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2008

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*Library of Virginia*

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Tarter, Brent, "Long Before the NHPRC: Documentary Editing in Nineteenth-Century Virginia" (2008). *Documentary Editing: Journal of the Association for Documentary Editing (1979-2011)*. Paper 62.

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# Long Before the NHPRC: Documentary Editing in Nineteenth-Century Virginia

Brent Tarter

In 1791 Thomas Jefferson wrote a letter to congratulate Ebenezer Hazard, of Pennsylvania, on the publication of the first two volumes of his *Historical Collections*, the first documentary edition of the public records of a state or colony. Jefferson's letter is often quoted for its rationale for documentary editing. "Time and accident," he wrote, "are committing daily havoc on the originals deposited in our public offices. The late war has done the work of centuries in this business. The lost cannot be recovered; but let us save what remains: not by vaults and locks which fence them from the public eye and use, in consigning them to the waste of time, but by such a multiplication of copies, as shall place them beyond the reach of accident."<sup>1</sup>

When it came to lost texts, Jefferson certainly knew what he was writing about. He had long been collecting and preserving scarce documents of Virginia's early history, and when he was governor of Virginia late in the American Revolution, British raids on Richmond caused the loss or destruction of most of the archive of the colony's executive branch. Later, when the Confederate government evacuated Richmond in April 1865, the state's courthouse burned to cinders, destroying virtually all of the records of the colony's highest court and the records of the state's appellate courts. Victorious Union soldiers also carried away or destroyed other records housed in the Capitol.<sup>2</sup>

The Revolutionary-era losses led directly to a combination of public and private publications of several pioneering and valuable documentary editions of historical records of Virginia. The first was William Waller Hening's thirteen-volume *The Statutes at Large: Being a Collection of All*

<sup>1</sup> Thomas Jefferson to Ebenezer Hazard, 18 February 1791, in Julian P. Boyd, et al., eds., *The Papers of Thomas Jefferson* (Princeton, NJ, 1950— ), 19:287.

<sup>2</sup> Brent Tarter, "A Rich Storehouse of Knowledge: A History of the Library of Virginia," in Sanda Gioia Treadway and Edward D. C. Campbell, Jr., eds., *The Common Wealth: Treasures from the Collections of the Library of Virginia* (Richmond, VA.: The Library of Virginia, 1997), 8–9, 14.

the *Laws of Virginia, From the First Session of the Legislature in the Year 1619* published between 1809 and 1823. The editor was a protégé of Thomas Jefferson, and it was in fact at the joint urging of Jefferson, Jefferson's old law teacher George Wythe, and another Jefferson protégé, James Monroe, that Hening obtained the sanction of the General Assembly to compile and publish the colony's laws, largely for the stated purpose of making readily available the statutory records that protected the rights of the planter class to their landed estates. Because Virginia had no printing press before the 1730s, many of the early laws had never been published or were published in scarce abridged editions only.<sup>3</sup>

The first volume of Hening's edition of the laws followed by five years the publication of the first full history of the colony of Virginia, by John Daly Burk et al.<sup>4</sup> The next large-scale history of Virginia, of which Charles Campbell published the first edition in 1847,<sup>5</sup> was substantially different from Burk's in large part because Campbell, unlike Burk, had access to the extremely valuable information in Hening's edition of the surviving seventeenth- and eighteenth-century statutes. Hening fully appreciated how much the narrative of colonial history would be changed by the availability of the critically important texts. Throughout his edition of the colonial statutes, he included notes about historical events associated with the documents, and in his first volume he included some nonstatutory records of the General Assembly during its formative years that enriched historians' understandings of the evolution of the body into a colonial mini-Parliament.<sup>6</sup> In that, he made some valuable contributions to understanding the historical record. His long note about the records of Sir William Berkeley's resumption of the governor's office in 1660 after the restoration of the monarchy<sup>7</sup> was particularly important.

On the other hand, Hening's identification of the acts passed at the June 1676 session of the assembly as "Bacon's Laws"<sup>8</sup> was particularly misleading. Perhaps seduced by Burk's history that interpreted the whole of

<sup>3</sup> William Waller Hening, ed., *The Statutes at Large of Virginia; Being a Collection of All of the Laws of Virginia, from the First Session of the Legislature, in the Year 1619*, 13 vols. (Richmond, VA, Philadelphia, and New York, 1809–1823), 2d ed., rev. (New York, 1823), 1:iii–xxiv.

