University of Baltimore Law Forum

Volume 27
Number 2 *Spring 1997*

Article 2

1997

Commemorative Histories of the Bench and Bar: In Celebration of the Bicentennial of Baltimore City 1797-1997

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COMMEMORATIVE HISTORIES OF THE BENCH AND BAR: IN CELEBRATION OF THE BICENTENNIAL OF BALTIMORE CITY 1797-1997

by The Honorable John Carroll Byrnes

INTRODUCTION

This year, the City of Baltimore celebrates the two hundredth anniversary of the official recognition of "Baltimore-Town" as a city with the internal power of self-governance. In commemoration of the City's bicentennial, the University of Baltimore School of Law and the *Law Forum* are pleased to offer these excerpts from *Commemorative Histories of the Bench and Bar in Celebration of the Bicentennial of Baltimore City, 1797-1997*, as a tribute to all of those who helped forge our City's rich legal heritage. *Commemorative Histories* should also serve as a reminder to those who are presently involved in the practice, purveyance, or study of the law that their endeavors may one day be recorded by future generations of Baltimore citizens as they reflect upon the accomplishments of their predecessors.

Commemorative Histories has been a collaborative effort of the Baltimore Courthouse and Law Museum Foundation, the judges of the Circuit Court for Baltimore City and the Bar Association of Baltimore City. It is not a complete history, but a collection of monographs which, together, present an informative mosaic of the life of the law in our City's history.[1] The writing of the history began in 1991 under the guidance of the History Project of the Baltimore Courthouse and Law Museum Foundation, and has been developed with the talent and enthusiasm of many people.[2]

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[1]*Commemorative Histories of the Bench and Bar in Celebration of the Bicentennial of Baltimore City (1797-1997)* consists of several informative papers. Only excerpts of some are included here. Among those not excerpted are a discussion of the recently established administrative judge position by Eric R. Harlan, Esquire, the first published list of every judge who has served the citizens of Baltimore City from 1715 until the present time, a list of all clerks and administrators of the Supreme Bench/Circuit Court of Baltimore City, a list of all chief judges and administrative judges of the Supreme Bench/Circuit Court of Baltimore City from 1867 until the present, a history of the District Court of Maryland by District Judge John M. Glynn, and a discussion of Maryland's federal judiciary by Francis J. Gorman, Esquire, (including a list of all judges who have served on the U.S. District Court for the District of Maryland).

[2]Those who have served as researchers, writers, and editors at various stages of the project are: Kenneth B. Abel, Esquire; Kimberly A. Aller; Honorable Solomon Baylor; Marsha D. Bolton, Esquire; Valerie W. Collins; E. Scott Conover, Jr., Esquire; Joseph P. Corcoran; Matthew J. Daneker, Esquire; Daniel Friedman, Esquire; Honorable Lewyn Scott Garrett; Honorable John M. Glynn; Joan Bossmann Gordon, Esquire; Francis J. Gorman, Esquire; Michael E. Greene, Esquire; Eric R. Harlan, Esquire; Yanick T. Hazlewood; Kelly C. Huckno; Cass L. Jones, Esquire; Robert B. Kershaw, Esquire; Sloane Fried Kinstler, Esquire; Jill D. Loper, Esquire; Jeffrey W. Maddrey, Esquire; Hugh J. Marbury, Esquire; Kathleen M. Maynard; William Alden McDaniel, Jr., Esquire; John W. McGlynn; David R. Moore, Esquire; Daniel P. Moylan, Esquire; Heidi A. Moylan, Esquire; M. Brooke Murdock, Esquire; Eileen O'Brien, Esquire; Eugenia Reed Oshrine; David A. Prichard, Esquire; Robert E. Sharkey, Esquire; Jennifer L. Sites, Esquire; Ashley E. Spencer; and Leslie S. Winner, Esquire.

Invaluable consultation was provided by Professor Garrett Power; Edward C. Papenfuse, Ph.D., State Archivist, Maryland State Archives; Patricia V. Melville, Director, Reference Services, Maryland State Archives, Hall of Records; Honorable Robert B. Watts; Honorable David Ross; Honorable Robert I.H. Hammerman; Honorable Joseph H.H. Kaplan; Honorable Robert L. Karwacki; Honorable David Mitchell; John Sondheim, Director of the Maryland Room of the Enoch Pratt Free Library; Harry S. Johnson, Esquire; Honorable John R. Hargrove; Honorable George L. Russell, Jr.; Honorable James F. Schneider; General Philip Sherman; George W. Liebman, Esquire; Honorable Robert F. Sweeney; Honorable Kathleen O'Ferrall Friedman; Honorable William H. Murphy, Sr.; William W. Cahill, Jr., Esquire; Dr. Jeffrey K. Sawyer, Director of Legal and Ethical Studies, Department of History and Philosophy, University of Baltimore; and Avery Aisenstark, Esquire, Director

Excerpts from the following segments of *Commemorative Histories* are included in this article: (1) The Evolution of the Circuit Court for Baltimore City; (2) Our Courthouses; (3) The Baltimore City Court and the African-American Lawyer; and (4) A Brief History of the Women of the Baltimore Bar.

THE EVOLUTION OF THE CIRCUIT COURT FOR BALTIMORE CITY 1632-1997

I. THE COLONIAL PERIOD

A. The Beginnings of "Baltimore-Town"

In 1729, the Maryland General Assembly authorized the purchase of sixty acres of farmland in what was commonly called Cole's Harbor[3] for the erection of a town.[4] The land was to be apportioned into sixty lots of one acre each, and all subdivisions of that land were to be recorded with the Clerk of the Baltimore County Court.[5] This was the beginning of what is now Baltimore City.

