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CONCERNING THE MARYLAND LAW REVIEW

With this number the MARYLAND LAW REVIEW commences publication. The establishment of the Review is the realization of a long-felt desire for a legal journal devoted to Maryland law and matters of interest to Maryland lawyers. A growing sentiment for such a review was given impetus in 1935-1936 by the Junior Bar Association of Baltimore City's appointment of a committee to consider the possibil-

ity of establishing a Maryland legal journal. As a result of co-operation between that Committee and the Law School the Review was launched.

Generous grants of financial assistance were made by the Maryland State Bar Association, the Bar Association of Baltimore City, and the Junior Bar Association of Baltimore City. In consideration of these grants the members of these organizations will receive free subscriptions to the first volume of the Review. The Law School has provided the further necessary funds and other items, including faculty time for the editing and managing of it.

The Review will appear four times a year. It will be published at the University of Maryland Law School by the Maryland Law Review, Inc. The present board of Trustees of the corporation is composed of the Hon. Carroll T. Bond, Chief Judge of the Court of Appeals; Messrs. George Weems Williams, Robert R. Carman and Herbert M. Brune, Jr., who were the respective presidents of the State, City, and Junior Bar Associations when those organizations appropriated funds for the founding of the Review; Dean Roger Howell of the Law School; and Messrs. John Ritchie, III, and John S. Strahorn, Jr., Business Manager and Faculty Editor of the Review, respectively.

Under the by-laws of the corporation the Trustees serve as a governing body only. The by-laws provide that editorial responsibility for specific opinions shall rest with the Faculty Editor and the two Editorial Boards. The Advisory Editorial Board has been chosen from the co-operating Bar Associations and also includes the faculty of the Law School. The Student Editorial Board is composed of selected students at the Law School who will participate in the editorial work in the same manner as on the legal journals of other law schools in this country.

It is contemplated for the present that each number of the Review shall consist of four sections or departments, viz.: Leading Articles, Editorial Matter, Casenotes and Comments, and Book Reviews.

The section for leading articles will contain signed essays or monographs discussing definite areas of the law or spe-

cific legal problems. It is hoped to confine them to treatments of Maryland and Federal law or of other matters which may be of particular interest to Maryland lawyers. There are already sufficient national or general law reviews available for those whose interests run to matters of such broad scope. The Review feels that there is a definite place for the local legal journal and it is planned to make this one of such a nature.

The editorial section will be devoted to announcements, news of the Bar Associations, news of the Law School, editorials, and miscellaneous contributions.

The section for casenotes and comments will contain notes on recent or leading Maryland or Federal cases and other contributions not long enough to merit inclusion among the leading articles. Matter published in this section will not be signed by the authors except where it is contributed by persons not on the Editorial Boards. Those items which are the work of one or more members of the Editorial Boards will remain anonymous and will be considered the work of the joint Boards as a unit. This is customary with many of the established journals and the Review has decided to follow the same policy. It is expected that eventually much of the material published in this section will be written primarily by the student editors, as is the case elsewhere. For the time, however, until the tradition of student participation in the Review is developed at the Law School, the casenotes will represent the joint work of the students on the one hand and the faculty and bar members of the Advisory Board on the other.

Typical casenotes will include an abstract of the case, an analysis of the legal problems involved, a discussion of the relation between the rule in the case and other Maryland cases on the same point, a similar discussion of the relation of the local rule to the state of the law generally, and a treatment of any analogous problems suggested by the case.

The book review section will be devoted to reviews of books concerning the Maryland law as well as other books which may be of interest to Maryland lawyers.

While the Review is being published *at* the Law School yet both the Review and the Law School wish to emphasize that it is being published *for* the members of the Maryland bar. To that end the scope of the Review will be confined to matters thought of interest to them. It is hoped that the members of the bar will both suggest problems for treatment in the Review and contribute acceptable material on points of interest.

NEWS OF THE BAR ASSOCIATIONS

Volume Forty-one of the Transactions of the Maryland State Bar Association was published in mid-November. It reports the proceedings of the Forty-First Annual Meeting of the Association, which was held at Atlantic City, N. J., on July 2, 3, and 4, 1936.