<sup>4</sup> John Daly Burk, *History of Virginia*, vols. 1–3 (Petersburg, VA, 1804–1805), and Skelton Jones and Louis Hue Girardin, vol. 4 (Petersburg, VA, 1816).

<sup>5</sup> Charles Campbell, Introduction to the *History of the Colony and Ancient Dominion of Virginia* (Richmond, 1847); 2d ed., rev., *History of the Colony and Ancient Dominion of Virginia* (Philadelphia, 1860).

<sup>6</sup> E.g., Hening, *Statutes at Large*, 2d ed., rev., 1:113–136.

<sup>7</sup> Hening, *Statutes at Large*, 2d ed., rev., 1:526–529.

<sup>8</sup> Running heads to Hening, *Statutes at Large*, 2:341–365, and footnote, 341–342. The running head appears in what appears to be Hening's handwriting on the odd-number manuscript pages of the copytext in Thomas Jefferson Papers, ser. 8, 10 ("Peyton Randolph Manuscript"): 191–217, Library of Congress.

the colonial period as a preparation for independence and Nathaniel Bacon's Rebellion of 1676 as a rehearsal for the American Revolution that began in 1776, Hening supplied an anachronistic and misleading title to the laws of a session of the assembly that Bacon did not even attend and from which, in fact, he extorted a general's commission at gunpoint to wage war against the Indians. Hening's mislabeling misled several generations of historians into believing that what looked like reforms in those laws were evidences of Bacon's reforming intentions.

On that same topic, some of Hening's contemporary Virginians even edited the landscape. People in and around Surry County, in the southeastern portion of the state, began referring about that time to one of the old local brick buildings as Bacon's Castle, and it has been known as Bacon's Castle ever since, and the nearby post office is also called Bacon's Castle. But Nathaniel Bacon was never there. The building was there at the time of the rebellion, and some of his followers holed up there after their leader died, but it was not ever Bacon's, and it is not even a castle. The romance of a failed rebellion precisely a century before a successful one had many such manifestations in the written histories and in the folklore and mythology of Virginia. Anybody thereafter could, and many people did, characterize Bacon's rebellion as a revolt against high-handed royal misgovernment, and they pointed to Bacon's Laws and to Bacon's Castle to prove it.<sup>9</sup>

The nineteenth century was the great age of the gentleman amateur, of the antiquarians who assembled and published documents for their amusement and enlightenment. Chief among them in Virginia was Alexander Brown, whose two-volume *Genesis of the United States*, published in 1890, and his *First Republic in America*, published in 1898,<sup>10</sup> included documentary texts, long excerpts from original documents, and English translations of documents from Spanish archives that enriched the available documentary record of the first decades of the colony of Virginia. A man of no great means, Brown worked from transcriptions and translations that other people prepared, and so his published texts are at least two generations removed from the best copytext; and he was convinced that

<sup>9</sup> John T. Kneebone, et al., eds., *Dictionary of Virginia Biography* (Richmond, VA: The Library of Virginia, 1997), 1:73; Brent Tarter, "Making History in Virginia," *Virginia Magazine of History and Biography* 115 (2007): 9, 52n12.

<sup>10</sup> Alexander Brown, *The Genesis of the United States*, 2 vols. (Boston, 1890), and *The First Republic in America; An Account of the Origin of This Nation, Written from the Records then (1624) Concealed by the Council, Rather than from the Histories then Licensed by the Crown* (Boston, 1898); see also *Dictionary of Virginia Biography*, 2:279–280.

Captain John Smith was a liar and a scoundrel, so it may be prudent to have a salt cellar at hand when consulting his books.