The property upon which "Baltimore-Town" was founded belonged to Charles Carroll and his brother Daniel. The commissioners of the new town agreed to pay the Carrolls forty shillings per acre.[6] As originally laid out, the town extended from Gay Street on the east to Liberty Street on the west. The waterfront etched out the southern border of the town, while an irregular line near Lexington and Fayette Streets, marked its northern boundary.[7] As prior owner of the property, Charles Carroll had the first choice of lots, and he selected a spot near the northeast corner of the basin and Calvert Street.[8]

B. The Development of the Courts

The development of county courts began with the establishment of the Kent County Court in 1638, when the General Assembly passed a law "establish[ing] courts for the geographic areas known as St. Mary's and Kent Island."[9] This marked the beginning of courts with separate geographical jurisdictions in Maryland. Thereafter, county courts were founded in each county at the time the counties were organized.[10]

Originally, the county courts and the Provincial Court had overlapping and complementary jurisdiction over civil matters.[11] The Provincial Court, however, consisting of the governor sitting as chief judge with his council of associate justices,[12] clearly had superior authority. In 1773, the county courts were granted concurrent jurisdiction with the Provincial Court over criminal matters.[13]

By 1768, the town of Baltimore had grown in

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of Legislative Reference of Baltimore City.

[3]Cole's Harbor was what is known today as the Inner Harbor, or Baltimore Harbor generally. *See* J. THOMAS SCHARF, HISTORY OF BALTIMORE CITY AND COUNTY 46, 48-49 (Regional Publishing Co., 1971).

[4]*See* 1729 Md. Laws 12.

[5]*See id.* An act of 1745 added land to Baltimore-Town. Jones-Town, across the Falls River from Baltimore-Town, was joined with Baltimore-Town, encompassing what is today known as Fell's Point. *See* 1745 Md. Laws 9.

[6]*See* SCHARF, *supra* note 3, at 51.

[7]*See* FRANK D.THOMAS, MONOGRAPH OF THE NEW BALTIMORE COURTHOUSE (Baltimore, A. Hoen & Co., 1899).

[8]*See* SCHARF, *supra* note 3, at 53.

[9]ELBERT M. BYRD, THE JUDICIAL PROCESS IN MARYLAND 2 (1961). On December 30, 1637, Captain George Evelyn was granted the position of Commander for Kent Island, and this year is often cited for the actual beginning of the County Courts. *See* VIII Md. Arch xi. It was not until 1642, however, that the geographic areas known as St. Mary's and Kent Island were given autonomous powers as counties, and so the name "County Court" might not properly be used to describe the first years of Captain Evelyn's court. *See id.*

[10]Marilyn L. Geiger, *The Administration of Justice in Colonial Maryland,* 50 (Ph.D. Dissertation, 1973). New York: Garland, 1987. Other county courts that were established at the same time the counties were organized include: Anne Arundel, 1650; Calvert, 1654; Charles, 1658; Baltimore, 1660; Talbot 1662; Somerset, 1665; Dorchester, 1668; Cecil, 1672; Prince George's 1695.

[11]*See* NEWTON D. MERENESS, MARYLAND AS A PROPRIETARY PROVINCE 232 (John E. Edwards, pub. 1968) (1901).

[12]*See id.* at 229.

[13]Gust Skordas, Maryland Government: 1634-1866, *in* THE OLD LINE STATE: A HISTORY OF MARYLAND 308, 323 (Morris Radoff, ed. 1971).

population and prominence and had replaced Joppa as the seat of Baltimore County.[14] For the first time, Baltimore-Town hosted a court, the Baltimore County Court, which heard both civil and criminal cases.[15] All suits in equity were heard in the Chancery Court, which had statewide jurisdiction dating from the time of its establishment in 1669.[16]

II. THE REVOLUTIONARY PERIOD

A. The Courts Under the Maryland Constitution of 1776

The Maryland Constitution of 1776 generally recognized the county courts.[17] Under the constitution, equity jurisdiction statewide remained vested in a single Chancery Court.[18] It was not until 1785 that the General Assembly codified the jurisdiction of the Baltimore County Court over all disputes in law, equity (concurrent with the Chancery Court), and criminal matters.[19]

B. A Separate Criminal Court for Baltimore County

In 1794, a separate court with criminal jurisdiction was created for Baltimore County. Due to an increase in burglary, robbery, horse stealing, and other crimes, Governor Thomas Sim Lee in 1794 issued a commission for a Court of Oyer and Terminer[20] and Gaol Delivery[21] for Baltimore County, as authorized by a law passed in 1793.[22] The county seat of Baltimore County, Baltimore-Town, was to host the new criminal court.

In the Court of Oyer and Terminer, capital punishment was liberally available. For example, a person was eligible for a sentence of death without the benefit of clergy for the crimes of "put[ting] out an eye, slit[ting] the nose, cut[ting] the nose or lip, or cut[ting] off or disabl[ing] any limb . . . with [the] intention of so doing to maim or disfigure" another person.[23] Thus, when jurisdiction over various crimes and misdemeanors was transferred from the Baltimore County Court to the Court of Oyer and Terminer and Gaol Delivery of Baltimore County,[24] the Baltimore

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[14]*See* ROBERT J. BRUGGER, MARYLAND: A MIDDLE TEMPERAMENT 1634-1980, 107 (1988).

[15]*See* SCHARF, *supra* note 3, at 60.

[16]*See* Skordas, *supra* note 13, at 326. The Chancery Court was almost always presided over by the Governor.

[17]The Maryland Constitution of 1776 does not establish the county courts, but rather notes their existence in several sections: for example, section 40 mentions the clerks of the county courts; section 47 grants appointment power of the county court clerks to the county court justices; section 60 provides that laws will be published and given to the county courts; and section 61 provides that elections are to be held wherever the several county courts are held.

[18]MD. CONST. § 56 (1776) ("That one person of integrity and sound judgment in the law be appointed chancellor.")

[19]1785 Md. Laws 87.

[20]Oyer and Terminer is

> [a] half French phrase applied in England to the assizes, which are so called from the commission of *oyer and terminer* directed to the judges, empowering them to "inquire, *hear, and determine*" all treasons, felonies, and misdemeanors. This commission is now issued regularly, but was formerly used only on particular occasions, as upon sudden outrage or insurrection in any place. In the United States, certain higher criminal courts were called "courts of oyer and terminer."

