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The Winchester Law School, 1824–1831

W. HAMILTON BRYSON AND E. LEE SHEPARD

On March 5, 1824, Henry St. George Tucker was elected by the General Assembly of Virginia to be the judge of the circuit superior court of chancery to sit in Winchester and Clarksburg. Tucker had built up a very successful law practice in Winchester, where he had settled in 1802 upon his admission to the bar. He had also built up a large family; he had six sons and two daughters as well as three children who died young. The elevation to the bench resulted in an increase in professional status, but it also resulted in a substantial decrease in income. In order to remedy this financial development without ethical prejudice to his professional development, he opened a law school. This solution was, no doubt, an obvious one, as his father, the eminent Judge St. George Tucker, had done the same in 1790, when he became the professor of law and police in the College of William and Mary.

On April 11, 1831, Judge Henry Tucker was elected to a position on the Court of Appeals of Virginia. This required him to be in attendance in Richmond, and that made necessary the closing of the Winchester Law School. Tucker's law school was successful from its inception until its termination, but little is known about it today. It is the purpose of this article to describe a successful venture in American legal education during the early days of the republic.

The Teacher

Henry St. George Tucker was born on December 29, 1780, at Matoax, Chesterfield County, Virginia, near Petersburg.¹ He received his liberal arts and his legal education at the College of William and Mary.

1. For more complete details of Tucker's career, see A. E. Cassidy, "Henry St. George Tucker, Legal Educator" (M.A. thesis, College of William and Mary, 1978); J. R. Tucker,

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His father was St. George Tucker (1752–1827), who came to Williamsburg from Bermuda to read law under George Wythe. St. George Tucker settled in Virginia, joined the Patriot cause in the movement for independence, practiced law, became a judge of the General Court of Virginia in 1788, was elected the second professor of law and police at the College of William and Mary in 1790, and edited Blackstone's *Commentaries* for the use of his students in 1803. He later was a judge of the Court of Appeals of Virginia from 1804 to 1811 and of the United States District Court for the District of Virginia from 1813 to 1825.² Thus, Henry Tucker grew up in a legal family. When the time was ripe, he attended his father's law lectures at William and Mary. In 1802, when his course of law studies had been finished, he moved to Winchester to set himself up in practice, believing he would have more success as a beginning lawyer in a place where there were fewer lawyers than in eastern Virginia.

His mother was Frances Bland (1752–1788). Her father was Theodorick Bland, whose mother was Elizabeth Randolph. Thus, she was descended from William Randolph (1650–1711) of Turkey Island, Henrico County.³ Frances's first husband was John Randolph (1742–1775), a second cousin, and one of their children was John Randolph of Roanoke (1773–1833).⁴ Thus, this famous politician was Henry Tucker's half brother.

Henry Tucker's older full sister, Anne Frances Bland Tucker (1779–1813), married John Coalter (1769–1838), who sat on the Court of Appeals of Virginia from 1811 to 1831.⁵ His younger full brother was Nathaniel

"The Judges Tucker of the Court of Appeals of Virginia," *Virginia Law Register* 1 (1896): 796–812; D. M. Cobin, "Henry St. George Tucker: Jurist, Teacher, Citizen, 1780–1848," *Journal of the Winchester-Frederick County Historical Society* 6 (1992): 4–41; B. R. Tucker, *Tales of the Tuckers: Descendants of the Male Line of St. George Tucker of Bermuda and Virginia* (Richmond: Dietz, 1942), 12–17; D. M. Cobin, "Tucker, Henry St. George," *American National Biography* 21 (1999): 894–95; A. M. Dobie, "Tucker, Henry St. George," *Dictionary of American Biography* 10 (1936): 32–33.

2. See generally C. T. Cullen, *St. George Tucker and Law in Virginia, 1772–1804* (New York: Garland, 1987); M. H. Coleman, *Saint George Tucker, Citizen of No Mean City* (Richmond: Dietz, 1938); C. T. Cullen, "St. George Tucker," in W. H. Bryson, *Legal Education in Virginia* (Charlottesville: University Press of Virginia, 1982), 657–86; C. T. Cullen, "St. George Tucker," in W. H. Bryson, *Virginia Law Reporters before 1880* (Charlottesville: University Press of Virginia, 1977), 96–105.

3. G. L. Randolph, *Randolphs of Virginia* (Atlanta: n.p., 1990), 511–13.

4. Russell Kirk, *John Randolph of Roanoke* (Chicago: University of Chicago Press, 1951); H. A. Garland, *The Life of John Randolph of Roanoke* (Philadelphia: Appleton, 1850); W. C. Bruce, *John Randolph of Roanoke, 1773–1833* (New York: Putnam's, 1922).

5. E. T. Bryan, "Some Further Account of John Coalter," *Augusta Historical Bulletin* 4.2 (1968): 20–24; J. Coalter, "Copy of a Sketch of John Coalter in His Own Hand Writing," *Augusta Historical Bulletin* 4.2 (1968): 17–19; J. S. Bryan, "John Coalter," *Reports of the Virginia Bar Association* 41 (1929): 460–68.

Beverley Tucker (1784–1851), who is best known for his political writings and as the professor of law and police at the College of William and Mary from 1834 to 1851.⁶ While Beverley Tucker may have been a “prophet of the Confederacy,” at this time the vast majority of Virginians, including Henry Tucker, were firmly committed to the Union.

