

Editorial Section

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EDITOR'S NOTE

"Shall we kill 23 men on Maryland's death row in order to attain our highly questionable justice and our highly questionable deterrent?" That question was put to the Maryland General Assembly earlier this month by a man who has witnessed several executions in Maryland's gas chamber. The same question was asked on behalf of 600 persons on death rows across the nation by an eminent jurist, delivering the Morris Ames Soper Lecture at the University of Maryland School of Law a few weeks later. The obvious, the only answer to Professor Charles L. Black, Jr. of Yale and to Father Myer Tobey of Dismas House in Baltimore is "no." In speaking to a legislative committee, Father Tobey described the death scene — and that vivid story was an eloquent plea for abolition. Professor Black, addressing himself

to all the individuals and deliberative bodies that will face the abolition question in the months ahead, put it this way. "If the punishment of death, and waiting for death, is not 'cruel,' and if a punishment is not today 'unusual' which was inflicted, before the judicial stays stopped it, on some fifty persons a year in the whole country . . . then the words 'cruel' and 'unusual,' in the eighth amendment, must be Pickwickian terms of art."

Professor Black suggested a new weapon be placed in the arsenal of foes of capital punishment if the Supreme Court finds the extreme penalty constitutional. The President could, he believes, impose a limited moratorium on the carrying out of any sentence of death, to permit Congress to deliberate on its power and position on the death penalty without the pressure of "a cruelly irreversible change in the status quo." *Maryland Law Review* is honored to lead this issue with an expansion of Professor Black's lecture, *The Crisis in Capital Punishment*.

A crisis of confidence in our state legislatures is likely to be exacerbated by a reading of a recently published book on the subject, according to the President of the Maryland Senate. William S. James, a serious student of government as well as a polished practitioner of the art, finds *The Sometime Governments* by the Citizens Conference on State Legislatures less than convincing as an evaluator of legislative effectiveness.

The effectiveness of orders and injunctions used as enforcement tools by federal administrative agencies can only be diminished if many of them remain outstanding and unenforced. In *Modification and Dissolution of Administrative Orders and Injunctions*, Professor Edward A. Tomlinson suggests that all agencies issuing or securing such decrees establish and follow procedures for their change or termination, in order to strengthen enforcement in what has been called the fourth branch of government.

Counseling the Counselors: Legal Implications of Counseling Minors Without Parental Consent is an unusually ambitious student comment. It represents the first effort by a legal journal to present the issues and some admittedly speculative answers for the social agencies, churches, colleges and volunteers attempting to help teenagers to adjust to society.

Other student works explore the manageability problem in consumer class actions under antitrust laws, and the possibility of securing damages against unions for violations of the Equal Pay Act of 1963.

The Review welcomes to the part-time faculty Norman Amaker of the Neighborhood Legal Services Program in Washington, D.C. The staff also notes with sorrow the passing of the Honorable Frederick W. Brune — judge, legal scholar, civic leader, and a good friend to the University of Maryland Law School.