George Weems Williams, Esq., retiring President, presided at the meeting and gave his Presidential address on "Two Days in a Maryland Court". The other principal addresses were by the Hon. W. Calvin Chesnut of the District Court of the United States for the District of Maryland on "History of the Federal Courts in Maryland"; by the Hon. Stanley Reed, Solicitor-General of the United States, on "The Constitution of the United States"; by Alexander Armstrong, Esq., former Attorney-General of Maryland, on "A Brief Survey of the Life of Roger Brooke Taney"; by Edward S. Delaplaine, Esq., of the Frederick Bar, on "The Home of Taney"; and by the Hon. Dean G. Acheson on "Roger Brooke Taney—Notes upon Judicial Self-restraint".

Reports of the various officers and committees were considered and miscellaneous business was considered on the floor of the meeting. Upon the approval of the report of the Nominating Committee the officers for the ensuing year were elected. Hon. John S. Newman, of Frederick, was elected President and Messrs. James W. Chapman, Jr., and R. Bennett Darnall, of Baltimore were re-elected to their respective positions of Secretary and Treasurer. Nine Vice-Presi-

dents were elected, including the Hon. Rowland K. Adams and Messrs. George H. Myers, S. Scott Beck, Philip H. Close, William P. Lane, Jr., Theodore F. Brown, Thomas M. Anderson, Charles C. Marbury, and Roger Howell. Messrs. Frederick W. Brune, Allan H. Fisher, H. Courtenay Jenifer, and James Clark were elected to the Executive Council. The various committees have been appointed for the current year.

As this number of the Review goes to press the Bar Association of Baltimore City is planning to hold a dinner and meeting for the election of officers on December 14, 1936. The next meeting of the Association after that one is stated to occur on the first Tuesday in February, 1937, which will be the 2nd of that month.

The Junior Bar Association of Baltimore City has had several meetings during the present Fall. At a luncheon meeting on October 21, 1936, the reports of the Law Review Committee and the Membership Committee were considered. Some seventy new members have been enrolled. This makes the total membership approximately one hundred and ninety.

At a regular meeting on October 29, 1936, the new officers were elected. These include Thomas M. Jacobs, President; Norwood B. Orrick, Vice-President; Charles J. Stinchcomb, Secretary; Charles R. Posey, Jr., Treasurer; and Nathan Patz, Member at Large of the Executive Committee. Other members of the Executive Committee are Douglas N. Sharretts, Chairman of the Program Committee; Douglas H. Gordon, Chairman of the Civics, Legislation and Judiciary Committee; George Gump, Chairman of the Legal Ethics Committee; and A. Risley Ensor, Chairman of the Membership Committee.

At a meeting of the Association on November 13, 1936, the Hon. Samuel K. Dennis, Chief Judge of the Supreme Bench of Baltimore City, addressed the members on "The

Technique of Trial Practice." At a meeting on November 27, 1936, Preston D. Callum, Esq., addressed the Association on the proposed revision of the motor vehicle laws of Maryland.

NEWS OF THE LAW SCHOOL

Professor A. James Casner has resigned from the faculty of the Law School in order to accept a position on the faculty of the University of Illinois College of Law. Professor Casner, who had been teaching the Property courses at the Law School since 1930, was absent on leave during the academic year just past in order to engage in post-graduate study and research in Property law at the Columbia University School of Law under a graduate fellowship awarded him there. During the year he was appointed to the group of Advisers to the Reporter of the Property Restatement of the American Law Institute. A review of Professor Casner's Maryland Annotations to the American Law Institute's Restatement of Agency appears in the book-review section of this issue.

Professor G. Kenneth Reiblich has been granted leave of absence for the current academic year in order to engage in post-graduate study and research in the field of Conflict of Laws at the Columbia University School of Law under a graduate fellowship awarded him there. Professor Reiblich has recently completed the manuscript of his Maryland Annotations to the Restatement of Conflict of Laws of the American Law Institute. The printing of them has commenced and their publication by the Institute publishers is expected presently. Professor Reiblich is also the Maryland annotator to the Restatement of Trusts of the American Law Institute. The current work on these latter annotations is being conducted in Professor Reiblich's absence under the immediate direction of his assistants, Miss Elizabeth M. C. Chesnut and Mr. Joseph O. Kaiser, of the Baltimore Bar and of the Law School class of 1936. Professor Reiblich has been preparing both of these annotations under

the joint auspices of the Maryland State and Baltimore City Bar Associations. During his absence from the Law School his courses are being handled temporarily by various other members of the faculty.