Henry’s wife was Ann Evelina Hunter (1789–1854), who was a niece of David Hunter (1761–1813). It was from David Hunter that Henry Tucker got his most lucrative legal practice. Hunter was an investor in real estate, and he was the plaintiff in the famous case of *Hunter v. Fairfax’s Devisee*.⁷

These family connections, especially his father’s reputation as a legal scholar, helped attract attention and students to the Winchester Law School.

From 1802 to 1824, Henry Tucker built up a substantial legal practice in the Winchester area. (He was admitted to the bar of the Court of Appeals of Virginia in 1807.) He was also active in politics. He was a member of the Virginia House of Delegates from 1806 to 1808, the United States House of Representatives from 1815 to 1818, and the Senate of Virginia from 1819 to 1823. These political offices gave him a public visibility that was national; the friendships he made in the state and national legislatures certainly helped in the referral of students to his law school.

On March 5, 1824, he was elected by the general assembly to be the chancellor for the fourth district, which included the counties surrounding Winchester and Clarksburg.⁸ He was widely regarded as a very good equity judge. Evidence of the high quality of his judicial work is the opinion he wrote in the case of *Selden v. Loudoun County Overseers of the Poor*.⁹ This opinion dealt with an important issue of church and state, upholding the constitutionality of the Virginia acts that confiscated the glebe lands

6. B. D. Tucker, *Nathaniel Beverley Tucker: Prophet of the Confederacy, 1784–1851* (Tokyo: Nan’Un Do, 1979); R. J. Brugger, *Beverley Tucker: Heart over Head in the Old South* (Baltimore: Johns Hopkins, 1978); R. J. Brugger, “Nathaniel Beverley Tucker,” in Bryson, *Legal Education in Virginia*, 642–56.

7. *Hunter v. Fairfax’s Devisee*, 15 Va. (1 Munford) 218 (1810), *rev’d sub nom. Fairfax’s Devisee v. Hunter’s Lessee*, 11 U.S. (7 Cranch) 603 (1812); *on remand sub nom. Hunter v. Martin*, 18 Va. (4 Munford) 1 (1813), *rev’d sub nom. Martin v. Hunter’s Lessee*, 14 U.S. (1 Wheaton) 304 (1816). Tucker represented Hunter’s successor in interest in the United States Supreme Court in the second appeal. F. T. Miller, “John Marshall versus Spencer Roane: A Reevaluation of *Martin v. Hunter’s Lessee*,” *Virginia Magazine of History and Biography* 96 (1988): 297, 300–305.

8. Virginia House of Delegates Journal, 1823–24, 209.

9. This opinion was published as a twenty-six page pamphlet in Leesburg, Virginia, by B. W. Sower in 1830; it was reprinted as an appendix to volume two of Tucker’s *Commentaries on the Laws of Virginia*, 2d ed. (1837) and at pages 445–56 in an appendix to volume one of the third edition of that work in 1846.

belonging to the Episcopal Church.¹⁰ On April 11, 1831, he was elevated from this judgeship to the Court of Appeals of Virginia.¹¹

The election to the bench in 1824 was a prestigious and well-deserved honor, but it entailed a decrease in income. To remedy this financial loss, Tucker opened his law school. Tucker wrote to his father "I must do that or go to farming, for as Death said to Dr. Hornbock 'Folk maun do something for their bread.'"¹²

Judge Henry Tucker's daily routine was described by his son:

He rose at four o'clock in the morning, wrote his notes for the press before breakfast and after that devoted the remainder of the morning until court to the study of his cases. He went into court at mid-day and heard arguments and decided cases. In the afternoon, he lectured on his printed notes. At night, he studied his court cases and retired about ten o'clock after relieving the mental pressure by social intercourse with family and friends, enjoying music and conversation. This routine he kept up the greater part of the year.¹³

Tucker initially decided:

to adopt Mr. Blackstone's *Commentaries* as a text book and to connect with it such additional matter as seemed advantageous in the form of annotations. These were delivered to the student at first from a manuscript. But in less than a fortnight, it became perfectly obvious that oral lectures on so abstruse a science would make so little impression on the mind as to leave scarcely a trace behind. He, therefore, commenced striking off the annotations, as fast as they were prepared, and the sheets, wet from the press, were delivered to the student as they came out for his perusal in his chamber. These sheets were afterwards bound up and constituted the volume of *Notes* which has been partially in circulation. They were never designed for publication, but as most of the students took copies of the work, the original impression was soon exhausted and the editor found himself at the conclusion of the last course under the necessity of having a new edition of his labours for the use of his future classes.¹⁴

10. See generally G. M. Brydon, "The Antiecclesiastical Laws of Virginia," *Virginia Magazine of History and Biography* 64 (1956): 259–85.

11. Virginia Senate Journal, 1830–31, 252; Virginia House of Delegates Journal, 1830–31, 302.

12. Letter of H. St. G. Tucker to St. George Tucker, April 4, 1824, Tucker-Coleman papers, Swem Library, College of William and Mary [hereafter Swem]; H. St. G. Tucker, *Commentaries on the Laws of Virginia* (1831), 1: i.

13. Tucker, "The Judges Tucker of the Court of Appeals of Virginia," 801; reprinted in *Reports of the Virginia Bar Association* 41 (1929): 446.

14. H. St. G. Tucker, *Commentaries on the Laws of Virginia* (1831), 1: i; see also Letters of H. St. G. Tucker to St. George Tucker, December 19, 1824, and March 21, 1825, Tucker-Coleman papers, Swem.

