

1979

# A Bibliography of Virginia Legal History Before 1900

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## Recommended Citation

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A Bibliography of  
Virginia Legal History  
Before 1900

William Hamilton Bryson

University Press of Virginia  
Charlottesville

THE UNIVERSITY PRESS OF VIRGINIA  
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*First published 1979*

Library of Congress Cataloging in Publication Data

Bryson, William Hamilton, 1941-

A bibliography of Virginia legal history before 1900.

Includes index.

1. Law—Virginia—Bibliography. 2. Law—Virginia—  
History and criticism—Bibliography. I. Title.

KFV2401.B78 016.34'009755 78-26684

ISBN 0-8139-0773-X

Printed in the United States of America

Ref.  
KFV  
2401  
.B78

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## Preface

I would like to acknowledge the patience and kindness of Mr. McDonald Wellford and of the many librarians who have aided me in the course of the compiling of this work, in particular the members of the staffs of the Virginia Historical Society, the Virginia State Library, the University of Richmond, and the University of Virginia. I hope that this bibliography may in return be of service to all of them. Also, I would like to acknowledge the services of J. M. Apgar, L. M. Baylor, P. D. Carnegie, D. R. Lombart, J. G. Rosenberger, Jr., R. D. Shrader, Jr., and M. C. Walsh, my former law students, who helped me by searching the various periodicals for appropriate entries. Finally, my appreciation is due to the Committee on Faculty Research and to the Faculty Publication Committee of the University of Richmond for their generous support in the publication of this book.

W.H.B.

*Richmond, Virginia*  
*June 1978*

## Introduction

My first venture into the subject of Virginia legal history demonstrated the great need for a bibliographical guide to the field. I therefore began keeping and then collecting entries for such a work, since it appeared that no one else would. It is my desire to share here the results with my historian colleagues and my brothers at the bar.

Bibliographical completeness is an unattainable ideal, but it is believed that it was the pursuit rather than the vision of the Holy Grail that was the virtue. Let the size of this bibliography not deceive anyone into the belief that the legal history of Virginia has been written already. Very few of the entries here were written in the past decade or so in order to chronicle the legal past. What is presented here is printed secondary data from which the legal history of Virginia can be written. This lack of historical writing on the subject is unfortunate, especially because, in my opinion, the law is more the product of past experience, history, than of abstract logic. To understand the modern law we need to appreciate its antecedents. The purpose of this bibliography then is to facilitate the writing of legal history. Perhaps it should have been entitled *A Bibliography for Legal Historians*.

Many of the entries refer to articles and books which were written before 1900 and were never intended to be historical treatments of their subjects but rather to be commentaries on the contemporary law. These are, of course, historical sources for the modern writer. The other major type of entry is biographical sketches, usually obituaries, of judges and lawyers. Obituaries in newspapers have not been included. The periodical sources have been searched through the last 1977 issues.

This bibliography is limited to secondary materials because the references to the primary sources are already readily available. The

editions of the reports of cases are listed in an appendix to W. H. Bryson, ed., *The Virginia Law Reporters Before 1880* (1977). The legislative compilations are catalogued by G. E. Macdonald in her *Check-List of Statutes* (1937), pp. 138-141, and *Check-List of Session Laws* (1936), pp. 250-256, and by E. G. Swem in the *Bulletin of the Virginia State Library*, vol. 3, pp. 355-441 (1910) (conventions and constitutions), vol. 10 (1917) (official documents), vol. 12, pp. 1-71 (1919) (colonial acts and journals). Accounts of trials are included; printed briefs are not.

The legal historian lives with two problems which defy satisfactory solution. These are, of course, how far does the law extend and when does history stop. The law touches all aspects of human existence, but some practical limits must be found for this bibliography. Therefore I have taken the more traditional and restricted view and have limited the scope to the common and statute law, its administration by the bench and the bar, and its study by teachers and their students. As to the second problem, it may be that the present is but a moment between the past and the future. However, this solution places too great a burden upon the conscientious historian. Therefore I have arbitrarily drawn the line at 1900. This gives us almost 300 years to deal with. Finally I have omitted material dealing with federal law and with lawyers who were primarily politicians, such as Jefferson, or primarily national figures, such as Marshall.

The compiling of this bibliography has extended over several years, and on some days I was in a more expansive frame of mind than on others. Therefore, if any entry might appear to be outside of the stated scope of this work, consider it to be the thirteenth roll of the baker's dozen.