

## Editorial Section

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# Maryland Law Review

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## NEWS OF THE LAW SCHOOL

The Student Council of the Law School has elected as officers for 1938-1939: President, Charles E. Edmondson; Vice-President, Raymond A. Kirby; and Secretary-Treasurer, Roland C. Ready. Messrs. Edmondson and Ready are members of the Day Class of 1939 and Mr. Kirby of the Evening Class of 1939.

The Annual Honor Case in the Practice Court was held on Tuesday, May 3, 1938, in the Auditorium of the Law School before a Court composed of Hon. Henry D. Harlan, Dean Emeritus of the School; Hon. Robert F. Stanton and Hon. Edwin T. Dickerson, of the Supreme Bench of Baltimore City; Walter L. Clark, Esq., of the Baltimore City Bar and Lecturer on Evidence in the Evening Division of the School; and G. Ridgely Sappington, Esq., of the Baltimore City Bar and Director of the Practice Court in the School.

The case involved the capacity of a state legislature to ratify a proposed amendment to the United States Constitution after it had previously rejected the same amendment. Messrs. Walter J. Rothschild and Alvin Katzenstein argued the case for the appellant, contending that the state had the power still to ratify and Messrs. John H. Barrett, Jr., and Bernard S. Meyer argued for the appellee. The Court affirmed the lower court and awarded the Alumni Association prize for the most lawyer-like presentation of the case to Mr. Barrett.

Dean Howell has been appointed a member for 1938 of the Committee on Co-Operation With the Bench and Bar of the Association of American Law Schools, and Professor Strahorn has been appointed a member for 1938 of the Committee on Reprinting Leading Articles of the same Association.

The Fourth Annual Law School Banquet was held at the Chesapeake Club in Baltimore on Saturday evening, April 30, 1938. Emory H. Niles, Esq., of the Baltimore City Bar and Lecturer on Admiralty at the Law School, served as Toastmaster. The speaker of the evening was the Hon. John J. Parker, Senior Circuit Judge of the United States Circuit Court of Appeals for the Fourth Circuit. At the banquet the graduating classes presented the School with an engraving from a portrait of Sir William Blackstone by Sir Joshua Reynolds. The engraving has been added to the collection of portraits and prints in the Lounge of the Law Building.

An additional speaker at the banquet was Dean William C. Van Vleck, of the George Washington University School

of Law of Washington, D. C., and former member of the National Executive Committee of the Order of Coif, national honorary society for scholarship in law. Dean Van Vleck addressed the gathering on the history and significance of the Order and welcomed the newly installed Maryland Chapter to membership.

Dean Roger Howell of the Law School announced at the banquet the names of the six members of this year's graduating classes who had been elected to membership in the Maryland Chapter of the Order of Coif because of their high scholarship. Dean Howell also announced that the twenty-eight high ranking members of recent classes already graduated from the School, including all classes entering under the present entrance requirement of two years of college work, had also been elected to membership. These alumni graduated with the requisite standing in their classes to entitle them to membership.

The permanent chapter of the Order consists of all faculty members of the rank of Assistant Professor and above. Currently this includes Dean Emeritus Harlan, Dean Howell, and Messrs. Arnold, Brune, Reiblich, Reno, Ruge, and Strahorn. The officers of the Maryland Chapter are Professor Strahorn, President; Professor Reiblich, Vice-President; and Assistant Professor Reno, Secretary-Treasurer.

Members of this year's graduating classes elected to the Order are:

|                       |                  |
|-----------------------|------------------|
| Sylvan A. Garfunkel   | Richard H. Love  |
| Edward D. Higinbothom | Bernard S. Meyer |
| Alvin Katzenstein     | Jesse J. Rubin   |

Alumni members elected to the Order from classes previously graduated from the School are:

|                         |                      |
|-------------------------|----------------------|
| Lester A. Ahroon        | Clifford H. Graves   |
| Irvin J. Applefeld      | George Gump          |
| J. Cookman Boyd, Jr.    | George W. Haley      |
| Allen E. Buzzell        | Joseph O. Kaiser     |
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### SUPREME COURT OVERRULES AN IMPORTANT CASE

The local popular press entirely ignored a decision of the Supreme Court of the United States, handed down on Monday, April 25, 1938, which is of considerable importance to the legal profession. This case, *Erie Railroad Co. v. Tompkins*,<sup>1</sup> overruled the earlier case of *Swift v. Tyson*,<sup>2</sup> decided by the Supreme Court ninety-six years earlier.

The rule of *Swift v. Tyson* had been that the Federal Courts, in cases in which State rules of law furnished the basis of decision, did not have to follow the decisions of the highest Courts of the States as to what was the common law of those States. The result was that on many important points, particularly in insurance cases, the Federal Courts had one rule as to what the law of the State was while the courts of the State had another. Thus it was that it was a matter of considerable moment to parties litigant as to which court the case was to be brought in. Litigants standing to profit by the Federal rule naturally strained every effort to have their cases brought in the Federal Court.

Under the recent case which overruled *Swift v. Tyson* the Federal Courts must now follow State precedents and, to that extent, it will now make little difference whether cases are litigated in State or Federal courts. The specific problem in *Erie Railroad Co. v. Tompkins* was whether to follow the State or Federal rule on the point of the duty owed by a railroad to exercise care with respect to a person

<sup>1</sup> 5 U. S. L. Wk. 999.

<sup>2</sup> 16 Pet. 1, 41 L. Ed. 865 (1842).

walking on a parallel footpath along the right of way. The latest announced view has borne fruit in an insurance case decided by the Court on May 2, 1938.<sup>3</sup> The judgment was reversed because the lower Court had not applied the State law.

The Court divided in *Erie Railroad Co. v. Tompkins*. Mr. Justice Cardozo did not sit in the case. Mr. Justice Butler dissented in an opinion in which Mr. Justice McReynolds joined. Mr. Justice Reed, by separate opinion, concurred in the result but not in the reasoning of the majority. Mr. Justice Brandeis wrote the majority opinion, concurred in by Mr. Chief Justice Hughes, and Associate Justices Stone, Roberts, and Black.

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### FURTHER ON FOREIGN WRONGFUL DEATH

The May, 1938 issue of the Columbia Law Review contains a comment<sup>1</sup> on the recently enacted Maryland statute<sup>2</sup> permitting suits in Maryland for wrongful deaths occurring elsewhere. The comment is extensive and thoroughly annotated, and interprets the statute under the general law of the subject. The attention of the readers is called to it in the belief that it may prove helpful to those having problems under the statute. The MARYLAND LAW REVIEW has twice previously dealt with the same general topic.<sup>3</sup>

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<sup>3</sup> *Ruhlin v. New York Life Insurance Co.*, 5 U. S. L. Wk. 1055; and, more recently, *Hudson v. Moonier*, 5 U. S. L. Wk. 1205, May 23, 1938.

<sup>1</sup> (1938) 38 Col. L. Rev. 946-952.

<sup>2</sup> Md. Acts 1937, Ch. 495, to be Md. Code Supp., Art. 67, Sec. 1-A.

<sup>3</sup> Note (1937) 1 Md. L. Rev. 162; and Note (1938) 2 Md. L. Rev. 168.