And thus his *Notes on Blackstone's Commentaries* (1826) came into being. From 1826 to 1831, this book was expanded into his *Commentaries on the Laws of Virginia* in two very substantial volumes. There were two later editions of this, in 1836 and in 1846; the third edition was reprinted in 1998.¹⁵

When he was elected to the court of appeals, which had its headquarters in Richmond, he could no longer continue to operate the Winchester Law School, and it was closed.

After a very successful decade as president of the court of appeals, Tucker retired to become the professor of law at the University of Virginia. During his second tenure as a law teacher, in addition to the basic law course, he taught several academic law courses: constitutional law, government, and natural law. Each of these courses of lectures led to published books.¹⁶ His political philosophy was conservative, and he advocated a strict construction of the United States Constitution; thus, these works have been overlooked by modern scholarship. He was forced to resign his professorship in 1845 due to ill health, and he died in Winchester on August 28, 1848.

He had numerous children, the most prominent of whom was John Randolph Tucker (1823–1897), lawyer, attorney general of Virginia, professor of law and then dean at Washington and Lee University, and long-time member of Congress.¹⁷

The School

Winchester, in 1824, was an important town. It was the county seat of Frederick County. Furthermore, it was a commercial center not only for the local area but also for the interstate traffic on the Great Wagon Road, a turnpike running from Philadelphia to Lancaster, Pennsylvania, to Hagerstown, Maryland, to Winchester and Lexington in Virginia, Charlotte, North Carolina, and Augusta, Georgia.¹⁸

15. Henry St. George Tucker, *Commentaries on the Laws of Virginia, Comprising the Substance of a Course of Lectures Delivered to the Winchester Law School* (Winchester: Printed at the Office of The Winchester Virginian for the Author, 1831); 2d ed. (Winchester: Printed at the Office of The Republican for the Author, 1836); 3d ed. (Richmond: Colin & Shepherd, 1846); reprint with intro. by D. M. Cobin and P. Finkelman (Union, N.J.: The Lawbook Exchange, Ltd., 1998).

16. *Lectures on Constitutional Law* (Richmond: Shepherd & Colin, 1843); *Lectures on Government* (Charlottesville: Alexander, 1844); *A Few Lectures on Natural Law* (Charlottesville: Alexander, 1844).

17. C. V. Laughlin, "John Randolph Tucker," in Bryson, *Legal Education in Virginia*, 624–38.

18. Parke Rouse, Jr., *The Great Wagon Road from Philadelphia to the South* (New York: McGraw-Hill, 1973).

The Winchester Law School was located in Tucker's home at 37 South Cameron Street in the town of Winchester.¹⁹ The students lived in nearby boarding houses.²⁰ For the 1826–1827 session, the law school students' expenses were \$75 for tuition, \$10 for the book, \$75 for board, and \$6 for washing.²¹

The term began in early November of each year.²² There was a moot court in June and July, and we can assume that it was similar to the moot court experience that Tucker had had as a law student at the College of William and Mary.

The concept of a proprietary law school was certainly not original to Henry Tucker. The first and the most well known was the Litchfield Law School, which was founded in Connecticut in 1784 by Tapping Reeve.²³ Peter Van Schaack had a law school at Kinderhook, New York, and there were others.²⁴ These institutions grew out of the apprenticeship as a method of legal instruction. Apprenticeships were not very effective because, even when coupled with a course of reading law books, the apprentice's curriculum was not as broad as it should have been. More important, most masters were poor and neglectful teachers, using their apprentices as mere scribes, even though the masters usually received a substantial fee. A good master, on the other hand, might attract a number of apprentices. At some point, the number of applicants would justify establishing a class with lectures for the students, a law school. Once the idea of a proprietary law school was seen to be possible, a lawyer or judge might set up a school and solicit students in the same way a person, usually a clergyman, might set up a grammar school. A course of lectures would be a more comprehensive experience than copying out the pleadings for the routine and repetitious cases that would be brought to a practicing lawyer.

19. G. R. Quarles, *The Schools of Winchester, Virginia* (Winchester: n.p., 1964), 30–31; G. R. Quarles, *The Story of One Hundred Old Homes in Winchester, Virginia* (Winchester: n.p., 1967), 118.

20. Letter of H. St. G. Tucker to St. George Tucker, November 20, 1825, Tucker-Coleman papers, Swem.

21. Letter of Charles Campbell to J. W. Campbell, February 27, 1827, Charles Campbell papers, Swem.

22. Letters of H. St. G. Tucker to St. George Tucker, November 20, 1825, and November 5, 1826, Tucker-Coleman papers, Swem.

23. From 1811 to 1832, there were twenty-two law students from Virginia at Litchfield; it was a steady trickle of one or two each year. A. J. Morrison, "Virginia and North Carolina at the Litchfield Law School," *Tyler's Quarterly* 2 (1921): 157–58. See generally, M. C. McKenna, *Tapping Reeve and the Litchfield Law School* (New York: Oceana, 1986); S. H. Fisher, *Litchfield Law School* (New Haven: Yale University Press, 1933).