BLACK'S LAW DICTIONARY 1106 (6th ed. 1991).

[21]Gaol is

> [a] now obsolete term (of English origin) for a prison for temporary confinement; a jail; a place for the confinement of offenders against the law. As distinguished from "prison," it is said to be a place for temporary or provisional confinement, or for the punishment of the lighter offenses and misdemeanors.

BLACK'S LAW DICTIONARY 680 (6th ed. 1991).

[22]1793 Md. Laws 57.

[23]1793 Md. Laws 57 § 12.

[24]Section 3 of the 1793 act provided that all matters before the Baltimore County Court concerning "felonies . . . and other crimes, offences [sic] and misdemeanors" be transferred to this new court. Section 17, however, provided that the new court would have concurrent jurisdiction with the Baltimore County Court concerning matters between masters, servants, and

County Court retained jurisdiction over civil matters only.

III. BALTIMORE CITY ESTABLISHED

On December 31, 1796, the Maryland General Assembly gave official recognition to the City of Baltimore by legislative act:

> BE IT ENACTED, *by the General Assembly of Maryland,* That Baltimore-town, in Baltimore county, shall be and is hereby erected into a city, by the name of The City of Baltimore, and the inhabitants thereof constituted a body politic and corporate, by the name of The Mayor and City Council of Baltimore . . . .[25]

The city council of the newly incorporated City of Baltimore held its first meeting on February 27, 1797[26] at the courthouse. The City's courthouse, between 1770 and 1809, was located upon "the uppermost part of Calvert Street, next Jones' Falls"[27] on the present site of the Battle Monument commemorating the defense of Baltimore at North Point and Fort McHenry during the War of 1812.

All new laws created by the city council were to be subject to the mayor's approbation; once approved by him, they became the law of the City of Baltimore, binding upon the courts, justices of the peace, sheriffs and constables, and all persons within the limits of the new city.[28] Accordingly, all laws created by or applicable to the City of Baltimore came under the jurisdiction of the Baltimore County Court and the Court of Oyer and Terminer and Gaol Delivery for Baltimore County.

A. Baltimore City's First Court Established

In 1816, the Court of Oyer and Terminer and Gaol Delivery for Baltimore County was abolished. In its place, the Baltimore City Court was established with jurisdiction over "all felonies, and other crimes, offenses and misdemeanors, and other matters arising within the city and precincts of Baltimore."[29] This was Baltimore City's first permanent court with exclusive jurisdiction over the city and not the county. Over the next thirty-five years, the Baltimore County Court and the Chancery Court together exercised original jurisdiction over all civil cases in law or equity for the citizens of Baltimore City.

IV. THE MARYLAND CONSTITUTION OF 1851

The Maryland Constitution of 1851 radically changed the state judicial system, especially that of Baltimore City.[30] The State was divided into eight trial court judicial circuits, marking the beginning of the present-day circuit courts.[31] The individual county courts still operated, but were now staffed by the circuit court judges. The circuit courts assumed all equity jurisdiction from the soon to be abolished Chancery Court.[32]

The Constitution created three new courts in Baltimore City, which replaced the authority of the Baltimore City Court in criminal matters and the Baltimore County Court in all other matters.[33] These three new courts were the Court of Common Pleas, the Superior Court of Baltimore City, and the Criminal Court for Baltimore City.

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apprentices. Section 36 provided that the chief judge of this court was to receive 200 pounds per year for his services.

[25] 1796 Md. Laws 68. However, this act was only to remain in force until September 1, 1798. The Act was made perpetual the following year by 1797 Md. Laws 54.

[26] *See* SCHARF, *supra* note 3, at 173.

[27] THOMAS, *supra* note 7.

[28] *See* 1796 Md. Laws 68 § 8.

[29] *Id.*

[30] At the time of the Constitution, the population of Baltimore City had risen to just above 100,000. *See* BRUGGER, *supra* note 14, at 773.

[31] *See* MD. CONST. of 1851, art. IV, § 8.

[32] *See id.* § 4. The county courts did not really have a separate existence from the circuit courts at this point. The judge for each circuit would travel among the counties in his circuit, and hold court at each county court. *See* CARROLL T. BOND, THE COURT OF APPEALS OF MARYLAND: A HISTORY 150-51(1928).

[33] *See* MD. CONST. of 1851, art. IV §§ 10-13.

The Court of Common Pleas was a civil court of limited jurisdiction. In addition to hearing civil cases involving small claims, it had jurisdiction over all appeals from the judgments of justices of the peace in Baltimore City, as well as jurisdiction over insolvency cases.[34] The idea of a Court of Common Pleas dates back to the Magna Carta, enacted in 1215, which provided that a court be established at Westminster to hear "*communia placita*" or "common pleas," i.e., civil suits between the subjects of the King.[35]

The Superior Court of Baltimore City heard all civil cases involving more serious claims.[36] The Constitution of 1851 also gave the Superior Court of Baltimore City jurisdiction over cases in equity.[37] Soon thereafter, the state Chancery Court was abolished by a separate act of the legislature,[38] and the superior court exercised exclusive equity jurisdiction.

The Criminal Court for Baltimore City was authorized to "have and exercise all the jurisdiction now exercised by Baltimore City Court," meaning exclusive criminal jurisdiction within the City.[39]

The Constitution of 1851 also authorized the General Assembly to create additional courts for Baltimore City as it saw fit.[40] In 1853, therefore, the Maryland General Assembly created a fourth court, the first Circuit Court of Baltimore City.[41] This court possessed the same broad power to hear all cases in equity as the Superior Court of Baltimore City.[42] Also, in 1853, all four courts of Baltimore City were granted jurisdiction over all matters relative to habeas corpus.[43]

During this time, there were no separate courts for juveniles, but any court having criminal jurisdiction could hear cases pertaining to juveniles.[44] In 1854, the General Assembly enacted a law pertaining to the sentencing of juveniles. The law provided that children between the ages of twelve and fifteen "who may be convicted of mayhem, murder in the second degree, manslaughter, assault with intent to commit murder or mayhem or of setting fire to any . . . property . . . shall be sentenced . . . in the same manner as if they were of full age."[45] It was not until 1902 that the City of Baltimore had a court specifically for juvenile cases.[46]

