion in England. At any rate, so complete and total is the dissent therefrom among us [Americans] that I cannot imagine there is the least danger of poisoning [American students'] minds therewith ....

These attacks went primarily to Blackstone's political views. Naturally, whigs and republicans disagreed with his conservative opinions on government. However, the law professors in Virginia did not see his antithetical political opinions as a reason to ignore the entire work. St. George Tucker added his own lectures on constitutional law as appendices to his edition of the Commentaries. Henry Tucker and Beverley Tucker put the political section of their courses at the end; thus if time ran out, this part would get short shrift, if any. All of the Virginia law professors gave their students their own opinions of constitutional law and either ignored Blackstone's or used them as a foil.

It was Blackstone's succinct and well-written survey of the entire law of England that made it so attractive as a textbook for law students. It was at the same time an outline and an encyclopedia. It was clearly written and could be read by a beginning law student with relative ease of comprehension in a fairly short period of time. Of course, there were errors in the law here and there and occasional overgeneralizations, but they were relatively few, and the diligent lawyer would go behind Blackstone's text to the primary sources. While it was not perfect, it was far better than anything that had gone before. It most certainly aided in the learning of the law and resulted in a better trained bar. And thus it was the foundation of legal education in Virginia from 1775 to 1875.

C. Conclusion

As Sir William Blackstone replaced the apprenticeship education, he was in turn replaced by the lecture instruction. This latter method at the Harvard Law School replaced the lecture and focus on secondary legal literature as the primary sources of the law. The true foundation of the School rests upon their selection of basic legal treatises. Such works still have tremendous value, not only to students, but to the courts.

Although Blackstone's ideas of legal education were current in Virginia, the methods of the Virginia teachers were very different from those of the Virginia teachers of the 19th century. The Virginia teachers felt that their students should learn the true foundation of the law from the primary sources of the law, and to the courts. Each Virginia teacher had his own ideas on how to teach law, and they were quite creative. This created a tremendous value, not only to students, but also to the courts.

Today the lecture method is replaced by the Socratic method, or the case method. Blackstone's ideas are still used, though not as frequently as they were in the past. Each teacher has his own ideas on how to teach law, and they are quite creative. This creates a tremendous value, not only to students, but also to the courts.

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72 W. Green, Address, pp. 17–18 (1870), see below, pp. 199–200.
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C. Conclusion

As Sir William Blackstone and his lectures and books
placed the apprenticeship as the preferred method of legal
education, he was in turn superseded by the case method of legal
instruction. This latter method was begun by Dean C. C. Langdell
at the Harvard Law School in 1870. This pedagogical innovation
replaced the lecture and the classroom quiz and discussion based
on secondary legal literature and substituted the examination of
the primary sources of the law, the reports of cases. However,
the true foundation of the fame of the faculty of the Harvard Law
School rests upon their succession to Blackstone as writers of the
basic legal treatises. Such legal scholarship was and still is of
tremendous value, not only to the law student but also to the bar
and to the courts.

Although Blackstone was the preeminent influence on the
ideas of legal education in the first two-thirds of nineteenth
century Virginia, the methods of teaching law varied considerably,
as the essays printed here well demonstrate. The general content
of Blackstone’s ideas on the common law was well received,
but the Virginia teachers felt quite free to use different methods of
delivery: socratic, moots, lectures. They were aware of each
other’s opinions; their introductory lectures were in print, and the
legal community was small and gregarious. Nevertheless, they
each had their own ideas of legal education, some of them being
quite creative. This creativity was stifled by the impoverishment
of the state by the Civil War and Reconstruction. From 1865 to
1900, legal education flourished in Virginia only at the University
of Virginia, and there it was dominated by one man, John B.
Minor. After 1900, Minor’s influence was gradually superseded
by that of Langdell.

Today the lecture method of legal instruction used by
Minor and the case method used by Langdell are being ques-
tioned, though not actually rejected. But this collection of essays
illustrates an earlier period of creative thinking heretofore over-

73 See generally R. B. Stevens, Law School: Legal Education in American
from the 1850s to the 1980s (1983); W. P. LaPiana, Logic and Experience: The
Origin of Modern American Legal Education (1994); W. R. Johnson, Schooled
looked, and this is the justification for reprinting them. Perhaps, some of these teachers' ideas and techniques may be useful, interesting, or instructive to the present generation.