24. A. Z. Reed, *Training for the Public Profession of the Law* (New York: Carnegie Foundation, 1921), 128–33, 431–33.

Nor was the Winchester Law School the first proprietary law school in Virginia. The first was that of Chancellor Creed Taylor. There is evidence that he had a law school in Richmond in 1810. When he moved to his home in Needham, Cumberland County, Virginia, in 1821, he most definitely had a law school there, but, unfortunately, very little is known about it.²⁵ Whether it was still in existence in 1824, when Tucker established his law school in Winchester, is a matter of speculation only.

Not only did Henry Tucker have competition from these distant private law schools, but also there were two university law schools in Virginia alone that aspiring law students could attend, the College of William and Mary and the University of Virginia. These two law schools, both inspired by Thomas Jefferson, aimed at a philosophical legal curriculum influenced by the ideas of the Enlightenment.²⁶ Such ideals, however, do not appeal very much to teenagers seeking to become practicing lawyers, and Tucker was able to compete for students very successfully.²⁷

An indication of the success of the Winchester Law School and of the general concept of private law schools is the founding of two additional ones in Virginia in 1831, just at the time Tucker was closing his. They were the law schools of Judge John T. Lomax in Fredericksburg²⁸ and of Judge Briscoe G. Baldwin in Staunton.²⁹ Both judges turned to and received advice from Tucker as to creating and operating their own new law schools. Tucker also took the opportunity to offer for sale to their students his *Commentaries on the Laws of Virginia* (1831), which had been published just when he was forced to end his own law school.³⁰ Lomax's school was very successful, but little is known about Baldwin's. Thus, the Winchester Law School, though its duration was short, was part of a flourishing tradition of legal education.

25. See generally S. A. Riggs, "Creed Taylor" in Bryson, *Legal Education in Virginia*, 589–95, 762–63.

26. R. J. Honeywell, *The Educational Work of Thomas Jefferson* (New York: Russell and Russell, 1964); P. D. Carrington, "The Revolutionary Idea of University Legal Education," *William and Mary Law Review* 31 (1990): 527–74; D. M. Douglas, "The Jeffersonian Vision of Legal Education," *Journal of Legal Education* 51 (2001): 185–211. It should be noted that Jefferson gave up the practice of law in 1774. F. L. Dewey, *Thomas Jefferson: Lawyer* (Charlottesville: University Press of Virginia, 1986), 107.

27. See below.

28. Lomax had resigned his law professorship at the University of Virginia because of the low pay. See generally, E. L. Shepard, "John Tayloe Lomax," in Bryson, *Legal Education in Virginia*, 358–66.

29. See generally, E. L. Shepard, "Briscoe Gerard Baldwin," in Bryson, *Legal Education in Virginia*, 66–72.

30. Letters of H. St. G. Tucker to Briscoe Gerard Baldwin, May 5, 1831, and June 5, 1831, printed in W. H. Bryson, *Essays on Legal Education in Nineteenth Century Virginia* (Buffalo: Hein, 1998), 59–63.

The Curriculum

The curriculum of the Winchester Law School followed closely the content of William Blackstone's *Commentaries on the Laws of England* (1765–1769). This was the curriculum of the law lectures of Tucker's father, which he had attended at the College of William and Mary. Blackstone's *Commentaries* was used as a textbook in all American law schools before the case method of legal instruction was begun in 1870 by Dean Langdell at Harvard Law School.³¹ However, the political sections of Blackstone's treatise were moved to the end of the course in the event that there would not be time to adequately cover the technical legal subjects. Tucker explained in his "Introductory Lecture" dated November 1826:

I have supposed that I could not do better than to make the *Commentaries* of Blackstone my textbook and to engraft thereon all that might seem necessary to render complete what he may have too cursorily passed over. In the execution of this task I have been led to add very copiously to many parts of his work by extracts from other valuable essays and occasionally by such explanations and illustrations as have occurred to my own mind and seemed calculated to facilitate the comprehension of a difficult subject. By pursuing this method I am enabled to lay before the student a larger portion of the doctrines of the common law and of the principles of British adjudications than is to be found in the *Commentaries* while all the advantages of Mr. Blackstone's arrangement will be preserved. Following the same system, I have engrafted on the whole the provisions of the statutes of Virginia and of the laws of the United States together with a notice of the most important cases to be found in our reports.

In one respect I have thought it advisable to deviate from the course of the Commentator. According to the arrangement of his work, that part of it which may be considered political first claims the attention of the student. Upon the principles of his analysis such an arrangement is perfectly correct, but as it is my purpose to devote our time here to law, rather than to politics, I shall pass over that part of his subject, unless at the conclusion of our term we may find time enough to treat of it.³²

The organization and scope of Blackstone's *Commentaries* are closely followed in Henry Tucker's two books for students, *Notes on Blackstone's Commentaries for the Use of Students* (1826) and *Commentaries on the Laws of Virginia, Comprising the Substance of a Course of Lectures De-*

31. Bryson, "Introduction," *Essays on Legal Education in Nineteenth Century Virginia*, 13–34.

32. H. St. G. Tucker, *Notes on Blackstone's Commentaries for the Use of Students* (Winchester: Davis, 1826), 11; reprinted in Bryson, *Essays on Legal Education in Nineteenth Century Virginia*, 50–51.

livered to the Winchester Law School (1831). However, Tucker omitted Blackstone's chapters on Parliament, the Crown, and the clergy, which are in Book One; this material was not relevant to the practice of law in nineteenth-century America. The political and religious structure of eighteenth-century Britain was of historical interest to nineteenth-century Virginia, but it had little to do with the current legal and political pursuits of Tucker's post-Independence law students.