V. THE MARYLAND CONSTITUTION OF 1864

The short-lived Constitution of 1864, enacted during the Civil War, made only slight changes to the City's four courts. The Superior Court, the Court of Common Pleas, the Circuit Court of Baltimore City, and the Criminal Court remained intact with only minor changes.[47] The maximum jurisdictional amount for the Court of Common Pleas was raised[48] and the minimum jurisdictional amount for the Superior Court for Baltimore City was raised.[49] The Circuit Court of Baltimore City, which was created originally in 1853 pursuant to a legislative act,[50] was constitutionalized, and its jurisdiction was modified to remove habeas corpus.[51]

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[34]*See id.* § 10.

[35]*See The Court of Common Pleas,* THE BALTIMORE BARRISTER (The Bar Association of Baltimore City, Baltimore, Md.) Mar.-May, 1979, at 18.

[36]*See* MD. CONST. of 1851, art. IV §11.

[37]*See id.*

[38]*See* Skordas, *supra* note 13, at 346. Section 23 of article 4 of the The Constitution of 1851, had provided that the Chancellor would be phased out slowly, and eliminated at the end of two years.

[39]*See* MD. CONST. of 1851, art. IV, § 13.

[40]*See id.* § 12.

[41]*See* BYRD, *supra* note 9, at 13.

[42]*See id.*

[43]*See* 1853 Md. Laws 238.

[44]*See* 1854 Md. Laws 155.

[45]*Id.*

[46]*See* 1902 Md. Laws 611.

[47]*See* BYRD, *supra* note 9, at 14. See BYRD, *supra* note 9, for a general discussion of the changes in the Baltimore City courts under the Constitution of 1864.

[48]*See* MD. CONST.of 1864, art. IV, § 34.

[49]*See id.* § 33.

[50]*See* 1853 Md. Laws 122.

[51]*See* MD. CONST. of 1864, art. IV, § 35.

VI. THE MARYLAND CONSTITUTION OF 1867

Many changes to the judicial branch occurred with the enactment of the new, post-Civil War Constitution in 1867. The Constitution of 1867 divided Maryland into eight judicial districts, Baltimore City being the eighth. The four existing courts of Baltimore City retained jurisdictions similar to those they previously held, while two new courts, the Supreme Bench of Baltimore City[52] and the Baltimore City Court[53] were created.

The Supreme Bench, which was charged with the task of managing the City's judiciary, was comprised of one chief judge and four associate judges. It was the duty of the Supreme Bench "to provide for the holding of each of the [Baltimore] Courts by assignment of one, or more of their number to each of the said Courts."[54] Instead of being elected to a specific city court, judges were elected generally for fifteen-year terms to the Supreme Bench of Baltimore City and assigned themselves to the five city courts (Superior Court, Court of Common Pleas, Circuit Court of Baltimore City, Baltimore City Court, and the Criminal Court).[55]

A. Baltimore Courts Under the Constitution of 1867

The Superior Court for Baltimore City heard civil common law cases, but under the Constitution of 1867, was divested of its jurisdiction over cases in equity.[56] This court shared concurrent jurisdiction with the Court of Common Pleas and the Baltimore City Court. Deeds, conveyances, and other papers required to be filed by law, were recorded with the Clerk of this Court.[57]

The 1867 Circuit Court of Baltimore City had exclusive jurisdiction over all cases in equity. Prior to the 1867 Constitution, the Superior Court of Baltimore City had concurrent equity jurisdiction. The Circuit Court for Baltimore City was authorized to decree divorces and annulments and to hear what came to be known as family law cases. This court was specifically denied jurisdiction in applications for writs of habeas corpus in cases of persons charged with criminal offenses.[58]

The Baltimore City Court, formerly the exclusive criminal court for Baltimore City,[59] had jurisdiction over all civil common law cases concurrently with the Superior Court and the Court of Common Pleas. It also had exclusive jurisdiction in cases of appeals from justices of the peace.[60] In 1908, this court was given appellate jurisdiction over condemnation cases and the power to review decisions made by the Appeals Tax Court that existed at that time.[61]

The Criminal Court of Baltimore City that had been created by the Constitution of 1851 was to continue to have exclusive jurisdiction over all criminal cases, with the exception of those cases appealed to the Baltimore City Court from justices of the peace.[62]

The Court of Common Pleas had jurisdiction in all civil common law cases concurrently with the Superior Court and the Baltimore City Court.[63] The Court of Common Pleas also had exclusive jurisdiction over insolvency cases, and it issued marriage and other licenses.

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[52]*See* MD. CONST. of 1867, art. IV, § 27.

[53]*See id.* The Baltimore City Court had been created by 1816 Md. Laws 193, but had been replaced by the Criminal Court for the City of Baltimore in the Constitution of 1851.

[54]MD. CONST. of 1867, art. IV, § 32.

[55]*See id.* This author and Judges Thomas Ward and Kenneth L. Johnson were the last judges elected to the Supreme Bench of Baltimore City on November 2, 1982.

[56]*See The Superior Court of Baltimore City,* THE BALTIMORE BARRISTER (The Bar Association of Baltimore City, Baltimore, Md.), Jan. 1982, at 18.

[57]*See* MD. CONST. of 1867, art. IV, § 28.

[58]*See id.* § 29.

[59]The Baltimore City Court, which was replaced by the Criminal Court for the City of Baltimore in the Constitution of 1851, was resurrected as a civil common law court by the Constitution of 1867. MD. CONST. of 1867, art. IV, § 28.

[60]*See* MD. CONST. of 1867, art. IV, § 28.

[61]*See* 1908 Md. Laws 166, 167, 188.

[62]*See* BYRD, *supra* note 9, at 70-71; *see also, e.g.* MD. CONST. of 1867, art. IV, §30 (granting court same powers as before).

