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Recommended Citation

Editorial Section, 37 Md. L. Rev. 1 (1977)

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Maryland Law Review

VOLUME 37

NUMBER 2

Member, National Conference of Law Reviews
Conference of Southern Law Reviews

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EDITOR'S NOTE

The problem of determining a basis for the assertion of personal jurisdiction over a deserting spouse in an alimony or support action is the subject of this issue's lead article. Written by Gary Strausberg, this article examines both constitutional and statutory difficulties associated with the exercise of personal jurisdiction over a deserting spouse, a jurisdiction essential for a monetary award to the abandoned spouse. The author reviews the ways in which the various types of long arm statutes have been applied to this situation and concludes that the Maryland long arm statute should be construed to reach the spouse who has left the state.

The second article is a revised version of the Morris Ames Soper Lecture delivered at the University of Maryland School of Law in 1977 by Dean Norval Morris of the University of Chicago. Dean Morris, author of several major works and numerous articles in the fields of criminology and sentencing, discusses the issues of who should impose sentence on the criminal and under what legislative, judicial, and administrative limitations. Although attacking the lack of principled sentencing in the United States, Dean Morris concludes that it is still the judge who must make the sentencing decision. He posits that legislatures are incapable of accounting for the infinite subtleties that must be observed and evaluated to determine the sentence appropriate to the crime and the criminal. Rather, it is the legislature's function to provide the judge a rational frame work to accomplish his task of sentencing the criminal offender. Dean Morris does not favor a division of sentencing responsibility between the judiciary and the parole board — he favors the abolition of parole, and he refutes the major arguments commonly mustered in favor of parole board-fixed release dates. Finally, several major sentencing reform proposals currently under review for the federal court system are discussed. These proposals are critically examined by the author for their ability to strike the proper balance between legislative, administrative, and judicial discretion in sentencing. This balance, the author feels, is absolutely essential to principled sentencing, "the heart of an effective criminal justice system."

The final article in this issue represents the collaborative effort of two distinguished scholars in the field of torts: Fleming James, Jr., and Oscar S. Gray. Titled "Misrepresentation," this work was originally prepared as a draft chapter for a revised version of F. Harper & F. James, Jr., *The Law of Torts* (1956). This issue contains sections 1 through 7, which deal with the scope of liability in deceit, scienter, and liability for negligent and innocent misrepresentations. A second segment, concerned with topics such as reliance, liability

1. Morris, *Towards Principled Sentencing*, 37 MD. L. REV. 267, 275 (1977).

for concealment and nondisclosure, the duty to inspect, causation, and remedies, will be published in the next issue.

In 1974, the Maryland General Assembly passed a statute, later amended, designed to curb forward integration into gasoline retailing by prohibiting oil companies from owning and operating retail outlets in the state. This legislation was enacted in response to the crisis created by the energy shortage of 1973, and represented an attempt to equalize the impact of decreased gasoline supplies among retail gasoline dealers. The law was promptly challenged, and in *Governor of Maryland v. Exxon Corp.*² the Court of Appeals of Maryland upheld the statute against various constitutional objections. Our first student comment discusses the history and purposes of this legislation and the several arguments raised by the oil companies who challenged it. The Court of Appeals' opinion provides an excellent vehicle for an analysis of that court's views of its limited role in reviewing economic legislation, and of a state's power effectively to combat anticompetitive marketing practices.

Attorney advertising has long been the subject of much litigation and scholarly discussion. State bar associations, armed with the threat of disciplinary proceedings against recalcitrant attorneys, have long insisted that advertising by attorneys is unbecoming to the profession and inherently misleading. In the summer of 1977, the Supreme Court rejected these and other arguments and determined that attorney advertising deserves some measure of first amendment protection, so that a state bar could not enforce a blanket suppression on attorney advertising. This issue's second student work deals with the issues settled and the many questions raised by the Supreme Court's opinion in *Bates v. State Bar*.³ This note examines the tortuous road to first amendment protection travelled by commercial speech, the *Bates* decision, and the American Bar Association's response to that decision. The Bar Association's proposed advertising rules are critically scrutinized to determine whether they comply with the letter and the spirit of *Bates*.

The third student piece in this issue discusses the basis treatment for tax purposes accorded property acquired from a decedent. Prior to 1976, such property received a basis equal to the property's fair market value on the date of the decedent's death. This "stepped-up" basis was the subject of critical attack, however, and this led Congress to enact section 1023 of the Tax Reform Act of 1976. Section 1023 provides that certain types of property acquired from a decedent after December 31, 1976 will have the same basis as

2. 279 Md. 410, 370 A.2d 702 (1977). This case has since been argued on appeal before the United States Supreme Court.

3. 97 S. Ct. 2691 (1977).

such property had in the hands of the decedent. But is this change an improvement in the tax system, or is it truly an example of tax reform gone awry? Evaluating section 1023 by comparing its probable effects with the stated goals of its sponsors, the author forcefully argues that this effort at tax reform must be considered a failure.

The issue concludes with a comment that exhaustively traces the historical justifications for not allowing a mistake or ignorance of law defense in a criminal prosecution. Using two cases recently decided by the United States Court of Appeals for the District of Columbia, in which six opinions addressed the issue, the author suggests that a person whose ignorance of the law, or whose mistaken belief as to what the law prohibits, is reasonable should not be subject to criminal punishment.

This issue represents the final publication of the *Review* under the aegis of the 1976-1977 Editorial Board. The Editorial Board for 1977-1978, who have assumed substantial responsibility for completing this issue, are:

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The following students have contributed a note or a comment to this issue:

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