Tucker also omitted entirely Book Four of Blackstone's *Commentaries*, which covers the criminal law. Tucker said "I have excluded both the political part of Mr. Blackstone's work and that portion which is devoted to the subject of criminal law, believing that on these topics the student would not need my assistance."³³ The criminal law of Virginia had been substantially revised following Independence,³⁴ and this made many sections of Blackstone no longer useful to nineteenth-century students. It is to be noted that Judge Tucker's court, being a court of equity, had no jurisdiction over criminal matters. Moreover, the practice of criminal law, at this time, was more a matter of oratory to be learned by practice in the courtroom than subtle legal analysis to be learned by study in the classroom.

Thus, Tucker emphasized the technical aspects of the law at the expense of the liberal arts side of the subject. This is not surprising, for the Winchester Law School was not an academic institution or part of a university. On the other hand, it was much more than a group of apprentices reading law at the same time with a practicing lawyer, judge, or clerk of court. The students attended formal lectures that covered the entire gamut of the practical side of the law (except for criminal law). Tucker's students used his father's edition of Blackstone's *Commentaries*, which were originally written for students doing an academic course of legal study at the University of Oxford and were edited for law students at the College of William and Mary.

The Pedagogy

Henry Tucker taught his law classes by daily lectures and oral examinations; each Saturday, he delivered a review lecture and "reviewing exami-

33. H. St. G. Tucker, *Commentaries on the Laws of Virginia* (1831), 1: vi; reprinted in Bryson, *Essays on Legal Education in Nineteenth Century Virginia*, 51, n. 1.

34. K. Preyer, "Crime, the Criminal Law, and Reform in Post-Revolutionary Virginia," *Law and History Review* 1 (1983): 53-85; reprinted in K. L. Hall, ed., *Crime and Criminal Law* (New York: Garland, 1987), 653-85; see generally C. T. Cullen, "Completing the Revisal of the Laws in Post-Revolutionary Virginia," *Virginia Magazine of History and Biography* 82 (1974): 84-99.

nation."³⁵ In addition to his weekly examinations throughout the course, there was a general examination at the end of the entire term.³⁶ (Since the Winchester Law School was not chartered by the state, there was no authority for the award of academic degrees.)

At the close of his years of teaching at the Winchester Law School, he shared with Briscoe G. Baldwin, who was in the process of setting up his own law school, this advice:

There is, however, great advantage derived from the reading aloud or delivery of lectures. It commands attention and makes an impression which gives rise to an eager curiosity to examine the subject in the closet. Had I possessed that ready and unembarrassed flow of graceful elocution, which some men have, I should, instead of reading my lectures to the class, have delivered the substance of them each day in an *ex tempore* address and with all my deficiencies in this way I had determined to make the experiment next year, but my recent appointment,³⁷ like a nipping frost, has cut down this [?] Institution I so fondly cherished to the very root. I would recommend to you to make the experiment. Set apart in your own mind the portion of your textbooks for the day's study. Prepare yourself for delivering the matter of it in the form of an *ex tempore* or conversation [?] lecture, and then direct the student to the sources to which he must apply for information. In this way, you will command more attention than if you merely read, as I did, what he is to read. For when he knows that he has the same book which you read, he will be less attentive; whereas, if you speak *ex tempore*, he listens with eagerness lest you may drop something which he may not find elsewhere. I always observed that, however languid attention might be while I was reading, the instant I took my eyes from the book and commenced some incidental remarks or illustration, every student's attention was rivetted and every evidence of listlessness disappeared.³⁸

Tucker's law school also had a moot court. For the 1827–28 session, it was held in June and July 1828, but there were only eight students who stayed in Winchester for it.³⁹ This was probably typical; Tucker wrote in 1831 that most of his students stayed for only for four or five months.⁴⁰

35. Letter of H. St. G. Tucker to St. George Tucker, December 19, 1824, Tucker-Coleman papers, Swem.

36. Letter of Charles Campbell to Elizabeth M. Campbell, January 29, 1827; letter of Charles Campbell to J. W. Campbell, February 27, 1827, Charles Campbell papers, Swem.

37. I.e., to the Court of Appeals of Virginia on April 11, 1831.

38. Letter of H. St. G. Tucker to Briscoe Gerard Baldwin, June 5, 1831, printed in Bryson, *Essays on Legal Education in Nineteenth Century Virginia*, 62.

39. "Law School of H. St. G. Tucker in Winchester," *William and Mary Quarterly*, 2d ser., 10 (1930): 310.

40. Letter of H. St. G. Tucker to Briscoe Gerard Baldwin, June 5, 1831, printed in Bryson, *Essays on Legal Education in Nineteenth Century Virginia*, 61.