[63]*See* MD. CONST. of 1867, art. IV, § 28.

B. Additional Changes in the Judiciary of Baltimore City

The Constitution of 1867 granted the General Assembly the power to create additional courts of the Supreme Bench of Baltimore City.[64] The General Assembly did not exercise this authority until 1888, when it created Circuit Court No. 2 of Baltimore City. This made a total of six courts for the Supreme Bench of Baltimore City, where the population was, at that time, approximately 500,000.[65] Circuit Court No. 2 had concurrent equity jurisdiction with the Circuit Court of Baltimore City, except that eventually hospital liens were filed exclusively in the Circuit Court of Baltimore City, while paternity cases were heard only in the Circuit Court No. 2.[66] The Supreme Bench itself created a new division of the Criminal Court in 1897, Criminal Court No. 2.[67]

VII. THE FOUNDING OF THE MARYLAND STATE BAR ASSOCIATION

While the City was enjoying a period of extraordinary population growth during the latter half of the nineteenth century,[68] the accompanying increase in caseloads caused the bar to experience growing pains of its own. Up until the latter part of the century, the practice of law in Maryland was accomplished in an informal manner. Each county had its own society of lawyers, and the county courthouse often formed its nucleus. Lawyers entered practice upon oral examination by a local judge.[69] At that time, the indigent had little access to the courts, and a financially successful attorney's clientele consisted largely of banks, railroads and trust companies.[70]

A popular notion among the public that attorneys lacked a sense of ethics was in part responsible for a reform movement that resulted in the organization of attorneys into a statewide association. Although Maryland lawyers were among the last to have a state bar association of their own, on August 28, 1896, the Maryland State Bar Association came into existence. The new association quickly adopted a constitution and bylaws, and elected the Honorable James McSherry, Chief Judge of the Court of Appeals of Maryland, as its first president.[71]

VIII. THE TWENTIETH CENTURY

A. The Juvenile Court

When a separate court for juvenile offenders was established in 1902, jurisdiction over juvenile offenders was taken out of the criminal courts.[72] The position of Magistrate for Juvenile Causes was created at the same time, and "a member of the bar of the Supreme Bench of Baltimore City" was to fill the position.[73]

In 1943, the position of Magistrate for Juvenile Causes was abolished by the legislature, and jurisdiction over juveniles was given to the Supreme Bench of Baltimore City.[74] One judge of the Supreme Bench was assigned to exercise that jurisdiction, and the judge so assigned was not subject to rotation.[75]

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[64]*See id.* § 39.

[65]*See* BRUGGER, *supra* note 14, at 773.

[66]*See The Circuit Court No. 2 of Baltimore City,* THE BALTIMORE BARRISTER (Bar Association of Baltimore City, Baltimore, Md.), Autumn 1980, at 12.

[67]*See* BYRD, *supra* note 9, at 16-17.

[68]The population increased from 169,054 in 1850 to 508,957 in 1900. This growth was partially attributable to the annexation of a portion of Baltimore County to Baltimore City in 1888. *See* U.S. Bureau of the Census, 1790-1940; *see also* BRUGGER, *supra* note 14, at 352.

[69]*See* Honorable James F. Schneider, *1896 That Year of Wonders,* 24 MD. BAR J. 2, 8 (1996); *see also* JAMES F. SCHNEIDER, A CENTURY OF STRIVING FOR JUSTICE (1996) published by the Maryland State Bar Association in celebration of its centennial.

[70]*See* Schneider, *supra* note 69, at 8.

[71]*See id.* at 9.

[72]*See* 1902 Md. Laws 611.

[73]*Id.*

[74]*See* 1943 Md. Laws 818.

[75]*See id.* Judge Charles E. Moylan, who became a judge of the supreme bench in September of 1943, was assigned to be

In 1974, the practice of permanently assigning judges to the Juvenile Court ended and these judges joined the normal judicial rotation on the Supreme Bench of Baltimore City.[76] Due to the large volume of cases,[77] the Juvenile Court became a master dominated court and remains so.[78] Currently, two judges and nine masters are assigned to the juvenile docket, and the Juvenile Court has a full-time administrator.[79]

B. Changes to the State and City Judicial Systems

During the twentieth century, concerns about the state and city judicial systems were addressed. In 1939, Governor-elect Herbert R. O'Conor appointed the Commission on Inferior Courts of the State to study the general dissatisfaction among the public with regard to the "Justice of the Peace" system.[80] For a time, a Trial Magistrate System was adopted, but this resulted in only limited reform. In the late 1960s, the first outline for a statewide "District Court" system was proposed by the State Bar Association.[81] In 1970, a constitutional amendment was ratified by voters, and the new District Court of Maryland, which replaced the magistrate system, came into existence. The new district court system allowed the process of litigation by professional jurists at a great savings in both time and expenditure to litigants and the state.[82]

The Bond Commission, named for Chief Judge Carroll T. Bond of the Court of Appeals of Maryland, was formed in 1941 to study and make recommendations for reforming the court of appeals. There was dissatisfaction with the makeup of the court of appeals, which was comprised of the seven chief judges of the circuit courts, and one judge elected from Baltimore City.[83] Many attorneys and some judges believed that the performance of both appellate and *nisi prius* duties by judges of the court of appeals created an untenable situation.[84] The result of the Bond Committee's study and recommendations was a legislative enactment causing the court of appeals to consist of judges popularly elected from the appellate circuits.[85] Today, there are seven appellate circuits, and each circuit, including the Sixth Appellate Circuit, Baltimore City, is represented by one judge on the Court of Appeals of Maryland.[86]

The Court of Special Appeals of Maryland was established in 1966 to hear only criminal appeals but was later authorized to hear all but a few appeals (such as death penalty cases). The jurisdiction of the Court of Appeals of Maryland was converted to a *certiorari* court. Today, there are thirteen members of the court of special appeals,[87] who sit in panels of not less than three.[88] Baltimore City is now entitled to one geo-

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permanent judge of the juvenile court and served in that capacity until he was succeeded by Judge Robert I. Hammerman in May, 1967.

