

University of Maryland Francis King Carey School of Law

DigitalCommons@UM Carey Law

Faculty Scholarship

Francis King Carey School of Law Faculty

9-1-2013

Legal History Seminar: Leading Maryland Cases

Edward C. Papenfuse

Garrett Power

University of Maryland Francis King Carey School of Law, gpower@law.umaryland.edu

Follow this and additional works at: https://digitalcommons.law.umaryland.edu/fac_pubs



Part of the [Legal History Commons](#)

Digital Commons Citation

53 American Journal of Legal History 454 (2013).

This Article is brought to you for free and open access by the Francis King Carey School of Law Faculty at DigitalCommons@UM Carey Law. It has been accepted for inclusion in Faculty Scholarship by an authorized administrator of DigitalCommons@UM Carey Law. For more information, please contact smccarty@law.umaryland.edu.

Legal History Seminar: Leading Maryland Cases

by EDWARD C. PAPENFUSE* AND GARRETT POWER**

I

INTRODUCTION

For the past decade, we have collaborated in presenting “Legal History Seminar: Leading Maryland Cases” at the University of Maryland Francis King Carey School of Law. In recent years, the seminar has paid particular attention to legal cases and controversies arising in Baltimore, Maryland—a city rich with historic tumult and beset with urban problems. The 2010 offering considered the city’s environmental controversies; the 2011 offering addressed the administration of justice in Baltimore during the Civil War; and the 2012 offering looked at Baltimore in the War of 1812.¹

While the focus of the seminar has changed from year to year, its aims and pedagogic approach have remained much the same. History and law have a reciprocal relationship. Jurists and lawyers look to history to understand the law; historians look to law to explicate past events. The goal of the seminar is to introduce law students to the use of historical reasoning as an aid in understanding legislation and court cases, and to the use of legal accounts and records as primary sources for historical inquiry.

* Director and Commissioner of Land Patents, Maryland State Archives (mdarchivist@gmail.com). B.A., American University; M.A., University of Colorado; Ph.D., Johns Hopkins University; D. Litt. (hon.), Washington College.

** Professor Emeritus of Law, University of Maryland (gpower@law.umaryland.edu). B.A., LL.B., Duke University; LL.M., University of Illinois.

¹ For 2013, however, we are tackling a broader topic: “Maryland Prize Court Decisions in the U.S. Supreme Court—1789-1856.”

II RESEARCH METHODOLOGY

Seminar participants are called upon to select a decision issued by a Maryland state or federal court relating to the seminar's subject matter. The opinions of these courts of record are published but much of the documentation involved in their resolution (e.g., dockets, transcripts, depositions, exhibits, and working papers) are tucked away and forgotten. Some documents are lost and some are privileged, but many remain deposited in court houses, libraries, archives, and attics. Such sources can provide a treasure trove of insight into both the decisions themselves and of the social, political, and economic context in which the controversies were decided.

In years past, the seminar students have considered such issues as religious freedom, segregation, slavery, habeas corpus, urban crime, school prayer, public service monopolies, environmental justice, condemnation, voting rights, annexation, suburbanization, public-private partnerships, police powers, pollution controls, nuisances, and infrastructure development and urban sprawl. The students have also paid attention to the jurists, lawyers, and litigants. An understanding of the backgrounds, biases, ideology, and social class of these principal players reinforces the seminar's jurisprudence of "legal realism."

The work of the seminar is immensely aided by the contributions of the Maryland State Archives and the Baltimore City Archives. These institutions lead the nation in their digitization of the legal records of the state and city into searchable PDFs and making these documents publicly available on the web. Use of these material permits law students to avoid time-consuming trips to remote archival sites and to conduct most of their research—both primary and secondary—on their personal computers.

III *GARRETT v. GREEN*

The operation of our research methodology is perhaps best illustrated with an example. Jordan Vardon, a student in the Fall 2010 seminar, studied the Maryland Court of Appeals case of *Garrett v.*

Green.² Mr. Vardon made use of the unpublished cases files of the Baltimore City Law Department; the equity papers in the Baltimore City Circuit Court; and the transcripts of the record in the Maryland Court to Appeals while undertaking his study.

The plaintiffs were neighbors in Ednor Gardens who objected to a 1947 City Park Board contract that permitted the Baltimore Orioles to use nearby Municipal Stadium for night baseball games, complete with a loudspeaker system and outdoor lights. Ednor Gardens had been constructed as a row house "streetcar suburb" by builder E.J. Gallagher in the 1930s. The residents sought to enjoin the city from introducing noise and "artificial daylight" into their "quiet residential neighborhoods."

Municipal Stadium had been in operation since the 1922 Army-Marines football game but had always lost money. In 1947, the City determined that a professional baseball contract would make the facility profitable but the plaintiffs complained that a full season of night games would constitute a nuisance. The Maryland Court of Appeals heard arguments in 1948 and ruled in the City's favor in 1949.

Mr. Vardon used this lawsuit as a backdrop for a consideration of the current debate over whether the public funding of sports facilities is an effective engine of economic development. In an ironic coda, he noted that the 1992 abandonment of Municipal Stadium for a new downtown stadium (Oriole Park at Camden Yards) was greeted with wails of protest from the same neighbors who had once opposed its operation.

IV CONCLUSION

Mr. Vardon's paper, together with many of the seminar's other past papers, are available on the Maryland Legal History Publications page maintained by our law school's library. Interested readers can access the page at http://digitalcommons.law.umaryland.edu/mlh_pubs/. Mr. Vardon's paper can be found at http://digitalcommons.law.umaryland.edu/mlh_pubs/22/.

² 63 A.2d 326 (Md. 1949). The official report of the case appears at 192 Md. 52 (1949).