The Students

1824–1825

On December 19, 1824, Tucker wrote his father that he had eleven students, but he did not name them.⁴¹ Two of them were:

_____ Cabell⁴²

* Charles L. Powell (1804–1896) Alexandria City⁴³

1825–1826

On September 3 and November 20, 1825, Tucker reported that he had eleven students, including two from Georgia.⁴⁴ The following have been identified:

Charles James Faulkner (1806–1884) Berkeley County⁴⁵

Maurice Hamner Garland (1803–1840) Lynchburg⁴⁶

* Thomas Skinker (1805–1887) Fauquier County⁴⁷

Henry St. George Tucker (1809–1826) Winchester⁴⁸

1826–1827

On November 5, 1826, Tucker wrote that he had thirty students, including some from Alabama, Ohio, and all parts of Virginia.⁴⁹ Charles Campbell wrote his mother in January 1827 that the class then con-

41. Letter of H. St. G. Tucker to St. George Tucker, December 19, 1824, Tucker-Coleman papers, Swem. There were also six part time students, practicing lawyers who attended only the Saturday morning lectures. *Ibid.*

42. Letter of H. St. G. Tucker to St. George Tucker, September 3, 1825, Tucker-Coleman papers, Swem.

43. The asterisks indicate that circumstantial evidence suggests the dates of attendance, but they are not confirmed by definitive sources.

44. Letter of H. St. G. Tucker to St. George Tucker, November 20, 1825, Tucker-Coleman papers, Swem.

45. He received his B.A. from Georgetown University. He was a member of Congress from 1851 to 1859 and from 1875 to 1877; he was U.S. minister to France from 1859 to 1861. *Biographical Directory of the U.S. Congress, 1774–1989* (Washington: G.P.O., 1989), 985; D. L. Pulliam, *The Constitutional Conventions of Virginia* (Richmond: West, 1901), 105. Letter of Edward Everett to Charles J. Faulkner, January 6, 1826, and moot court materials, Faulkner family papers, Virginia Historical Society, Richmond.

46. Letter of Maurice H. Garland to Charles J. Faulkner, December 13, 1833, Faulkner family papers, Virginia Historical Society.

47. He attended Hampden-Sydney College from 1822 to 1823 and took his A.B. from Union College in 1825. A. J. Morrison, *College of Hampden Sidney Dictionary of Biography, 1776–1825* (Hampden-Sydney: n.p., 1921), 240.

48. This was Tucker's oldest child.

49. Letter of H. St. G. Tucker to St. George Tucker, November 5, 1826, Tucker-Coleman papers, Swem.

sisted of forty-four, one of whom had just arrived.⁵⁰ Some of them were:

Thomas Atkinson (1807–1881) Dinwiddie County⁵¹

Charles Campbell (1807–1876) Petersburg⁵²

Charles James Faulkner (1806–1884) Berkeley County

* John H. Lee, Orange County⁵³

Isaac Samuel Pennybacker (1805–1847) Shenandoah County

* Daniel Polsley (1803–1877) Marion County⁵⁴

_____ Van Ness, Vermont

1827–1828⁵⁵

William Dandridge Alexander (1805–1869) Rockbridge County

Samuel W. Beall, Rockville, Md.

John Brewer, Montgomery County, Md.

John White Brockenbrough (1806–1877) Richmond City⁵⁶

John Armistead Carter (b. 1808) Richmond County⁵⁷

Robert Hill Carter (1806–1884) Albemarle County

Wilson Miles Cary (1806–1877) Fluvanna County

_____ Chandler, Georgia

William S. Daniel (b. 1806) Fairfax County

_____ Davidson, District of Columbia

Lewis F. Douglass, Leesburg

_____ Field, Culpeper County

50. Letter of Charles Campbell to Mrs. M. W. Campbell, January 1827, Charles Campbell papers, Swem.

51. He took his B.A. from Hampden-Sydney College in 1825; he was bishop of North Carolina from 1853 to 1881. Morrison, *College of Hampden Sidney Dictionary of Biography*, 260–61; letter of Charles Campbell to J. W. Campbell, March 18, 1827, Charles Campbell papers, Swem.

52. *Ibid.*

53. Letter of John H. Lee to Charles Campbell, December 26, 1826, Charles Campbell papers, Swem.

54. He was a member of Congress from 1867 to 1869 and a district court judge in West Virginia from 1863 to 1866. *Biographical Directory of the U.S. Congress*, 1659; G. W. Atkinson and A. F. Gibbens, *Prominent Men of West Virginia* (Wheeling: Callin, 1890), 231.

55. "Law School of H. St. G. Tucker in Winchester," 310–11.

56. He was Commonwealth's Attorney for Hanover County in the early days of his law career, United States Judge for the Western District of Virginia from 1846 to 1861, and Confederate Judge for the Western District of Virginia from 1861 to 1865. He operated a private law school in Lexington from 1849 to 1861, and from 1866 to 1873, he taught law at Washington College (which was renamed Washington and Lee University in 1870). C. V. Laughlin, "John White Brockenbrough" in Bryson, *Legal Education in Virginia*, 98–104.

57. He was a member of the Virginia House of Delegates from 1842 to 1844 and 1874 to 1877, the Senate of Virginia from 1859 to 1861, and the Virginia Constitutional Conventions of 1850 and 1861. W. H. Gaines, *Biographical Register of Members, Virginia State Convention of 1861* (Richmond: Virginia State Library, 1969), 25–26.