[76]*See* 1973 Md. Laws 2, § 1 (Special Session).

[77]For example, 17,781 juvenile cases were filed in Baltimore City in 1993. BALTIMORE CITY JUVENILE JUSTICE CENTER, DEPARTMENT OF JUVENILE JUSTICE , CIRCUIT COURT FOR BALTIMORE CITY JUVENILE DIVISION, OFFICE OF THE STATE'S ATTORNEY, OFFICE OF THE PUBLIC DEFENDER, DEPARTMENT OF HUMAN RESOURCES, BALTIMORE CITY POLICE DEPARTMENT 85 (1996).

[78]*See* Letter from Honorable David B. Mitchell to Honorable John Carroll Byrnes (July 11, 1996) (describing Judge Mitchell's experiences in over a quarter of a century of association with the juvenile court).

[79]*See id.*

[80]For a full discussion of the demise of Maryland's Justice of the Peace system, and the subsequent creation of the District Court of Maryland, see Honorable John M. Glynn, *A Brief History of the District Court of Maryland for Baltimore City in* COMMEMORATIVE HISTORIES OF THE BENCH AND BAR IN CELEBRATION OF THE BICENTENNIAL OF BALTIMORE CITY, 1797-1997.

[81]GEORGE W. LIEBMANN, MARYLAND DISTRICT COURT LAW AND PRACTICE 58, West Publishing.

[82]Matther L. Silverstein and Amanda L. Kalb, *The Evolution of the Practice of Law,* 29 MD. BAR J. 31, 32.

[83]*See* MD. CONST. of 1867, art. IV, § 14.

[84]*See* John P. Hively, Maryland Government: 1867-1956, *in* THE OLD LINE STATE: A HISTORY OF MARYLAND 355, 380 (Morris Radoff, ed. 1971).

[85]*See* 1943 Md. Laws 772.

[86]*See* MARYLAND STATE ARCHIVES, A GUIDE TO STATE AGENCY RECORD AT THE MARYLAND STATE ARCHIVES 89 (June 1, 1994).

[87]*See* 1994 Md. Laws 581.

[88]*See* 1983 Md. Laws 6.

graphical seat on this court.[89]

In 1971, the Criminal Court for Baltimore City was granted the power to hear all traffic and criminal appeals permitted by law from the District Court. Additionally, by the same act of 1971, the Baltimore City Court was empowered to hear appeals of all civil cases arising out of the People's Court and District Court.[90]

C. Recent Changes to the Judiciary of Baltimore City

The recent history of the city judiciary has been marked by three momentous changes: (1) a dramatic increase in the number of judges; (2) the statewide abolition of the practice distinction between law and equity and the centralization of authority in the chief judge of the court of appeals; and (3) the replacement of the one hundred and thirteen-year-old Supreme Bench and its multiple freestanding courts with a unified Circuit Court for Baltimore City.

1. A Larger and Larger Bench

The decades since 1950 have been marked by continuous population decline and rising caseloads in Baltimore City. Although the population of the City has declined over the past four decades, the city court has remained the principal tribunal for several state agency administrative appeals, and continues to manage increasing criminal and juvenile dockets, post conviction and habeas corpus petitions, civil trials, and family law matters. The Bench has expanded to keep pace.

Two judges were added to the Baltimore City judiciary in 1955,[91] and two more in 1959.[92] During the decade of the 1950s, the population of Baltimore City declined from an all time high of 949,708 in 1950 to 939,024 in 1960.[93] Although the population continued to decline in the 1960s, caseloads were on the increase. In 1967, one more judge was added to the Supreme Bench in an effort to cover the City's increasingly large dockets,[94] and an additional four judges were added in 1968.[95] By 1970, the City population stood at 905,787.[96] In 1973, the Supreme Bench was increased to twenty-one judges,[97] and in 1979, to twenty-three.[98] By 1980, the City's population had again decreased to 786,741.[99] Meanwhile, the number of judges on the Circuit Court for Baltimore City increased to twenty-four in 1988.[100] During the 1990s, there were further increases in the number of judges, resulting in a total of twenty-five in 1990,[101] twenty-six in 1993,[102] twenty-eight in 1996, and thirty in 1997.[103] Between 1990 and 1995, the population of Baltimore City declined further, from 736,014 to an estimated 691,131.[104] With a complement of thirty judges, the Circuit Court for Baltimore City remains the largest in Maryland.

2. State Centralization

The 1797 trial bench in Maryland was, compared with the 1997 trial bench, highly decentralized. Over the past two hundred years, the trend toward central-

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[89] *See* 1994 Md. Laws 581.

[90] *See* 1971 Md. Laws 423 § 156 ("If the case was originally tried in Baltimore City, an appeal in a criminal or traffic case shall be taken to the Criminal Court of Baltimore.")

[91] *See* 1955 Md. Laws 269.

[92] *See* 1959 Md. Laws 386.

[93] *See* U.S. Bureau of the Census.

[94] *See* 1967 Md. Laws 456.

[95] *See* 1968 Md. Laws 694. As the Bench grew, Courthouse West, later renamed as the Clarence M. Mitchell Courthouse, used an annex building on St. Paul Place to accommodate the increasing caseload of the court.

[96] *See* U.S. Bureau of the Census.

[97] MD. CODE ANN., CTS. & JUD. PROC. § 1-503 (1974).

[98] *See* 1975 Md. Laws 308 (Increasing number of judges from 21 to 22). 1979 Md. Laws 480 (Increasing number of judges from 22 to 23).

[99] *See* U.S. Bureau of the Census.

[100] *See* 1988 Md. Laws 473.

[101] *See* 1990 Md. Laws 407.

[102] *See* 1993 Md. Laws 125.

[103] *See* Acts of 1996, ch. 148, § 2.