Charles G. Page, Esq., Lecturer on Suretyship and Mortgages since 1930, has resigned from the part-time faculty. A leading article by Mr. Page appears in this number of the Review.

Professor John Ritchie, III, A.B., LL.B., University of Virginia; J.S.D., Yale University, has joined the full-time faculty as Professor of Law. Professor Ritchie has practiced law in Omaha, Nebraska. He has taught at the Furman University School of Law, 1928-1930, and at the University of Washington School of Law, 1931-1936. In 1930-1931 he was a Sterling Research Fellow at the Yale Law School. Professor Ritchie will teach the courses in Suretyship, Mortgages, Negotiable Instruments, and Public Utilities, and will also serve as Business Manager and Assistant Editor of the Law Review.

Mr. Russell R. Reno, A.B., LL.B., University of Illinois, has joined the full-time faculty this year as Assistant Professor of Law. Mr. Reno has practiced law in Decatur, Illinois. He taught Commercial Law at the University of Illinois, 1929-1931, and also taught at the Law School of Valparaiso University, 1931-1934, and at the Law School of the University of South Dakota, 1934-1936. He will teach the courses in Property formerly taught by Professor Casner.

RECENT CONSTITUTIONAL AMENDMENTS

At the November, 1936 election the voters of the State approved by substantial majorities the three amendments to the Maryland constitution of 1867 which had been proposed by the legislatures of 1935 and 1936. A fourth proposed amendment, Acts 1935, Chapter 463, proposing to repeal the prohibition against the authorization of lotteries, Constitution, Article 3, Section 36, was not voted on inas-

much as the legislative act proposing it specified that it is to be voted on at the next general election for members of the General Assembly. This will occur in 1938.

The first of the successful amendments, Acts 1935, Chapter 426, amends Constitution, Article 4, Section 21, Part III and provides for an additional Associate Judge in the Sixth Judicial Circuit composed of Frederick and Montgomery Counties. The amended section provides that there shall be a Chief Judge and three Associate Judges in that Circuit and that the Chief Judge and one of the Associate Judges shall reside in one county thereof and two Associate Judges in the other. This will give the Sixth Circuit as many judges as the Third Circuit, composed of Baltimore and Harford Counties. This latter circuit has long had a Chief Judge and three Associate Judges, although without any provision stipulating for the residence of groups of them in the different counties. It has long been customary, however, for the Chief Judge and two of the Associate Judges to reside in the more populous Baltimore County and one Associate Judge in Harford County. As far as the Constitution provides, all four could be residents of either one of those counties alone. The other five county Circuits each have a Chief Judge and two Associate Judges and are composed of from three to five counties each. For them it is provided that no two of the Associate Judges shall reside in the same county.

The second amendment approved, Acts 1935, Chapter 584, amended Constitution, Article 3, Section 13, to provide that the Governor shall fill any vacancy in the General Assembly by appointing such person whose name is submitted by the State Central Committee for the County or District of the party to which the person vacating the office belonged. The person so appointed shall belong to such party. Lacking a State Central Committee for the County or District the Governor shall appoint a person otherwise properly qualified within fifteen days after the vacancy develops. The appointments thus made are to be for the unexpired portions of the terms of persons vacating their offices as Senators and Delegates. The amendment obviates the

necessity and expense of calling special interim elections to fill vacancies in the Legislature.

The third amendment approved by the voters, Special Acts of 1936, Chapter 151, repealed and re-enacted Constitution, Article 3, Section 39, so as to remove the constitutional provision for double liability of stockholders in banks chartered by the State. The Constitution had previously provided that the General Assembly should neither grant nor renew banking charters save on the condition that the stockholders should be subject to double liability. The amendment simply repealed this provision in its entirety without substitution of terminology or any saving clause. Two problems seem to be left open by the form of the amendment. The one is as to whether the double liability of existing banks survives the repealer with reference to bank debts incurred before the provision was repealed. It is arguable that it would impair the obligation of contracts to take away the double liability as to debts already existent when the repealer was voted on. The other point is that the repeal of the constitutional provision does not of its own force repeal the double liability at all because there must yet be repealed the statute, Code, Article 11, Section 72, which of its own force provides double liability for stockholders in banks and trust companies. No doubt it is contemplated that this shall be done. As matters now stand, not only is the statutory double liability still on the statute books, but the banks of the state are functioning under charters granted at a time when double liability was a condition of the issuance of the charters.

