

THE JEFFERSON IMAGE

LAW and THOMAS JEFFERSON

(The following is an extract of a longer article, "Law and Thomas Jefferson, by Richard E. Dixon which appears under Jefferson Image on the webpage of the Thomas Jefferson Heritage Society www.tjheritage.org)

After Thomas Jefferson completed his studies at William and Mary in 1762 he returned to Charlottesville. During his stay there he prepared for the study of law by reading Coke on Littleton. Possibly that was suggested to him by George Wythe who became his preceptor on his return to Williamsburg. Wythe guided Jefferson's legal studies for two years, for that time quite a long period, and in 1776, he was admitted to the General Court.

Jefferson's entry into the practice of law in 1767 appeared promising. As the only lawyer in Western Virginia authorized to practice in the General Court, he immediately attracted clients. However, the slowness in the courts docket caused many years of delay in resolving the cases. For example, 16 cases originated by Jefferson in his first year of practice were among those turned over to Edmund Randolph when Jefferson quit his law practice in 1774.

Advocate of Rights

Jefferson's career as a lawyer was only about eight years, but his organization of thought, and his reliance on reason and logic to reach his conclusions all reflect his legal training. Soon after Jefferson turned over his legal practice, he wrote a *Summary View of the Rights of British America*, which was essentially a legal argument that Americans were entitled to all of the civil rights of British citizens gained through the long struggle with the crown in England. It was this legalistic pattern of thought that made him the logical choice to write the *Declaration of Independence* which set forth in measured terms the right of America to dissolve its "bands" with Great Britain.

Court Reporter

There was no written record of court decisions before the revolution. Jefferson began making summaries of his cases and cases in which he did not participate. He also obtained notes of cases from other practitioners before the General Court. Even after he stopped practice, he continued to revise his notes. These cases now make up volume 1 of the Virginia reports.

Constitutionalist

After the break with England, the fifth Virginia Convention met in Williamsburg in 1776 to adopt a new constitution. Jefferson could not participate because he was in Philadelphia as a delegate to the Second Continental Congress. Jefferson was concerned there was no legal foundation for a constitution because that had not been the purpose of the convention. He took the position that a constitution could not be created by a legislature, as this was a power that only resided in the people. He tried unsuccessfully for a constitutional convention to address these issues, but it was only after his death in 1830 that a convention was held. Jefferson discussed his concerns over the 1776 Constitution in his "Notes on Virginia."

Manual of Parliamentary Practice

Thomas Jefferson became President of the Senate by a virtue of his election to the vice presidency in 1796. As the presiding officer he wanted to follow a "known system of rules." He prepared for his own guidance a manual of parliamentary law, following the practice of the English Parliament. He solicited the opinions of George Wythe and Edmund Pendleton, but was mainly guided by his own

research. It is regarded as the best statement of Parliamentary Law as it existed at that time. Jefferson recognized that it might be inaccurate in some “minor forms” and in some instance incomplete, but he felt that he provided a “sketch” which those who followed him could “correct and fill out.” Two important areas of law Jefferson addressed in the manual were treaties and impeachment.

Reviser of Colonial Statutes

After the colonies declared their independence from Great Britain, Virginia appointed a committee to revise its laws. Among the committee members, George Wythe contributed much, but the bulk of this laborious work fell to Jefferson. It was decided to leave the English common law intact, but to reorganize the statutes so they would accord with the new “Republican spirit.” The revisers submitted 126 bills in 1779. By this time, Jefferson had become governor and some of these bills were quickly passed, but others lingered on the Assembly’s docket, and once Jefferson left for France, the task of shepherding them fell to James Madison. Jefferson was later ambivalent about the impact of the law revisal, but did single out the importance of the Bill Concerning Religious Freedom. It remains a part of the Virginia code today. Another was a Bill for the More General Defusion of Knowledge in which Jefferson laid out a system of education from “grammar schools” to the university level. Jefferson would not live to see his bill for public education approved, but in 1819, he did get his new “university.”

Legal Educator

While governor in 1779, Jefferson was instrumental in the decision of the Board of Visitors at the College of William & Mary to establish a Chair of Law. This became the nation’s first law school and the first law professor was Jefferson’s former mentor, George Wythe.

Jefferson’s ideas for public education were never supported by the General Assembly, so in his declining years, he conceived of building a college in Charlottesville. Jefferson designed an “academical village” for this new Central College and along with James Madison and James Monroe, he set the cornerstone for the beginning of Pavilion VII. At the same time, there was a movement in the Assembly to establish a new state university. The Board of Visitors for Central College offered to donate the site in Charlottesville. At a meeting at Rockfish gap the offer was accepted and Central College became the University of Virginia.

By 1824, the school was ready for the appointment of a faculty. Francis Walker Gilmore was a committee of one to recruit a faculty in England and Scotland. He met with little enthusiasm from the British academics both because of the low salary and the unknown certainty of life at a new university. Miraculously, he returned home with all the positions filled except the Professor of Law.

Jefferson’s plan for the new law school was to teach common and statute law, equity, federal law, civil and mercantile law, jurisprudence and international law, and the principles of government and political science. He intended it to be a two-year course but students could cram all the courses into one year.

It was of great concern to the Board of visitors that the law professor hold the Republican political view of the quote “general principles of liberty and the rights of man.” Jefferson was content to let the professors pick their textbooks, except the law professor. He was to conform to Jefferson’s list to avoid any “political bias” toward federalism. At the admonition of James Madison, Jefferson finally agreed to moderate the list to avoid “framing a political greed” and raising an issue that the law school would be controlled by political orthodoxy and excite a prejudice against the university which might cause parents to withdraw their sons. The first professor at the law school was John Tayloe Lomax. Jefferson lived to see Lomax’s appointment, but died the day before he joined the faculty on July 5, 1826.