

Editorial Section

Follow this and additional works at: <http://digitalcommons.law.umaryland.edu/mlr>

Recommended Citation

Editorial Section, 30 Md. L. Rev. 2 (1970)

Available at: <http://digitalcommons.law.umaryland.edu/mlr/vol30/iss1/2>

This Editorial Section is brought to you for free and open access by the Academic Journals at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Maryland Law Review by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact smccarty@law.umaryland.edu.

Maryland Law Review

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

STUDENT EDITORIAL BOARD

Editor-in-Chief

PAUL M. VETTORI

Articles Editors

GILL COCHRAN
THOMAS A. SPEICHER

Notes and Comments Editors

GEORGE W. MAUGANS, III
DENNIS R. NEUTZE

Managing Editor

JOHN J. KENNY

Research Editor

ALAN L. LIBSHUTZ

JEFFREY W. BOLOTIN

JOSEPH M. FAIRBANKS

ROBERT L. BROWNELL

Faculty Advisor

HAL M. SMITH

Ass't Faculty Advisor

LAURENCE M. KATZ

EDITOR'S NOTE

The REVIEW is happy to be able to present as the lead article for this issue *Real Estate and Tax Reform: An Analysis and Evaluation of the Real Estate Provisions of the Tax Reform Act of 1969* by C. Willis Ritter and Emil M. Sunley, Jr. Our readers should find this article, dealing with the first major effort by the federal government to treat effectively tax incentives and benefits, as interesting as it is scholarly. The authors combine in a unique fashion the skills of an experienced economist and attorney with first-hand experience concerning this most recent reform of the Internal Revenue Code.

The first student offering is a Comment dealing with Article 16, Section 26A of the Maryland Code, the provision familiar to practitioners in the field of domestic relations which prohibits the use of offers of reconciliation either as a defense to, or a ground for, a divorce. The Comment investigates the effect of Section 26A on both the underlying social policies favoring maintaining the family unit as well as the substantive law of divorce in Maryland.

A recent Maryland case affecting both the areas of domestic relations and conflict-of-laws provides the subject matter for the first student Note. The long-established law in Maryland has been that a wife's right to support does not survive a valid dissolution of the

marriage, a rule which has been rejected in most states. The student author reexamines this rule in light of a Maryland case which seemingly produces at least a narrow exception to the unitary theory of divorce.

While the first two student offerings treat what are topics primarily of interest to the local bar, the last student Note treats a subject more national in character. The liability of a tipper who generates misleading and false "inside" information to a tippee, and the availability of defenses such as *in pari delicto* and unclean hands in a suit based on such information, provides the topic for the final student note.

The REVIEW sadly notes the death of Professor Lewis D. Asper on January 9, 1970. Memorial services for Professor Asper were held in the Moot Court Room of the Law School. In a final tribute to Professor Asper, faculty, family, students, and friends gathered to hear the eulogies presented by Sanford Jay Rosen, Dean William P. Cunningham, and William C. Sammons of the third year class.

Professor Asper's faculty colleagues have decided to establish a fund at the University of Maryland School of Law in his memory. Professor Power will be the chairman of a faculty committee considering the nature of the fund and the uses to which it will be put.

Members of the Maryland Bar and other friends who would like to contribute to the fund can do so by mailing their checks, made payable to the University of Maryland, and designated for the Lewis D. Asper Fund, to the Dean, University of Maryland School of Law, Baltimore, Maryland 21201.

In tribute to the memory of Professor Asper, the REVIEW prints herein Senate Resolution No. 81, read and adopted by the Maryland Senate March 27, 1970, and a speech delivered by Professor Asper welcoming participants in a Conference on "Activists In A Conservative Profession," held February 28-March 2, 1969.

Senate Resolution No. 81

Senate Resolution expressing the deep sympathies of the Senate of Maryland over the passing of the Honorable Lewis D. Asper.

The members of the Senate of Maryland learned with deepest regret of the passing on January 9, 1970, at the age of 48, of the Honorable Lewis D. Asper of Baltimore City, Professor of Law at the University of Maryland School of Law.

Professor Asper received the degree of Bachelor of Arts from the University of Minnesota in 1943 and the degree of Bachelor of Laws from Columbia University in 1951. He taught at the University of Maryland School of Law from 1954 until his death in 1970. He was a member of the bar of the State of New York.

Professor Asper served his country in World War II as an officer in the Marine Corps and was decorated.

He was unselfish in his service to the State of Maryland and assisted in the drafting and interpretation of various legislative and constitutional proposals for both the Maryland General Assembly and the Maryland Constitutional Convention of 1967.

Professor Asper was loved and respected by his students, his fellow professors, and his friends as an intelligent and honest man of integrity who did what he believed to be right and yet respected those who in good faith held views contrary to his. Those who knew him sincerely miss him.

In the passing of the Honorable Lewis D. Asper, his students, the State of Maryland, and the nation have lost an outstanding and innovative teacher and a dedicated member of the legal profession. Throughout his short time among us he exemplified the highest ideals of American citizenship; now, therefore, be it

Resolved by the Senate of Maryland, That the deepest regrets of every member of this body are expressed over the passing of the Honorable Lewis D. Asper of the University of Maryland School of Law; and be it further

Resolved, That the Secretary of the Senate of Maryland is requested to send copies of this Resolution to the widow of Professor Asper, and to the Dean and faculty and Student Bar Association of the University of Maryland School of Law.

Two pleasant duties have been assigned to me by your local colleagues. The first is to welcome this exciting conference to the University of Maryland School of Law.

Your topic, "Activism in a Conservative Profession," could not be more appropriate. Conservatism runs deeper in the legal profession than perhaps even this group realizes. It animates all segments of the profession; not just practising lawyers and judges, but law teachers and law students as well. Up until a very few years ago, this elemental conservatism was mirrored almost exactly in the students who came to law school and in their reasons for coming. Your presence here is one sign that significant changes are occurring on that level at least.

A measure of conservatism is probably inescapable in the profession charged with the day-to-day operation of the political legal system. But the present brand of conservatism, it seems to me, took its pervasiveness and peculiarly intractable character from events of the first quarter of this century. The combined impact of "the era of good feelings," "manifest destiny" and "two chickens in every pot" persuaded us that after centuries of struggle, we finally had it knocked. As far as "the law" and the legal system were concerned, we had attained something like perfect truth, and when that perfect truth was caught between the hard covers of Restatement I, we had a textbook for the ages.

We were wrong. Whatever its virtues, we had settled for a system that left things out. What is more critical, it left people out — great numbers of people whose needs were disregarded, whose very existence was hardly acknowledged. Perfect truth proved imperfect and justice was incomplete and very selective.

It is hard to let go of perfection. It is hard to let go even of the illusion of perfection. The temptation is strong, inside and outside the profession, to view vigorous and unremitting efforts at correction as an assault on "the law" itself — or upon "law and order" to use a more popular description.

That is why a civil rights research council is so important. It is your function, here and in your communities, to expose the gaps, the miscarriages, the misapplications, not only possible but regrettably common in the operation of the legal system and the work of the legal profession. Work hard, think hard, probe deep and report what you find boldly and insistently. If you do that to the limit of your great capacity, the legal profession will begin to look a little different — less gentlemanly, perhaps, less serene but infinitely more sensitive to the full range of the duties of a learned and responsible profession.

LEWIS D. ASPER

February 28, 1970.



LEWIS D. ASPER
1921 - 1970