The first documentary editions of the Founders' writings appeared in the nineteenth century. In 1829 Thomas Jefferson's grandson, Thomas Jefferson Randolph, published a modest, four-volume edition of Jefferson's work. That same year, he also published a set of case reports that Jefferson had compiled during his short career at the bar of the General Court late in the 1760s and early in the 1770s.<sup>11</sup> Biographies of the great men of the Revolutionary period also appeared in abundance throughout the nineteenth century, and some of those volumes contained extended excerpts from their subjects' private correspondence, speeches, and state papers. William Wirt's *Sketches of the Life and Character of Patrick Henry*, which was first published in 1817,<sup>12</sup> may be the archetype of that genre, even though most of the texts of Henry's speeches that appear in it are in fact synthetic recreations by Henry's auditors, some of them written down for the first time forty or fifty years after the fact. (Talk about copytext problems and questions of authorial intention!) Patrick Henry's grandson, named William Wirt Henry, as it happens, published a classic of the life and letters genre in his three-volume 1891 *Patrick Henry: Life, Correspondence, and Speeches*.<sup>13</sup> Lyon Gardiner Tyler, one of the many sons of President John Tyler, outdid W. W. Henry in the publication of letters as part of a life by giving letters primacy of place in the title of his three-volume work, *The Letters and Times of the Tylers*,<sup>14</sup> published between 1884 and 1896. Kate Mason Rowland's two-volume biography of her ancestor, George Mason, first published in 1892, was in the same vein, as indicated by its subtitle: *Including His Speeches, Public Papers, and Correspondence*.<sup>15</sup>

It is easy to overlook the life-and-letters biographies when thinking about documentary editions, but we should not forget them. The early ones often contained the first printed texts of important private letters, of important orations, or of neglected state papers. Many or most of those books were by descendants or by warm admirers, which is how the authors gained access to original correspondence that in many instances had not previously been published. Those books, then, are not only biographies,

<sup>11</sup> Thomas Jefferson Randolph, ed., *Memoir, Correspondence, and Miscellanies, From the Papers of Thomas Jefferson* (Charlottesville, Va., 1829), and *Reports of Cases Determined in the General Court of Virginia*, from 1730, to 1740; and From 1768, to 1772 (Charlottesville, VA, 1829).

<sup>12</sup> William Wirt, *Sketches of the Life and Character of Patrick Henry* (Philadelphia, 1817).

<sup>13</sup> William Wirt Henry, *Patrick Henry: Life, Correspondence, and Speeches*, 3 vols. (New York, 1891).

<sup>14</sup> Lyon Gardiner Tyler, *The Letters and Times of the Tylers*, 3 vols. (Richmond, VA, 1884–1896).

<sup>15</sup> Kate Mason Rowland, *The Life of George Mason, 1725–1792, Including His Speeches, Public papers, and Correspondence*, 2 vols. (New York, 1892).

they are also selective documentary editions—some of them very selective. We are entitled to be skeptical or questioning about the decisions the authors/editors made about what to include and what to exclude and also about whether or to what extent they silently improved on their subjects' spelling and syntax and prose style or silently elided out displeasing passages or whole documents.

Political objectives as well as personal and family ties were often in play in those volumes. Thomas Jefferson wrote an autobiographical introduction to his documentary record of the Washington Administration to justify his opposition to some of Washington's policies,<sup>16</sup> and James Madison composed memoranda to accompany an edition of the notes that he took at the Constitutional Convention of 1787<sup>17</sup> to set the record straight about how that convention wrote the Constitution. Such motives were also apparent in a small number of other documentary collections that Virginians produced during the nineteenth century, including the first compilation of *The Works of John C. Calhoun*, which a Virginia journalist and states' rights advocate, Richard Kenner Crallé, published in six volumes between 1853 and 1856.<sup>18</sup>

For the historically curious, rather than for the politically partisan alone, the establishment in 1832 of the Virginia Historical and Philosophical Society was an important event. The society issued its first publication the following year, a slim volume that contained the long address of the first president of the society and two historical texts, a memoir of late eighteenth-century frontier conflicts by a participant and the known surviving documents in the 1706 Grace Sherwood witchcraft prosecution.<sup>19</sup> Between 1848 and 1853 *The Virginia Historical Register and Literary Advertiser* acted as organ of the society. The miscellaneous contents of the six volumes of that small-format periodical included, among other things, brief excerpts from important public documents of the colonial period and from the papers of several important public men. Among the men whose writings appeared in excerpted form were Captain John Smith, William Strachey, William Byrd II, William Fitzhugh, George Washington, Richard Henry Lee, George Mason,

<sup>16</sup> Francis D. Cogliano, *Thomas Jefferson: Reputation and Legacy* (Charlottesville, VA: University of Virginia Press, 2006), 53–61.

<sup>17</sup> James D. Mattern, "James Madison as Documentary Editor," paper presented at the annual conference of the Association for Documentary Editing, Richmond, Va., 2007.