Virginia Gazette (Rind), 1757

There is yet another this country, which I shall, the attention not only of the and Mary] but even of the that is, the establishment By virtue of my under the necessity of a I had not long acted in the of law, too, in the proceedings were sometimes even observe them at a properly attended to, where hended it might have been be unassisted by able la together singular in that case of this inconvenience.

When a young gen applies to some attorney a few declarations, reads the Virginia laws, and practice a profession, this is perhaps utterly unacquainted at his first setting out, without to authors, and, in one last, nor gives himself the of what he reads. Far better

daily observation shows a representation.

By establishing gentlemen, who are ob blies through want of repair to a place where pursuing their studies instead of an inexplora

74 I.e., statutes.
There is yet another object of the greatest importance for this country, which I shall beg leave to mention, and which merits the attention not only of the governors of the College [of William and Mary] but even of the general legislative body of this colony, that is, the establishment of a professorship in the law.

By virtue of my office [as a justice of the peace], I am under the necessity of attending the county court where I reside, I had not long acted in the capacity of a judge before I discovered great confusion, want of argument, of reasoning and, I conceived, of law, too, in the pleadings of some of our lawyers. Their proceedings were sometimes exceedingly perplexed, and I could even observe them at a stand[still] in some points, which when properly attended to, were sufficiently clear. At first I apprehended it might have been the peculiar fate of my own county to be unassisted by able lawyers; but since I find we are not altogether singular in that respect, I have been led to reflect on the case of this inconvenience and the means of removing it hereafter.

When a young gentleman has resolved to study the law, he applies to some attorney for his advice, assists him in copying a few declarations, reads the first book of Coke upon Littleton, and the Virginia laws,\textsuperscript{74} and then applies for a license, and begins to practice a profession, the grounds and first principles of which he is perhaps utterly unacquainted with. He is involved in difficulties at his first setting out, which he is unable to remove by referring to authors, and, in one continued scene of error, plods on to the last, nor gives himself the least trouble to investigate the reason of what he reads. Far be it from me to allege this generally, but daily observation shows that there is but too much truth in the representation.

By establishing a professorship in the law many of those gentlemen, who are obliged to struggle with the greatest difficulties through want of proper books and proper instructions, would repair to a place where they might enjoy the most ample means of pursuing their studies with success, where the road to truth, instead of an inexplorable wilderness, would be opened to them,

\textsuperscript{74} I.e., statutes.
and where they might unravel the mysteries, and reconcile the seeming absurdities, of the profession they were studying under the auspices of an able professor.

Were I worthy of proposing anything to the consideration of a legislative body, long revered for the wisdom of their laws and regulations, I should recommend the encouragement of such a plan of education. If the candidates for the bar were obliged to go through a regular course of lectures on the civil and municipal laws at the College, and to attend the General Court when sitting, where they might imbibe proper ideas of the practice of the law, at the same time that they received the greatest instruction from the learned arguments and judicious determinations there, I am persuaded our gentlemen of the bar would appear to much greater advantage than at present, and in a couple of years, with such assistance, I conceive that they would be much better qualified for their business than in double that time without it.

The plan that I would propose, therefore, is that when the additional building to the College is erected, that a professor of law be appointed, who shall read a regular and complete course of lectures on the law once in a year, and that no persons but those who have attended the lectures of such professor for two years, and have attended the General Court whilst sitting, during that period, shall be admitted to practice as counsel, or as attorneys, in any of the county courts in this colony, except such persons who have been admitted to practice in other places, and upon examination should be found qualified for it.

I would also propose that after attending the lectures of such professor and the General Court, whilst sitting, for four years, all candidates for the profession of the law, who upon examination should be found qualified to practice, shall be admitted to practice in the General Court of this colony and at the county courts at the same time. By this means, the study of the law, as a science, would be infinitely encouraged, and we might expect to see the practice of it on the most respectable footing in this country.
INTRODUCTION

FREQUENTLY CITED BOOKS


Coke, Edward. *Institutes*. 4 vols. London, 1628–44. [There were numerous later editions. The first volume, which is on land law, is frequently referred to as *Coke upon Littleton*.]