_____ Fry, Jefferson County
 William Leftwich Goggin (1807–1880) Bedford County⁵⁸
 _____ Huston [Houston?], Rockingham County
 William Cost Johnson (1806–1860) Frederick County, Md.
 Philip Pendleton Kennedy (1808?-1864) Jefferson County
 Zaccheus Collins Lee (1805–1859) District of Columbia
 _____ McDonald, western Virginia
 Wiley Roy Mason (b. 1806?) Fredericksburg
 _____ Nesbit, Georgia
 Uriah Parke, Frederick County
 John Pierce, Leesburg
 _____ Servis, District of Columbia
 Washington George Singleton (b. 1796?) Winchester
 Francis Lee Smith (1808–1877) Fauquier County
 George Washington Southall (1810–1854) Williamsburg
 Alexander M. Sterrett, Baltimore, Md.
 William B. Tinsley, Hanover County
 Gerard Bond Wager, Harpers Ferry
 George R. Warner, Baltimore, Md.
 _____ Watkins, Prince Edward County
 John Wilson, Portsmouth
 Henry Alexander Wise (1806–1876) Northampton County⁵⁹

1828–1829⁶⁰

Mason Barnes, Frederick County, Md.
 Samuel W. Beall, Rockville, Md.
 _____ Bower, Fauquier County
 Flavius Braden, Loudoun County
 _____ Bronaugh, Romney, Hampshire County
 John Armistead Carter (b. 1808) Richmond County
 William Bowen Campbell (1807–1867) Sumner County, Tenn.⁶¹
 _____ Claiborne, Brunswick County
 _____ Davis, Frederick County, Md.

58. He was a member of Congress from 1839 to 1849 except for 1846 and the Virginia Constitutional Convention of 1861. *Biographical Directory of the U.S. Congress*, 1069.

59. He was a member of Congress from 1833 to 1844 and governor of Virginia from 1856 to 1860. M. B. Chesson, "Wise, Henry Alexander," *American National Biography* 23 (1999): 681–83.

60. "Law School of H. St. G. Tucker in Winchester," 310–11.

61. He was a member of Congress from 1837 to 1843 and from 1866 to 1867, a circuit court judge in Tennessee from 1847 to 1850, and governor of Tennessee from 1851 to 1853. J. W. Caldwell, *Sketches of the Bench and Bar of Tennessee* (Knoxville: Ogden Bros., 1898), 190–98; *Biographical Directory of the U.S. Congress*, 737.

_____ Gibbs, South Carolina
 _____ Glover, Boston, Mass.
 _____ Henderson, western Virginia
 Edmund P. Hunter (1809–1854) Martinsburg, Berkeley County
 William Cost Johnson (1806–1860) Frederick County, Md.
 William A. Jones, Louisiana
 _____ Lewis, western Virginia
 James D. Ligon (1808–1884) Prince Edward County⁶²
 Samuel A. Maverick, South Carolina
 Benjamin Henry Magruder (1808–1885) Fluvanna County
 Josiah Matthews, Georgia
 Levi Orme Conner Nicklin (1807–1876) Culpeper County
 George N. N. Porter, Powhatan County⁶³
 _____ Selden, Powhatan County
 Washington George Singleton (b. 1796?) Winchester
 Francis Lee Smith (1808–1877) Fauquier County
 George Washington Southall (1810–1854) Williamsburg
 Henry Street, Hanover County
 William H. Syme, Hanover County
 Tazewell Taylor (1810–1875) Norfolk City⁶⁴
 _____ Thompson, South Carolina
 John Wilson, Portsmouth

1829–1830

In January 1831, Tucker wrote that “for the last four years [the] class has varied from twenty-five to forty-four members. . . .”⁶⁵ Two of them were:

John Zachary Holladay (1806–1842) Spotsylvania County⁶⁶
 Robert Mercer Taliaferro Hunter (1809–1887) Essex County⁶⁷

62. He took his B.A. from Hampden-Sydney College in 1827. Morrison, *College of Hampden Sidney Dictionary of Biography*, 279.

63. He was a member of the Virginia House of Delegates in 1840. Morrison, *College of Hampden Sidney Dictionary of Biography*, 275.

64. He was a member of the Virginia Constitutional Convention of 1850. Pulliam, *The Constitutional Conventions of Virginia*, 113.

65. H. St. G. Tucker, *Commentaries on the Laws of Virginia* (1831), 1: ii.

66. S. T. L. Anderson, *Lewisese, Meriwethers and Their Kin* (Richmond: Dietz Pr., 1938), 373.

67. Letter of the law class of the Winchester Law School to Robert M. T. Hunter, Feb. 21, 1831, Hunter-Garnett papers, Alderman Library, University of Virginia. Hunter was a member of the Virginia General Assembly from 1834 to 1837, the United States House of Representatives from 1837 to 1843 and 1845 to 1847, the United States Senate from 1846 to 1861, then Confederate Secretary of State from 1861 to 1862, Senator in the Confederate Congress from 1862 to 1865, and treasurer of Virginia from 1874 to 1880. C. H. Ambler, “Hunter, Robert Mercer Taliaferro,” *Dictionary of American Biography* 5 (1933): 403–5.

1830–1831

In January 1831, Tucker wrote that “for the last four years [the] class has varied from twenty-five to forty-four members, and at this date are thirty-nine.”⁶⁸ Some of them were:

J. Y. Armstrong
 Giles Cook (1812–1891) Frederick County⁶⁹
 William Henry Daingerfield (1808–1854?) Alexandria
 T. S. Hall
 James Madison Jeffries (1810–1890) King and Queen County
 Henry W. Johnson (1808–1841) Louisa County
 Robert Eden Lee (1810–1843) Fauquier County
 Merrit Moore Robinson (1810–1850) Fluvanna County⁷⁰
 F. S. Strother

Dates of Attendance Unknown

David Walker Barton (1800–1863)
 Robert James Brent (1811–1872)⁷¹
 John Randolph Chambliss (1809–1875) Sussex County⁷²
 Robert Young Conrad (1805–1875) Winchester⁷³
 Alexander Parker Eskridge (1806–1877) Winchester
 Michael Hoke (1810–1844) Lincoln County, N.C.⁷⁴
 John Jolliffe (1804–1868) Frederick County
 Luke Kemper [1826 session?]
 George Hay Lee (b. 1808) Winchester⁷⁵
 William Lucas (1800–1877) Jefferson County⁷⁶
 E. A. Lynch?

