

Editorial Section

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EDITOR-IN-CHIEF'S NOTE

Beseiged by the demands of those who would like a greater emphasis on national law and those who desire more discussion of Maryland law, the present Editorial Board has endeavored to present in the *Review* a balanced mixture of Maryland and national law. This policy recognizes two interests. On the one hand, the importance of evaluating the law in Maryland is too obvious to discuss. On the other hand, the examination of federal law and the law of other states adds a perspective to the development of Maryland law. Although the Recent Decisions are intended to alleviate the disproportion which may arise within each issue, the overall balance, unfortunately, does not usually become apparent until the volume is complete. Accordingly, we are particularly happy to be able to present a single issue which embodies our conscious policy of equilibration.

The first dissertation, dealing with Maryland's new Courts and Judicial Proceedings Article and written by William H. Adkins, II, the former director of the Commission to revise the Annotated Code, should be of great interest to practicing attorneys. The Courts and Judicial Proceedings Article, a revision of and an addition to the Maryland Annotated Code, consolidates the administrative and procedural provisions once scattered throughout the Code. Highlighting the most important changes brought by the Courts and Judicial Proceedings Article, the author provides a valuable aid for research in his discussion of the procedure followed by the Commission and of the relationship between former Code provisions and their counterparts in the new Code.

The second article focuses upon a problem of national concern: the use of statistics in suits arising out of incidents or patterns of racial discrimination. To some extent all evidence rests upon probability. Yet, generally, in most suits known to the common law most courts have hesitated to allow statistical evidence to decide the claim for relief. As the common law has given way to statutes that seek to protect the civil rights of individuals, courts, particularly in the area of employment, have grown to accept the use of statistical data. In this issue of the *Review*, Professors Bogen and Falcon argue for the extension of statistical evidence to the field of discrimination in private housing.

The first student exposition, focusing on a question of federal jurisdiction, illustrates the interdependence of federal and state law. When a state threatens to prosecute an individual, he may obtain declaratory relief from a federal court on the ground that

the state statute is unconstitutional. This odd result—an individual so threatened could not obtain injunctive relief and an individual undergoing actual prosecution could not obtain either form of relief—receives thorough examination in this ambitious Comment. The author's analysis notes the relationship between injunctive and declaratory relief, examines the possibility that a declaratory judgment could have *res judicata* effects, and explores the emergence of comity (the orderly relation between state and federal governments) as a dispositive consideration.

The next student presentation, a Note, discusses a Maryland case whose effect may reach beyond the borders of the State. Regardless of any one individual's enthusiasm, or want thereof, for the procedural rights of criminal defendants, most would admit that the stringent constitutional guidelines guarantee a meaningful day in court. It is, therefore, somewhat surprising to realize that the rigors of procedural due process dissipate prior to sentencing—the phase of the whole process which is most significant to the convicted defendant. The author reviews the recent Maryland decision of *Nickens v. State*, a decision which may signal the extension of due process standards to the process of sentencing.

No longer can one satisfactorily conclude that the common law originated because of the peculiar English weather. We know that around the twelfth century this system emerged in England while scholars on the continent were rediscovering the Roman law. What we do not know is the reason that each legal system found so little favor on the opposite side of the channel. What makes this coextensive development remarkable is the relatively free access enjoyed by scholars from either side of the channel to places of learning on the other. In this issue of the *Review*, Professor Tomlinson discusses an important new book, Professor Van Caenegem's, *The Birth of the English Common Law*, which attempts an answer to this perplexing question.

The first discourse in this issue's Recent Decision section analyzes a case which may raise the legal standard for submitting to the jury the issue of sufficient superceding negligence to override the statutory ban against the imputation of parental negligence to an injured child. This Recent Decision also contains an informative appendix on lead paint poisoning. A new direction in the law of restrictive covenants in employment contracts is the subject of the second Recent Decision. The third Recent Decision examines an aspect of juvenile law which has long been assumed

but never evaluated: that the Juvenile Causes Act abolishes the presumption of infant incapacity. Lastly, a student analyzes a Pledge of Allegiance and flag salute case in which the court achieves a predictable result in a somewhat unusual manner.

July, 1974

The following students have contributed Notes and Comments to the present issue:
G. Stewart Webb
Glenn Davis

CITATION GUIDE

Since the Maryland Annotated Code is being reorganized into a series of topical articles, the Editors-in-Chief of the *Maryland Law Review*, the *University of Baltimore Law Review*, and the *Maryland Law Forum* have devised a new form of citation and a list of abbreviations to be used for all of the articles proposed by the Governor's Commission to revise the Annotated Code.

Citation form: MD. ANN. CODE, Cts. & Jud. Proc. Art., § 0-000 (1974).

Abbreviations:

Agriculture	Agric.
Business Regulation	Bus. Reg.
Commercial Law	Comm. L.
Corporations and Associations	Corp. & Ass'ns
Courts and Judicial Proceedings	Cts. & Jud. Proc.
Criminal Law	Crim. L.
Education	Educ.
Elections	Elec.
Estates and Trusts	Est. & Tr.
Family Law	Family L.
General Provisions	Gen. Prov.
Local Government	Local Gov't
Natural Resources	Nat. Res.
Occupations and Professions	Occ. & Prof.
Public Health	Pub. Health
Public Safety	Pub. Safety
Real Property	Real Prop.
Social Services	Soc. Serv.
State Government	State Gov't
Taxation and Revenue	Tax. & Rev.
Transportation	Transp.