<sup>18</sup> Richard Kenner Crallé, ed., *The Works of John C. Calhoun*, 6 vols. (New York, 1853–1856).

<sup>19</sup> Collections of the Virginia Historical & Philosophical Society (Richmond, VA, 1833).

and Lieutenant Governors Alexander Spotswood, Hugh Drysdale, and Sir William Gooch.<sup>20</sup> The Virginia Historical Society issued a second series of historical documents between 1882 and 1892. It included a two-volume edition of letters of Alexander Spotswood, a two-volume edition of the letters of Robert Dinwiddie, a volume of documents relating to the early eighteenth-century Huguenot settlement in central Virginia, and one volume that included more Huguenot documents, the 1672 text of the charter of the Royal African Company, and army records of two Revolutionary War officers and two Civil War officers.<sup>21</sup>

The Virginia Historical Society also took part after the Civil War in assisting the secretary of the commonwealth in the selection of documents and the publication between 1875 and 1893 of the eleven-volume *Calendar of Virginia State Papers and Other Manuscripts, 1652–1869* gleaned from the remnants of the colonial and state archives in the ransacked state capitol.<sup>22</sup> Those volumes marked the entry of the state government into documentary publication. Most of the records published in those volumes are in fact abstracts or calendar entries rather than full-text transcriptions, but of the more interesting documents, the *Calendar* often contains full texts. Those documents, in addition to the Virginia Historical Society's publications, enabled students of the state's colonial and early national history to enrich their insights with new original material and to rewrite their narratives and take into account a wider range of topics.

At almost the same time, the state government commissioned several men to obtain transcriptions of important colonial-period records from the Public Record Office and the British Museum in London. Beginning late in the seventeenth century, the British bureaucracy required that copies of important executive and legislative documents be made and sent to London, so a significant portion of the colonial government archive could be reassembled through transcription and calendaring of copies in England. The General Assembly's Joint Committee on the Library commissioned William Noel Sainsbury, who was then engaged in founding the great and

<sup>20</sup> William Maxwell, ed., *The Virginia Historical Register and Literary Adviser*, 6 vols. (Richmond, VA, 1848–1853).

<sup>21</sup> Robert A. Brock, ed., *Collections of the Virginia Historical Society*, 2d ser., 11 vols. (Richmond, VA, 1882–1892): *The Official Letters of Alexander Spotswood, Lieutenant-Governor of the Colony of Virginia, 1710–1712, Now First Printed from the Manuscript in the Collections of the Virginia Historical Society*, vols. 1–2 (1882–1885); *The Official Records of Robert Dinwiddie, Lieutenant-Governor of the Colony of Virginia, 1751–1758, Now First Printed from the Manuscript in the Collections of the Virginia Historical Society*, vols. 3–4 (1883–1884); *Documents, Chief Unpublished, Relating to the Huguenot Emigration to Virginia, and to the Settlement at Manakin-Town*, vol. 5 (1886); *Miscellaneous Papers, 1672–1865, Now First Printed from the Manuscript in the Collections of the Virginia Historical Society*, vol. 6 (1887).

<sup>22</sup> William P. Palmer, et al., eds., *Calendar of Virginia State Papers and Other Manuscripts Preserved in the Capitol at Richmond*, 11 vols. (Richmond, VA: 1875–1893).



justly celebrated *Calendar of State Papers* series, to oversee the transcription of more than 5,100 British archival documents dating from 1606 to 1720. They fill twenty large volumes. At the same time, three other men acting under similar commissions produced ten volumes of transcriptions of more than eight hundred additional seventeenth-century archival records, and another man prepared a small volume of fourteen important documents concerning Bacon's Rebellion from manuscripts in the British Museum. From a private collection of records that was on sale in the London market in 1890, the state acquired transcriptions of nineteen documents concerning colonial treaties with the Cherokee Indians. The state also obtained copies of three volumes of transcriptions of mid-eighteenth-century and Revolutionary period documents that Jared Sparks had prepared.<sup>23</sup>

The thousands of transcriptions in those volumes were not then published, but students of Virginia's colonial and Revolutionary history consulted them in the library in the capitol or, after 1895, in the library's new building next door, and during the first decades after the transcriptions were made the editors of the *Virginia Magazine of History and Biography* published some of the texts in the state's principal historical journal of record. They texts were by then at least two removes from the best copytext, but together with Hening's *Statutes at Large*, the Library of Congress's publication beginning in 1905 of the four volumes of Susan Myra Kingsbury's *Records of the Virginia Company of London*,<sup>24</sup> and the Virginia State Library's own new publications program, also begun in 1905 with the first of thirteen volumes of the *Journals of the House of Burgesses of Virginia*,<sup>25</sup> they enabled students of Virginia's first two centuries, working in the early years of its fourth century, to write its political and military history with some thoroughness and accuracy for the first time and to make some tentative forays into social and economic history.

