

# SYMPOSIUM

## INTRODUCTORY REMARKS

### THOMAS JEFFERSON, JAMES MADISON AND THE ROLE OF INTERDISCIPLINARY STUDIES

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On behalf of the University of Virginia School of Law, it is my great pleasure to welcome all of you to the 1994 Federalist Society Symposium. This year's conference, the 13th Annual Student Symposium, focuses on Feminism, Sexual Distinctions, and the Law. This conference continues the admirable tradition of the Federalist Society, a tradition which emphasizes the unique role of law students in fostering a robust marketplace of ideas about law, and in maintaining the interdisciplinary focus of the modern university law school.

The coincidence of the Federalist Society Annual Conference's being held in Charlottesville leads inevitably to reflections on the unique friendship and fifty-year collaboration between James Madison and Thomas Jefferson. Indeed, one of Madison's and Jefferson's most successful and least recognized collaborative efforts led directly to the establishment of the School of Law at the University of Virginia in 1825.<sup>1</sup>

Given the central role played by both Jefferson and Madison in founding this law school, the question naturally arises: How would they have reacted to this conference in particular, and to the larger question of the role that interdisciplinary studies should properly play in a university law school? This is just an exercise in originalism that ought to be congenially received in this gathering.

In the early 1820s, when the time came to open the doors of this university, Jefferson, with Madison's active assistance, set out to recruit a faculty. They both agreed, quite readily, that in order to insure a first-rate faculty, all of the Chairs at the University,

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1. See generally ADRIENNE KOCH, *JEFFERSON AND MADISON: THE GREAT COLLABORATION* 260-84 (University Press of America, Inc. 1986) (1950) (discussing the roles of Jefferson and Madison in the formation of the University of Virginia).

save the Chair of Law, had to be recruited from Europe.<sup>2</sup> But given the bold, legal experimentation underway in the new nation, they also agreed that the Chair of Law could only be held by an American.<sup>3</sup> Jefferson, for his part, was quite intent that this limitation should not in any way limit the intellectual ambitions of the school of law. So he wrote to Madison that he feared above all the selection of a "mere Gothic lawyer who has no idea beyond his Coke Littleton, who could not associate in conversation with his Colleagues, nor utter a single Academical idea to an inquiring stranger."<sup>4</sup> So much for Mr. Jefferson's views on the ABA MacCrate report and the current preoccupation with skills training.<sup>5</sup>

The selection of the first law professor was inextricably bound to the delicate question of the curriculum. Jefferson wrote to Madison and suggested that while ordinarily he would prefer leaving the selection of textbooks to each professor, in the area of law and political theory he feared the distinct possibility that a Richmond lawyer (by which he meant a Federalist, indeed perhaps one as despised as John Marshall) might be chosen to be professor of law.<sup>6</sup> "I think," he wrote, "it a duty to guard against danger by a previous prescription of the texts to be adopted."<sup>7</sup> Madison, in his reply, disagreed; not, mind you, in the nature of the duty, but in the manner of its implementation. He preferred to put his trust in character, rather than rules. He wrote Jefferson that "[a]n Able & Orthodox Professor, whose course of instruction will be an example to his successors," was the most effective safeguard against "heretical intrusions into the School of Politics."<sup>8</sup> Jefferson subsequently concurred, and the course of study was left free from prescribed regulation.

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2. *Id.* at 270.

3. *Id.* at 271.

4. *Id.* at 275 (quoting Letter from Thomas Jefferson to James Madison (Jan. 23, 1825)).

5. See AMERICAN BAR ASSOCIATION SECTION OF LEGAL EDUCATION AND ADMISSION TO THE BAR, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992). This report is popularly known as the MacCrate Report in recognition of Robert MacCrate, the Chairman of the ABA's task force that produced the report. The MacCrate Report argues that legal educators should work to bridge the gap between the theory taught in law schools and the skills required in actual legal practice.

6. KOCH, *supra* note 1, at 276 (quoting Letter from Thomas Jefferson to James Madison (Feb. 1, 1825)).

7. *Id.*

8. *Id.* at 278 (quoting Letter from James Madison to Thomas Jefferson (Feb. 8, 1825)).

With the curriculum in place, the appointment in Law was finally extended to John Tayloe Lomax, a friend of Madison, but unknown personally by Jefferson.<sup>9</sup> So once again, to allay his friend's fears that Lomax might prove too narrow in his intellectual reach, Madison wrote Jefferson and reassured him that Lomax's efforts in preparation for the Chair were extensive; that he indeed had "extended his studies beyond the ordinary municipal law, to the law of nations and to the more philosophical view of the general subjects."<sup>10</sup> With that, Lomax was offered the appointment, accepted it in August of 1825, and within months the students began to arrive.<sup>11</sup>

The next year, Jefferson, then eighty-two years old, delivered his intellectual testament to Madison. In a beautiful and moving passage, he wrote, "The friendship which has subsisted between us, now half a century, and the harmony of our political principals and pursuits, have been sources of constant happiness to me through that long period."<sup>12</sup> He then proceeded to commit the University to Madison's care.<sup>13</sup> Jefferson died within six months, and Madison conscientiously accepted his charge, serving as Rector of the University for the next eight years.<sup>14</sup> When many friends protested the effects of these exertions on his health, Madison replied: "The University of Virginia, as a temple dedicated to science and liberty, was, after his retirement from the political sphere, the object nearest [to Mr. Jefferson's] heart, and so continued to the close of his life. His devotion to it was intense, and his exertions unceasing. It bears the stamp of his genius, and will be a noble monument of his fame."<sup>15</sup>

And so, with that peroration, I welcome you to Mr. Jefferson's and Mr. Madison's university. And I leave you with the injunction that the engagement of your ideas in open and free debate over the next several days should contribute to our common mission, the search for truth.

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9. *Id.* at 280.

10. *Id.* (quoting Letter from James Madison to Thomas Jefferson (Aug. 4, 1825)).

11. *Id.*

12. *Id.* at 281 (quoting Letter from Thomas Jefferson to James Madison (Feb. 17, 1826)).

13. *Id.*

14. *Id.* at 284.

15. *Id.* (quoting Letter from James Madison to Samuel H. Smith (Nov. 4, 1826)).