A SYMPOSIUM ON LAW REVIEWS IN A NEIGHBORING JOURNAL

The November, 1936 issue of the Virginia Law Review should be of particular interest to those concerned with the formation of the MARYLAND LAW REVIEW. This is because the issue devotes the entire space for leading articles, Virginia Law Review, volume 23, pages 1-52, to a symposium on

the scope and purpose of law reviews. The appearance of this symposium in a neighboring journal when the MARYLAND LAW REVIEW is being organized and its first issue prepared seemed most timely to the editors of the latter when faced with the pioneer task of deciding the initial policy of their Review and establishing the form which it should take.

Such matters as whether law reviews should be general or specialized; international, national or local; theoretical or practical; serious and dignified or flippant and lively are all ably treated by the writers of the five leading articles which constitute the symposium.

The first article is by Professor Cavers of Duke University Law School on "New Fields for the Legal Periodical". The author points out that the law school law review is an integral part of American legal education which serves to train the student editors in the art of legal writing. This experience is calculated to make them better lawyers and judges. Professor Cavers believes there is a real need for more specialized journals, devoting themselves both to the legal and extra-legal aspects of definite areas of litigation. The author draws freely on his experience as the editor of the Duke University publication "Law and Contemporary Problems" each quarterly issue of which is devoted to a symposium on a single topic and is composed of articles both on the legal and the extra-legal aspects of the subject under discussion. He surveys the existing field of specialized legal publications and points out the need for further ones.

The second article is by Professor Deak of the Columbia University Law School on "The Place of Foreign and Comparative Law in the American Law Review". Professor Deak avers that the members of the bench and bar are too busy to treat law scientifically and that the duty of doing this rests largely on the law schools, to be executed through the medium of the law review. He argues for a greater treatment of foreign law in approaching our own law scientifically. He points out that the difference between considering the law of the other forty-seven states and of the English courts and not considering the more foreign law of

the Continental system is but a matter of degree. He considers that to treat of the latter would entail but a pushing back of the horizon a bit farther although, to be sure, into a system with an entirely different technique than that common to the jurisdictions of the Anglo-American system.

In the third article Professor Rodell of the Yale University Law School says "Goodbye to Law Reviews" and tells us that his disgust with the inanity of the typical law review has caused him to resolve to write for them no more. Professor Rodell's article is written in that charming and witty, if irritating and irrelevant fashion that one has come to expect from the younger professors at the country's more prominent law schools. The author twits the law school reviews for their slavish imitation of the style of the Harvard Law Review which was the first one in the field. He finds that all legal writing is bad both as to style and to content.

Mr. Rodell seems perturbed that practicing lawyers look on the law reviews as fruitful sources for their briefs, and are saved the trouble of looking up the cases themselves. He is dismayed that the lawyers get this service without paying for it. But is this a sound criticism? If practicing lawyers will use the results of a law review writer's researches in preparing their cases, is not the existence of the particular review justified? Is not this service one which a law review and its supporting school owe to the community in which they are situated? Does the duty of the law school stop with getting its students past the bar examinations? Does it not behoove a law school to project itself into the professional life of its constituent jurisdiction, whether that be nation or state, in order to assist the bench and the bar in the handling of the legal materials which must be handled to decide cases? Why should lawyer X and lawyer Y and lawyer Z all have to engage separately in the same bit of research if their cases involve the same problem, when the materials can be assembled once and for all in the form of a law review article or note written by someone who is a specialist in the field? When we remember that poorly argued cases may be poorly decided ones it should appear

that providing lawyers with better briefs than they have time to work up themselves may result in better legal rules of case-law. Viewed in this light it would seem that there is some justification for legal writing which strives to provide the practicing lawyer with a ready collection of the materials applicable to his cases.

