

Editorial Section

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EDITORS' NOTE

In a fault-based tort system, the notion that liability for injury should be apportioned according to relative fault would seem to follow easily from the fundamental principles of justice and fairness. The general failure of American courts to apportion loss among the responsible parties indicates both that our tort system is not entirely fault-based and that fairness and justice are not the only ends of our law. In our lead article, Messrs. Randall C. Coleman and Warren B. Daly, Jr., of Baltimore's Admiralty Bar, explore the problem of losses due to injuries suffered by longshoremen and how best to apportion these losses among the victims, their employers, and the owners of the ships upon which the injuries occurred. Although this problem is made unique by application of the Longshoremen's and Harbor Worker's Compensation Act, which to some extent governs liability among the various parties, it is in many ways typical of all loss apportionment problems. The authors advance a device, the Equitable Credit, which promotes fairness in apportionment to the greatest extent possible without doing harm to the statutory scheme. Their efforts are particularly valuable at the present time as admiralty courts grapple with the problem of loss apportionment in the context of recent amendments to the Act.

In our second article, Professor Edward A. Tomlinson makes his first formal contribution since assuming the position of Faculty Advisor to the *Review*. His article provides a fitting complement to the many hours of informal advice, assistance, and support to which we have grown accustomed and for which we are very grateful. Professor Tomlinson brings his scholarly perspective to bear upon the administrative law of Maryland, focusing on the allocation of decision-making powers between courts and administrative agencies and on the limitations placed on this allocation by principles of constitutional law. Two recent Maryland cases, one limiting the judicial power to review agency action, the other upholding an expansion of agency power to decide disputes, provide the author with a springboard into an illuminating discussion of the fundamental issues involved.

A student comment continues with the theme of agency decision-making and judicial review in the context of the Maryland Inmate Grievance Commission, an agency that provides a convenient forum for resolving prisoner complaints. The Commission has been the subject of extended federal litigation between the State and one of its prisoners. The case, which at press time is docketed in the United States Supreme Court, presents the issue whether state prisoners must exhaust the

remedy provided by the Commission before bringing civil rights actions in the federal courts. In anticipation of what promises to be a landmark prisoners' rights decision, the comment discusses the legal issues involved and offers a careful evaluation of the adequacy of the Commission as a substitute for the federal courts in initially hearing prisoner grievances that raise constitutional issues. Regardless of the eventual outcome of the actual litigation, it is appropriate to call the Commission to the attention of the Bar because of the Commission's importance as an experiment in prison administration, an area of the law which only recently has begun to emerge from a prolonged period of neglect.

A second comment also deals with the delicate relations between federal courts and state governmental activities. The doctrine of equitable restraint, under which federal courts defer to ongoing state criminal proceedings by refusing to grant equitable relief against the enforcement of unconstitutional state statutes, is one of those developing areas of the law in which every case is a "hard case" and where decisions are reached not by application of rules, but by reference to a process. Several recent Supreme Court decisions advance this process considerably and provide the core of an excellent comment on the area. Finally, the Recent Decision section in this issue covers such disparate topics as local legislation, school censorship, handguns, and horse racing. Variety, it is hoped, has not lost its power to enrich, nor brevity its ability to inform.

The following student has contributed a Comment to this issue:

John D. Bates

The following students have contributed Recent Decisions to this issue:

Nancy Gregor Frame

William N. Fitzpatrick, Jr.

John P. Machen

Elizabeth B. Bazan