How good were those nineteenth-century documentary editions?

The volumes in the life-and-letters genre have all been superseded by better biographies and also by better documentary editions, some of them edited and published outside Virginia and some of them even before the end of the nineteenth century, such as the first collections of the works of

<sup>23</sup> The documents are calendared in John P. Kennedy, *Calendar of Transcripts, Including the Annual Report of the Department of Archives and History* (Richmond, VA, 1905), 118–640.

<sup>24</sup> Susan Myra Kingsbury, ed., *The Records of the Virginia Company of London*, 4 vols. (Washington, D.C., 1906–1935),

<sup>25</sup> John Pendleton Kennedy and Henry Read McIlwaine, eds., *Journals of the House of Burgesses of Virginia, 1619–1776*, 13 vols. (Richmond, VA, 1905–1915).



Virginia founders Thomas Jefferson, James Madison, James Monroe, and George Washington that have themselves since been superseded. None of the original editions or their first substitutions would pass muster by current standards, either for completeness or thoroughness or accuracy of transcription or adequacy of annotation or quality of index. Nevertheless, those imperfect editions informed much valuable and influential scholarship during the latter part of the nineteenth and the first part of the twentieth century, and in that way their imperfections biased the scholarship based on them and also the scholarship that was based on the first scholarship that used them. Even though scholars seldom take those incomplete editions off the library shelves any more, they may still work mischief because it was those very old and out-of-copyright editions that first got mounted on the Internet a decade or so ago and that unwary folks will stumble on now and forevermore, if the Internet lasts that long, and mistakenly think that they have found the real thing and all that they may need.

The unpublished volumes of transcriptions and the published volumes of Hening's *Statutes at Large*, the *Calendar of Virginia State Papers*, and the Spotswood and Dinwiddie letters have not been superseded or replaced by improved editions in print. The two-volume editions of the Spotswood and Dinwiddie papers were well executed by the standards of the time, and the transcriptions are, so far as I have had a few occasions to check, pretty reliable. The manuscript transcriptions of British archival records enabled historians seventy-five or a hundred years ago to consult at one remove a portion of the executive record of the colony's government. The same cautious things that have to be said about the selection and rendering of texts in the nineteenth-century printed editions also apply to those manuscript transcriptions and the early printed versions of some of them. But because the original documents from which those transcriptions were made and many thousands of other records were microfilmed under the auspices of the Virginia Colonial Records Project beginning in the 1950s,<sup>26</sup> today's younger historians are often unaware that the manuscript volumes even exist, and any potential problems or omissions resulting from selection

<sup>26</sup> John T. Kneebone, "The Virginia Colonial Records Project," *American Historical Association Perspectives* 30 (December 1992): 15–20.

or transcription policies are now moot. Still, I always advise researchers to consult and cite or quote from the originals to be on the safe side of accuracy.

I make the same suggestion to researchers who use the *Calendar of Virginia State Papers*. There are transcription errors in that edition, and the abstracts or calendar entries are not always detailed enough for safe reliance. What was included and what not, what was transcribed in full and what in abstract, can be traced to the opinions of the men who did the selection, and they certainly did not include everything. Almost all of the documents that those eleven volumes treat still survive in the state's archive and can usually be located with no more than a moderate amount of archival sleuthing. I have used those collections extensively and for many years and never rely on or quote from the published volumes. I use the books as a finding aid, but even then I sometimes discover that the documents are not what the published description promises. A misrepresentation in the *Calendar* of a letter from the 1780s that uses the phrase "lynch's law" kept researchers who relied only on the published volume from learning that the phrase was actually used by one of the two earliest people named Lynch who have been identified as the namesake of the loathsome practice.<sup>27</sup>

Returning to and concluding where we began, with William Waller Hening's *Statutes at Large*, it pays to recall that the editor was a practicing attorney and sometime clerk of court and author and compiler of guides to the practice of law in the courts of Virginia; and that his primary purpose was to make public the laws that governed property rights; so, he was keenly aware of the necessity to publish correct transcriptions. I admit that I have checked but very few of his published laws against his copytexts, but I have checked some, and they are good. He also noted variant readings when he had access to more than one copy of a law, and he printed titles of statutes for which he did not have texts but only evidence of enactment or the style of the statute. In those respects, his work was extremely good for its time.