[104] *See* U.S. Bureau of the Census.

ization has been inexorable. For example, in 1973, the General Assembly enacted the Courts and Judicial Proceedings Article which combined the power of the court of appeals to institute "a unified practice and procedure in actions at law and suits in equity" for all the courts in the State of Maryland.[105] The abolition of procedural distinctions between law and equity impacted Baltimore City in particular. In 1973, the Eighth Judicial Circuit, Baltimore City, still had distinct courts dedicated to non-jury equity (the Circuit Court of Baltimore City and the Circuit Court No. 2 of Baltimore City) and to law (the Court of Common Pleas and the Superior Court).

3. The New Circuit Court for Baltimore City

The continuous increases in the membership of the Bench and the historically dramatic centralization of judicial procedural and practice authority in the court of appeals perhaps made inevitable the end of the last vestige of the "old ways" of judicial business in Baltimore City — the Supreme Bench of Baltimore City. In 1980, the Maryland electorate approved a constitutional amendment to abolish the existing Supreme Bench of Baltimore City and establish what we know today as the Circuit Court for Baltimore City.[106]

> THERE SHALL BE A CIRCUIT COURT FOR EACH COUNTY AND FOR BALTIMORE CITY. The Circuit Court shall have and exercise, in the respective counties and Baltimore City, all the power, authority and jurisdiction, original and appellate, which the Circuit Courts of the counties exercised on the effective date of these amendments, and the greater or lesser jurisdiction hereafter prescribed by law.[107]

[105]*See* 1973 Md. Laws 2 (Special Session).

[106]*See* 1980 Md. Laws 523. The amendment went into effect on January 1, 1983.

[107]MD. CONST of 1867, art. IV, § 20 (amended by 1980 Md. Laws 523).

IX. THE FUTURE OF THE JUDICIARY

In 1995, the General Assembly authorized a Commission on the Future of Maryland's Courts to study Maryland's judiciary.[108] The commission was charged with recommending a plan for consolidating the current county-centered circuit court system into one circuit court system.[109] Among other things, the Futures Commission recommended the creation of a new office, Chief Judge of the Circuit Court, to administer the circuit courts through twenty-four circuit court administrative judges. According to this recommendation, the current circuit administrative judge positions in each of the eight circuits would be abolished and many of the duties of these administrative judges would be assumed by the Chief Judge of the Circuit Court.[110] The Commission also gave serious attention to the judicial selection process. The abolition of the popular election of circuit court judges was suggested.

Another matter to which the Futures Commission has given consideration is a Family Court. The concept of a Family Court was approved by the General Assembly in 1993.[111] Baltimore City was authorized to develop particular strategies to implement the Family Court,[112] and in 1996, $140,000.00 was allocated to the creation of the City's Family

[108]*See* Janet Stedman Eveleth, *A Legacy of Judicial Excellence,* 28 Md. Bar. J. 2, 4 (1995). Retired Chief Justice Robert C. Murphy of the Court of Appeals of Maryland played an instrumental role in this commission.

[109]*See id.* Carrying out this proposal would cost the State an estimated $70,000,000.

[110]*See* Commission on the Future of Maryland Courts, Hearing Minutes, Sept. 12, 1996.

[111]*See* 1993 Md. Laws 198.

[112]This push is attributable to the fact that domestic cases take up about 52% of the civil dockets. *See* EVELETH, *supra* note 108, at 6. Additionally, there is an increasing desire for a court that can look comprehensively at the various aspects of the convergence of family disintegration that has plagued society and the courts, in recent decades. Delegate Kenneth Montague of the Baltimore Bar has been the primary legislative proponent. Former supreme Bench Judge Robert B. Watts has been a long-time advocate of a Family Court.

Division.[113]

Although, at this writing, it is not known whether the recommendations of the Futures Commission will be implemented by the legislature, it is fair to predict that the work of the Futures Commission will not be short-lived.

OUR COURTHOUSES[114]

I. BALTIMORE CITY'S FIRST COURTHOUSES

The Courthouse that is now known as the Clarence M. Mitchell, Jr. Courthouse is not the first, but the third of Baltimore's courthouses to have graced Calvert Street. From 1770 until 1809, Baltimore's first courthouse stood in the center of Calvert Street.[115] The courthouse overlooked the young town of Baltimore, or as it was then called, Baltimore-Town. Viewing the town from the courthouse, which stood upon a hill, one could glimpse Jones Falls, at that time little more than a stream, and herds of cattle grazing in nearby meadows.[116]

By 1805, the original courthouse had fallen into a state of decay, and a new courthouse was built in 1809 to replace it.[117] The razing of the original courthouse and the building of the new one was accomplished for the sum of $50,000. Baltimore's second courthouse was located on the southwest corner of Calvert and Lexington Streets.[118] By 1895, it too had fallen into decay, and this time, it was necessary to raze the entire block to make way for the new and much larger courthouse.[119]

II. BALTIMORE CITY'S MODERN COURTHOUSES

A. The Clarence M. Mitchell, Jr. Courthouse

The third courthouse, completed in December of 1899 and dedicated on January 8, 1900, was a symbol of the rapid commercial growth of the City and the prosperity of Baltimore citizens as they entered the new century. The final cost of the building was $2,250,000.[120] The architectural firm of Wyatt and Nolting was selected to design and build the new courthouse.[121] Their plan was chosen from among seventy-nine anonymously submitted designs,[122] and was drawn in the Renaissance Revival style.[123] The design captured the essence of the classic Grecian style of architecture and adapted it to the needs of twentieth century America.[124]

The exterior of the courthouse, with the exception of the basement story, was constructed entirely of white marble quarried in the town of Cockeysville in Baltimore County.[125] The most striking features of the exterior, the eight monolithic columns adorning the Calvert Street facade, are believed to be the largest marble columns in the world to have been carved from single stones.[126] These columns, designed in the Ionic style, weigh thirty-five tons each and extend thirty-one feet in height.[127] They support the ornate entablature which encircles the entire building.[128]

The magnificence of the courthouse's facade is rivaled by the stateliness of the building's interior. One of the most architecturally interesting courtrooms of the Mitchell Courthouse is the Supreme Bench

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[113] *See City Debuting Family Division*, THE MARYLAND LAWYER, August 17, 1996, at 2.

