

1978

## Discovery in Virginia

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### Recommended Citation

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**DISCOVERY IN VIRGINIA**

**BY**

**WILLIAM HAMILTON BRYSON**

**THE MICHIE COMPANY**

*Law Publishers*

**CHARLOTTESVILLE, VIRGINIA**

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Library of Congress Catalog Card No. 78-59083

ISBN 0-87215-213-8

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## PREFACE

This book enlarges and supersedes *Depositions in Virginia* (1969) production of documents and their physical and mental examination of old work. The 1969 volume has been reflect the major changes in Part Rules of Court, which were made. Changes were made to conform with federal rules of discovery as amended with the deliberate omission of the new Title 8.01 of the Virginia Code. All discovery provisions in modern found in the Rules of Court, traditional equity practices.

Part Four of the Rule of Court Federal Rules of Civil Procedure. The purpose of this is to have the full guidance of Virginia practice. Virginia cases reported are those these rarely deal with matters of discovery. This book deals not with all of the permutations of discovery but with Virginia variants. This is a Virginia general treatise which deals with discovery. Furthermore, this is not tactics; it discusses only the law of what should be done.

It appears that too many people are with where we are going that the

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## PREFACE

This book enlarges and supersedes my *Interrogatories and Depositions in Virginia* (1969). A discussion of the production of documents and things for inspection and of physical and mental examinations has been added to the old work. The 1969 volume has been brought up to date to reflect the major changes in Part Four of the Virginia Rules of Court, which were made in 1972 and 1977. These changes were made to conform the Virginia rules to the federal rules of discovery as amended in 1970 and to deal with the deliberate omission of discovery matters from the new Title 8.01 of the Virginia Code. It is to be noted that all discovery provisions in modern Virginia are now to be found in the Rules of Court, Part Four, and in the traditional equity practices.

Part Four of the Rule of Court follows very closely the Federal Rules of Civil Procedure 26 through 37. The purpose of this is to have the federal cases available for the guidance of Virginia practitioners, since the only Virginia cases reported are those at the appellate level and these rarely deal with matters of discovery. Therefore this book deals not with all of the combinations and permutations of discovery but rather only with the Virginia variants. This is a Virginia supplement to the general treatises which deal with the federal law of discovery. Furthermore, this is a book on theory not tactics; it discusses only the law, what can be done, not what should be done.

It appears that too many people today are so enthralled with where we are going that they have lost sight of where

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0-87215-213-8

we started. It requires hindsight as well as foresight to understand a trend. Thus the study of the historical background of the modern discovery devices gives a valuable perspective, and this has been included in order to give the fullest and broadest understanding of the subject. The current methods of discovery were not invented in 1938 upon the promulgation of the Federal Rules of Civil Procedure. Rather the well-known and well-established practices of the equity courts were adapted and expanded for use in the federal courts at that time. The federal rules are the basis of the Virginia rules. "Out of the old fields comes the new corn."

The Virginia rules of discovery are printed in an appendix to this work so that all of the Virginia material on the subject can be found in this handbook.

I would like to thank Professor Ronald J. Bacigal, Mr. Robert N. Baldwin, Mr. Frank J. Ceresi, and Mrs. Edward L. Robinson for their assistance to me in connection with this book.

W.H.B.

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