His search for texts was good for the time, too. There are still extant only three sets, so far as I know, of seventeenth-century session laws that

<sup>27</sup> John A. Garraty and Mark C. Carnes, eds., *American National Biography*, 24 vols. (New York: Oxford University Press, 1999): 14:164–165.

were recorded in county record books that he did not know about and therefore missed.<sup>28</sup> He also did not know about or could not find such a large number of other statutes, mostly of a private nature, from the first half of the eighteenth century that in 1971 the Virginia State Library published a supplementary volume of almost 500 pages.<sup>29</sup> Hening's editorial method was, by contemporary standards, sometimes too heavy-handed, as in his gratuitous and erroneous identification of the acts of June 1676 as "Bacon's Laws." He imposed typographical uniformities throughout nearly 175 years of texts taken from original manuscripts, handwritten copies, and printed versions, and he sometimes added chapter headings to portions of statutes. He also, as lawyers then did, added new marginal index headings. Some early laws look much more like modern codified statutes in Hening's edition than they do in manuscript. That made his edition easy to use as a law book, but the reader cannot always tell from the printed page what portions of the text were original and what were additions, or even that there were additions

You *can* tell the difference if you look at the manuscripts from which Hening worked, many of which are in the Thomas Jefferson Papers at the Library of Congress.<sup>30</sup> The marginal index notations are in Hening's own handwriting and right on the original documents! I suppose that Hening had the originals transcribed for the printer's use and that the marginal notations and the occasional bracket with the word "Omit" next to non-statutory material were instructions to his copyists.<sup>31</sup> Those omissions cast a cloud over part of the assembly's early history, its work as a court of appeals, and ill-served historical scholarship.<sup>32</sup>

Omissions, either deliberate or as a consequence of ignorance of the location of texts, are the principal weakness of the various classes of documentary editions that Virginians prepared or commissioned or published during the nineteenth century. Whenever I read, even in recent scholarship, the evasive words, "there is no evidence that," I cringe for fear

<sup>28</sup> Two of them have been printed: Warren M. Billings, ed., "Some Acts Not in Hening's *Statutes: The Acts of Assembly, April 1652, November 1652, and July 1653*," and Jon Kukla, ed., "Some Acts Not in Hening's *Statutes: The Acts of Assembly, October 1660*," in *Virginia Magazine of History and Biography* 83 (1975): 22–76, 77–97. The third is in the Charles City County Miscellaneous Papers, Library of Virginia.

<sup>29</sup> Waverly K. Winfree, comp., *The Laws of Virginia; Being a Supplement to Hening's The Statutes at Large, 1700–1750* (Richmond, VA: The Virginia State Library, 1971).

<sup>30</sup> Thomas Jefferson Papers, ser., 8, vols. 5–12.

<sup>31</sup> E.g., Hening, *Statutes at Large*, 2d ed., rev., 1:427: "Here follow in the Rand. and Bl. MSS. a number of decisions in civil actions, and of petitions from individuals for compensation relating to the late expedition against the Indians; but they are not of sufficient interest to merit insertion."

<sup>32</sup> Warren M. Billings, *A Little Parliament: The Virginia General Assembly in the Seventeenth Century* (Richmond, VA: Library of Virginia, 2004), 149–171.

that somebody has mistaken an absence of conveniently available evidence for an absence of evidence or for evidence of an absence.

Some of the early editors' omissions can seem almost egregious, but that is so only if we fail to appreciate how much we all owe to those who laid the ground work and to recall that they worked an editorial high wire without an Internet. They found and printed texts that have since disappeared and discovered and preserved texts that would have otherwise been lost. We all stand on the shoulders of those who went before us, and if we can see more than they saw it is only because of the work that they did. It ill behooves us when standing on their shoulders to kick them in the teeth—except on a few occasions when they deserve it.