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# A Bibliography of Virginia Legal History Before 1900

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A Bibliography of  
Virginia Legal History  
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William Hamilton Bryson

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## 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.

## Abbreviations

- A.H.R.* *American Historical Review*  
*Am. J. Legal Hist.* *American Journal of Legal History*  
*Alumni Bull. U. Va.* *Alumni Bulletin of the University of Virginia*  
 (1894-1924)  
*Branch Papers* *John P. Branch Historical Papers*  
*Macon College* (1901-1956)  
*J. of Southern Hist.* *Journal of Southern History*  
*Quart. L. J.* *Quarterly Law Journal*  
*Quart. L. Rev.* *Quarterly Law Review*  
*Sou. Lit. Mes.* *Southern Literary Messenger*  
*Tyler's* *Tyler's Quarterly Historical Magazine*  
 (1920-1952)  
*U. Rich. L. Rev.* *University of Richmond Law Review*  
*Va. Bar Assn.* *Reports of the Virginia Bar Association*  
 (1888-1974)  
*Va. L. J.* *Virginia Law Journal* (1877-1900)  
*Va. L. Reg.* *Virginia Law Register* (1877-1888)  
*Va. L. Rev.* *Virginia Law Review* (1900-1952)  
*Va. Mag. Hist. Biog.* *Virginia Magazine of History and Biography* (1894-)  
*Wash. & Lee L. Rev.* *Washington and Lee Law Review*  
 (1939-)  
*Wm. & Mary L. Rev.* *William and Mary Law Review*  
 (1957-)  
*Wm. & Mary Quart.* *William and Mary Magazine* (1892-)