

Editorial Forward

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EDITORIAL FOREWORD

This number of the REVIEW is being devoted practically entirely to a symposium on the new General Rules of Practice and Procedure recently promulgated by the Maryland Court of Appeals under the authority of the enabling act, Maryland Laws of 1939, Chapter 719; Maryland Code (1939) Article 26, Sections 35 to 38.

The Rules were adopted in much the same fashion as was the case for the earlier promulgated Federal Rules, which they resemble in certain detail, viz., by Court order under authority of a statute authorizing such an order.

Prior to the promulgation of the Rules, the Court of Appeals had appointed a Committee, representative of the Bench and Bar of the State, to investigate proposals for the Rules, and to make recommendations to the Court. Hon. Samuel K. Dennis, Chief Judge of the Supreme Bench of Baltimore City, was named Chairman of the Committee, and Robert R. Bowie, Esq., of the Baltimore City Bar, was appointed Reporter to the Committee.

After considerable study, the Committee made its recommendations to the Court, which, in turn, reported its action thereon to the 1941 Legislature, under the mandate of the enabling act. Inasmuch as that Legislature took no action to change the Rules, they automatically went into effect on September 1, 1941, as provided in the enabling act.

In June, 1941, the Maryland State, Baltimore City, and Baltimore City Junior Bar Associations joined in sponsoring the publication in pamphlet form of the new Rules, together with the explanatory notes prepared by the Reporter to the Committee which had recommended the Rules

to the Court. This symposium is not intended to duplicate that pamphlet.¹ While the Rules themselves are set out at length herein in the Comment section, the articles herein differ in scope and purpose from the explanatory notes; they are intended to provide intensive practical commentaries on certain of the outstanding innovations found in the Rules, by persons with experience in their actual operation.

The REVIEW is grateful to Mr. Bowie, Reporter to the Committee which recommended the Rules, for his assistance in suggesting the topics to be treated in this symposium, and for aiding in arranging with the respective authors of the leading articles for their preparation and submission.

Since articles based on practical experience were desired, it was necessary to find authors familiar with how similar rules had already been functioning in other jurisdictions. The REVIEW has been fortunate in that the authors of the leading articles herein published are particularly qualified to speak concerning the way in which rules similar to the new Maryland ones have actually worked in practice. These leading articles have been arranged herein in the same sequence in which the rules with which they deal appear in the official version of the Rules.

Messrs. James A. Pike and John W. Willis, authors of the first leading article, *The New Maryland Deposition and Discovery Procedure*, have already written extensively on the analogous problems of depositions and discovery under the greatly similar Federal Rules of Procedure. Mr. Pike is engaged in trial practice, is a law school lecturer on the topic of civil procedure, and has published a casebook on the new Federal Procedure. He and Mr. Willis are currently engaged in investigations of the entire field of the new Federal Rules.

¹ Other discussions of the new Rules are to be found in Volume 46 of the Transactions of the Maryland State Bar Association, pages 91, 146, 151, 159, and 184; and in certain of the papers on the subject before the Luncheon Club of the Baltimore City Bar Association, printed in the Baltimore Daily Record for October 9 and October 15, 1941.

Hon. Morris A. Soper, author of the second leading article, *The Charge to the Jury in Maryland Under the New Rules of Practice and Procedure*, is a United States Circuit Judge for the Fourth Judicial Circuit; formerly was United States District Judge for the District of Maryland; and prior to that was Chief Judge of the Supreme Bench of Baltimore City. His combination of experience with the earlier Maryland practice and, as Federal trial and appellate judge, with the common law practice of charging the jury, qualifies him to speak of the impact of the common law technique, now adopted, on the earlier Maryland practice in this regard.

Francis E. Winslow, Esq., author of the third leading article, *Operation of the Modified Special Verdict in Civil Actions in North Carolina*, is a prominent member of the North Carolina Bar, and is active in the movement for procedural reform. It is fortunate for the Maryland Bar to be able to have his interpretation of North Carolina's earlier experience with the modified special verdict now adopted under one of the new Maryland Rules.

All casenotes have been omitted from this issue of the Review. Instead, the Comment section has been devoted to examples of how a case might be submitted to the jury on prayers, oral instructions, or special interrogatories with instructions, using a reported case for the illustration. Following this, for the convenience of the Bench and Bar, the Rules have been reprinted in full. Finally, because it deals with practice and procedure, a review of Judge Sykes' recent book has been included in the space usually devoted to book reviews.