68. H. St. G. Tucker, *Commentaries on the Laws of Virginia* (1831), I: ii.

69. He was a member of the Virginia Constitutional Convention of 1850 and Commonwealth's Attorney for Warren County. Pulliam, *The Constitutional Conventions of Virginia*, 104.

70. Letters of M. M. Robinson to Conway Robinson, January 15 and March 20, 1831, Robinson family papers, Swem.

71. Brent was Attorney General of Maryland in 1851. “Brent Family,” *Virginia Magazine of History and Biography* 20 (1912): 434.

72. He took his B.L. from the College of William and Mary in 1830; he was a member of the Virginia Constitutional Conventions of 1850 and 1860; he was Commonwealth's Attorney for Greensville and Sussex counties. Pulliam, *The Constitutional Conventions of Virginia*, 103.

73. Obituary of William Lucas by J. Fairfax McLaughlin in Lucas family papers, Virginia Historical Society, Richmond.

74. J. H. Wheeler, *Historical Sketches of North Carolina* (1851) 2:246.

75. He was a judge on the Court of Appeals of Virginia from 1852 to 1861. T. R. Morris, *The Virginia Supreme Court* (Charlottesville: University Press of Virginia, 1975), 29, 32, 172.

76. He was a member of Congress from 1839 to 1841 and from 1843 to 1845 and the Virginia Constitutional Convention of 1850. *Biographical Directory of the U.S. Congress*, 1397.

Robert Jacob Paulson (1806–1862) Accomack County
 Green Berry Samuels (1806–1859) Rockingham County⁷⁷
 Francis Thomas
 Uriel Wright (1805–1869) Madison County⁷⁸

These enrollment figures compare with some other contemporary American law schools as is shown in Table 1.

Table 1. Comparative Enrollments at Law Schools

	Winchester Law School	University of Virginia ^a	Litchfield Law School ^b	Harvard College	Yale College
1824–25	11	—	23	12	13
1825–26	11	—	24	12	16
1826–27	44	40	32	8	10
1827–28	34	19	19	8	20
1828–29	31	31	18	6	20
1829–30	25	24	16	24	21
1830–31	39	25	14	31	33
College of William and Mary: Unknown ^c					
Needham Law School: Unknown ^d					

a. Source: 1972 *Directory of Alumni of the Law School [of] the University of Virginia* (Charlottesville: University of Virginia Law School, 1972), 1–2.

b. Source: A. Z. Reed, *Training for the Public Profession of the Law* (New York: Carnegie Foundation, 1921), 450 (as to Litchfield, Harvard, and Yale).

c. All of the records of the College of William and Mary were lost in the disastrous fire of February 8, 1859. S. H. Godson et al., *The College of William and Mary: A History* (Williamsburg, Va.: King and Queen Press, 1993), 1:287–88.

d. For the Needham Law School, a proprietary venture, see S. A. Riggs, "Creed Taylor" in W. H. Bryson, *Legal Education in Virginia* (Charlottesville: University Press of Virginia, 1982), 589–95, 762–63.

Conclusion

The Winchester Law School continued the Blackstone legacy of formal, systematic legal education. Even though the Winchester Law School was never chartered by the state and given the power to grant academic degrees, it performed the same function as a university affiliated law school. It covered in detail and in breadth the entire gamut of the practical side of the civil law. Certainly, the nearly two hundred persons who had studied there

77. He was a member of Congress from 1839 to 1841 and judge on the Court of Appeals of Virginia from 1852 to 1859. Morris, *The Virginia Supreme Court*, 32, 172.

78. He was a member of the Missouri state legislature from 1836 to 1837 and the Missouri Convention of 1861. *The Bench and Bar of St. Louis* (St. Louis: American Biographical Publishing Co., 1884), 255–56.

were better lawyers as a result of the legal training and the personal example of their teacher, Henry Tucker.

Judge Tucker, himself, must have benefited from the experience of being a law teacher. Practitioners and judges are somewhat limited in their exposure to the law because only miscellaneous bits and pieces of it are randomly brought to them by their clients and litigants. They usually have rather narrow legal issues to be determined. There is rarely, if ever, an opportunity to consider the broader issues or to work systematically through any area of the law. But the law teacher must review the entire subject with his students. The process of doing this requires that he himself learn or relearn the law in detail and in breadth of scope. This process surely made Tucker a better judge and opinion writer on the court of appeals.

Finally, in the process of teaching his law students, Henry Tucker produced his *Commentaries on the Law of Virginia*. This excellent work was a two-volume encyclopedia of Virginia law, the first such ever produced. It went through three editions and served as the basic treatise on Virginia civil law. It was not superseded until the end of the nineteenth century, when John B. Minor completed his *Institutes of Common and Statute Law*. But for fifty years, the mainstay and primary legal resource of the Virginia bench and bar was Tucker's *Commentaries*, and this treatise was the product of the Winchester Law School.

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