Mr. Rodell also feels that criticism of the courts in the law reviews is too respectful and hence is not sufficiently forceful. He deplors the circumlocution made necessary by the use of dignified terminology in disagreeing with the judges. He finds that the writers avoid the first person in presenting their ideas because of an abhorrence of "disrobing in print". The lack of "seasoning" in law reviews is a source of worry to him. The length and superfluity of footnotes make legal writing "a cross between a nineteenth century sermon and a treatise on higher mathematics".

The fourth article is by Professor Glenn of the University of Virginia Law School and is called "Law Reviews—Notes of an Antediluvian". It largely consists of an answer to Professor Rodell. Professor Glenn remembers his experiences on the student editorial board of the second and third volumes of the Columbia Law Review, as well as the circumstances of the founding of the Virginia Law Review, and can find nothing wrong with their decisions to follow the style of the Harvard Law Review. He points out that a review which "flies the flag" of a school must be ready to conform to the conventions of the school itself. He defends the use of dignified terminology in criticising the courts and remarks: "Manners really help out, in the long run". His thesis is that law schools themselves observe the canons of decency and order and so should the reviews attached to them. He believes that "a law review must insist upon the decencies of debate and the amenities that should govern the conduct of law writers as well as lawyers".

The fifth article, by Mr. Joseph Werner, Fellow in Law of the University of Wisconsin and formerly Editor of the Wisconsin Law Review is on "The Need for 'State' Reviews". He is in favor of the smaller law schools sponsoring reviews devoted primarily to the local law of the juris-

dictions for which they are training men for the Bar. He emphasizes that there is a fruitful field for co-operation between bar associations and law schools in publishing journals devoted to local law. In addition to articles and casenotes on matters of local interest he suggests that such reviews could well devote space to surveys of recent state legislation, to surveying all the cases from the state courts over definite periods (as distinguished from critical comments on selected ones), to suggesting needed changes in legislation, and to annotating the Restatements of the American Law Institute.

With the issues thus drawn by the Virginia Law Review symposium, attention is here clearly directed to the problem of what is to be the policy of the MARYLAND LAW REVIEW with reference to the points raised. While the present Editors of the Review abjure any intention to create an inflexible mold in which all future volumes will be cast yet it does seem appropriate to advise the subscribers to the first volume about the tentative policies of the Review in this, its formative stage.

With reference to scope of subject matter, the Review plans to be essentially local. It is planned to confine its articles, notes, and comments to Maryland and Federal law and to other matters believed to be of especial interest to the Maryland bench and bar. Matters of general law will be handled only because of their local interest, or to furnish a background for the discussion of the local law.

The preceding paragraph should make it obvious that the Review will essay to be practical rather than theoretical. It will seek to convey to the lawyers of the State information concerning the state of the authoritative legal materials applicable to cases arising in their experience. And yet the Review will be theoretical on occasion, when the mass of the applicable legal materials on a given point makes theory necessary as a way of understanding the significance of practical detail. It is believed that legal theory, when properly understood as a means to an end, is of practical utility in doing that which cannot be done without it, i. e., the understanding of complex legal materials.

The Review chooses to be serious rather than flippant. The accepted task of presenting essays on the case and statute law of a single jurisdiction inevitably entails the production of dreary reading matter. The Review does hope, however, to ameliorate the inescapable dryness of articles, comments, and notes on legal topics with editorial comment on ephemeral matters of professional interest and book reviews of occasional books dealing with matter other than the law of Maryland and yet assumed to be of interest to Maryland lawyers.

One point remains—the attitude of the Review in commenting on current cases decided by the Courts. Part of the Review's function will be to call the attention of the readers to important current cases and to provide comment upon them. In the course of doing this occasion may be presented to make unfavorable criticism of the holding in the case. In such event the Review will not shrink from its responsibility in the matter. If an occasional opinion or specific rule seems to the editors justifiably subject to unfavorable criticism such criticism will be imposed. This will be done in a respectful, dignified, and good-humored manner. The criticism will be accompanied by citation of authorities and statement of conflicting views supporting it. As the Review visualizes it, whole-hearted respect for the courts does not necessarily force a silent acceptance of the results they achieve. There is little place in the legal scene for a quarterly journal with the sole function of relaying information to its readers. The name "Review" implies that a legal journal should go farther and strive to be a constructive force in the never-ending judicial and juridical processes.