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978-1-107-63967-6 - Jefferson's Freeholders and the Politics of Ownership in the Old Dominion

Christopher Michael Curtis

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Jefferson's Freeholders and the Politics of Ownership in the Old Dominion

Jefferson's Freeholders and the Politics of Ownership in the Old Dominion explores the historical processes by which Virginia was transformed from a British colony into a Southern slave state. It focuses on changing conceptualizations of ownership and emphasizes the persistent influence of the English common law on Virginia's postcolonial political culture. The book explains how the traditional characteristics of land tenure became subverted by the dynamic contractual relations of a commercial economy, and assesses the political consequences of the law reforms that were necessitated by these developments. Nineteenth-century reforms seeking to reconcile the common law with modern commercial practices embraced new democratic expressions about the economic and political power of labor, and thereby encouraged the idea that slavery was an essential element in sustaining republican government in Virginia. By the 1850s, the ownership of human property had replaced the ownership of land as the distinguishing basis for political power, with tragic consequences for the Old Dominion.

Christopher Michael Curtis is Associate Professor of History at Claflin University, where he is Chair of the Department of History and Sociology. He previously held appointments at Iowa State University and at the State University of West Georgia. His work has appeared in the *Journal of Southern History*, the *Virginia Magazine of History and Biography*, and *Legal History*.

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“Christopher Curtis’s book is a remarkable and welcome hybrid, its research meticulous and exhaustive. Curtis’s judgments about the evidence are judicious and balanced. His arguments and conclusions are important and portable, for he demonstrates how the cultural and legal effects of commercial developments remapped Virginians’ understanding of the justification of popular political participation, and even of political legitimacy. The concluding chapter on a ‘new jurisprudence’ is a tour de force. This is a book for many seasons.”

– Gerard V. Bradley, University of Notre Dame Law School

“This book is impressive from various perspectives. Chris Curtis has written an engaging historical treatise on Virginian property relations and law from colonial days to the antebellum era. He adroitly demonstrates how local legal history provides a window into law and legal change regionally, nationally, and internationally in the common law world. Moreover, by tapping political, economic, and social records he has produced a rich narrative of the changing imperatives of political thought and action and economic realities that influenced the development of local law in this slaveholding jurisdiction, and explained its inner contradictions. This book merits a broad readership.”

– John McLaren, Emeritus Professor of Law, University of Victoria

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CHRISTOPHER MICHAEL CURTIS

Claflin University



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For Betsey, in memoriam

Gratias tibi ago

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Acknowledgments

Sir Thomas More, ever the saint, felt compelled to apologize to his publisher because he delivered his manuscript for *Utopia* after a year's delay instead of in a month and a half as expected. This book has taken a bit longer. And although any apologies undoubtedly would fall on insensitive ears, a few words of gratitude and appreciation remain in order.

Generous fellowships from the Virginia Historical Society, the Earhart Foundation, the Brown Southern Studies Award at Emory University, and Iowa State University enabled me to complete the necessary archival research for this study. My participation in summer workshops hosted by the Institute for Constitutional Studies and the Jack Miller Center have allowed me to articulate and refine my findings in intellectually rich, interdisciplinary forums. The Institute for Southern Studies at the University of South Carolina graciously provided me with library and parking privileges during a sabbatical semester, which allowed me to spend that time with my family. Since coming to Claflin University, Dean Peggy Stevenson Ratliff has been particularly generous in allowing me some time away from the perpetual duties of a department chair to complete this project.

Some of my preliminary conclusions have been published previously as journal articles. An early and abridged version of Chapter 3 appeared in the *Journal of Southern History* (2008) under the title "Reconsidering Suffrage Reform in the 1829–1830 Virginia Constitutional Convention," and parts of Chapters 5 and 6 provided context for my article, "Codification in Virginia: Conway Robinson, John Mercer Patton, and the Politics of Law Reform," in the *Virginia Magazine of History and Biography* (2009). I am grateful to the editors for the opportunity to publish in these journals of long-standing excellence and for their permission to use the material here.

A number of excellent scholars, whom I have the privilege to count as friends, have read and commented on the manuscript in its various incarnations. Andrew Buck, Lou Ferleger, Gene Genovese, and Peggy Hargis all read early drafts and offered excellent critiques. A distinguished group of scholars at Iowa State that included Mike Bailey, Patrick Barr-Melej, Kat Charron,

Sara Gregg, Paul Griffiths, David Hollander, Laura Mielke, John Monroe, and Leonard Sadowsky, collectively known as the BPPG, also read portions of it, usually over wine or beer, and probably helped in some way. David Moltke-Hansen merits special praise, however, for the multiple readings (including one in Norway) and brilliant editorial comments that have helped me think about what needed to be said and honed my focus. The book is dedicated, however, to Elizabeth Fox-Genovese. Words cannot adequately express my gratitude for the opportunity to learn the craft from her. She was enthusiastic about the project from its awkward beginnings, and it is my sincere hope that she would have been proud of its fruits.

Lastly, I need to say thank you to my family. At some point, while I was enmeshed in the splendid intricacies of Virginia property law, my children, Lara, Thomas, and William, all grew up and turned into interesting and capable adults. They remain my greatest blessing. Acknowledgments rarely mention grandchildren, but omission of Michael seems absurd. He did not really help with the book, but he certainly has made me a better person. My parents, William and Susan Curtis, have been a source of constant support and encouragement. And Karen, who thought she knew what her life would be like when she married a young Marine Second Lieutenant, has adapted well to the sea change of being married to a historian – rooms full of books and all. Indeed, she has been through everything with me.

It is customary after recognizing such debts and favors for a writer to take full responsibility for any errors or omissions remaining in text. So I will embrace this custom, although, as the prophet reminds us, this too is vanity.

Abbreviations

AH	<i>Agricultural History</i>
EPLP	<i>Papers of Edmund Pendleton</i>
GMP	<i>Papers of George Mason</i>
GWP	<i>Papers of George Washington</i>
JSH	<i>Journal of Southern History</i>
LHR	<i>Law and History Review</i>
LOV	Library of Virginia
PDVSC	<i>Proceedings and Debates of the Virginia State Convention of 1829–1830</i>
RV	<i>Revolutionary Virginia: A Documentary History</i>
SAL	Hening, <i>Statutes-At-Large</i>
SLM	<i>Southern Literary Messenger</i>
TB	<i>Tucker’s Blackstone</i>
TJP	<i>Papers of Thomas Jefferson</i>
UVA	Alderman Library, University of Virginia
VHS	Virginia Historical Society
VMHB	<i>Virginia Magazine of History and Biography</i>
WMQ	<i>William & Mary Quarterly</i>