[114] This portion of *Commemorative Histories of the Bench and Bar* is excerpted from a paper by Michael Greene, Esquire, an attorney and historian practicing in the Baltimore area.

[115] *See* THOMAS, *supra* note 7.

[116] *See* MORRIS L. RADOFF, THE HALL OF RECORDS COMMISSION FOR THE STATE OF MARYLAND, THE COUNTY COURTHOUSES AND RECORDS OF MARYLAND 12, 27 (1960).

[117] *See id.*

[118] *See id.*

[119] *See id.*

[120] *See* THOMAS, *supra* note 7.

[121] *See* JAMES F. SCHNEIDER, A VISITOR'S GUIDE TO THE TREASURES IN THE CLARENCE M. MITCHELL, JR., COURTHOUSE 6 (1984).

[122] *See id.*

[123] *See* THOMAS, *supra* note 7.

[124] *See id.*

[125] *See* RADOFF, *supra* note 116, at 35.

[126] *See* THOMAS, *supra* note 7.

[127] *See* RADOFF, *supra* note 116, at 35.

[128] *See* THOMAS, *supra* note 7.

Courtroom. This courtroom is unique because of its circular shape and its coffered dome.[129] The dome stands upon walls and sixteen columns of Sienna marble that came from the same quarry as the marble used in the construction of the Vatican in Rome.

Also housed in the Mitchell Courthouse is the Bar Library, one of the oldest private libraries in the state and one of the most complete and comprehensive libraries in the country.[130] The main room of the Bar Library features English Oak paneling circled by a barrel vault ceiling. Forty art glass skylights embellish the ceiling and the trademarks of fourteen historic European printers are memorialized in medallions on the east and west walls of the library.

Murals of the great lawgivers of antiquity dignify the lobby of the St. Paul Street entrance of the courthouse. The great artist John LaFarge produced the murals of Moses, Lycurgus, Confucius, Justinian, Numa Pompilius, and Mohammed in 1906 and 1907.

Over the years, as the city of Baltimore grew and the court system expanded to accommodate the increased number of cases that accompanied that growth, there was a need for more floor space in the building and for renovations to the existing structure. A third and fifth floor were added by filling in the area that was formerly atrium space.[131] The heating and air-conditioning systems were updated, and renovations of jury assembly areas, judges' chambers, offices, and courtrooms also took place. In addition, new courtrooms were added, and modifications were made to the first floor juvenile areas, State's Attorney's area, and Bar Library. Later, under the creative supervision of Administrative Judge Joseph H.H. Kaplan, the magnificent Criminal Courts Lobby was restored and the Supreme Bench Courtroom was rejuvenated.[132] Room 400, formerly the Superior Court of Baltimore, was restored, and is currently in use as a fully functional courtroom, as well as the Circuit Court's Ceremonial Courtroom.

On March 8, 1985, the courthouse was rededicated as the "Clarence M. Mitchell, Jr. Building" in honor of the Baltimore-born civil rights leader.[133] A tribute to the life and many accomplishments of Clarence M. Mitchell, Jr. was established in the St. Paul Street lobby of the Mitchell Courthouse.

B. Courthouse East

In December of 1978, the old U.S. Post Office and Courthouse was deeded to the City of Baltimore by the United States government to house facilities of the circuit court including clerks' offices, courtrooms, judges' chambers and other offices.[134] The building, constructed in 1930-1932 of Indiana limestone, boasts a classic design and a Spanish-style roof. The old Post Office and Courthouse is now known as Courthouse East.

The second floor of Courthouse East was soon earmarked for renovations. The result was the construction of six new courtrooms and their dedication in March of 1990.[135] The new courtrooms boast state of the art audio-video equipment and spacious and elegant accommodations.

THE BALTIMORE CITY COURT AND THE AFRICAN-AMERICAN LAWYER[136]

The Court of Appeals of Maryland on December 20, 1877, considered the application of Charles Taylor, a black attorney, for admission to the Maryland Bar. The court of appeals held that "the power of regulating the admission of attorneys is one belonging to the state and not the federal government" and that the provision of the Maryland Constitution limiting admission to the Maryland Bar to white males

[129] *See* SCHNEIDER, *supra* note 121, at 26.

[130] *See id.* at 25.

[131] *See id.* at 7.

[132] *See id.* at 13.

[133] *See id.*

[134] *See* JOHN CARROLL BYRNES, THE BALTIMORE COURTHOUSE AND LAW MUSEUM FOUNDATION, INC., THE BALTIMORE CITY CIRCUIT COURTHOUSES (1992).

[135] *See id.*

[136] The author of the paper from which this portion is excerpted is former Judge Solomon Baylor.

over the age of twenty-one was not repugnant to the United States Constitution.[137]

The Supreme Bench of Baltimore City, on March 19, 1885, however, in ruling on a petition filed by Charles S. Wilson, a black attorney, in effect held that African-American lawyers could not be denied the right to practice in its court. Although this decision was contrary to the prior court of appeals ruling, it was never appealed. Consequently, on October 10, 1885, Everett J. Waring became Maryland's first black attorney.

The most notable of all the lawyers to appear before the Supreme Bench was Thurgood Marshall, an African-American Baltimore native who ascended to the pinnacle of the judiciary, serving as an associate justice on the United States Supreme Court. Perhaps his most memorable case in Baltimore was in 1935, when he represented Donald Murray, a black student who sought admission to the University of Maryland School of Law.[138] At the urging of then attorney Marshall, the Supreme Bench ruled that the University of Maryland School of Law had to admit Mr. Murray, who later became a prominent attorney.

Although the Supreme Bench had protected the right of African-Americans to practice law and to attend the state's law school, the Bar Association of Baltimore City refused to accept women or black lawyers as members. Being keenly aware of the importance of continued education and of an organized bar, the local black attorneys in the early 1930s formed the Monumental City Bar Association, which was incorporated in 1935.

Black women first entered the legal profession in 1950 when Juanita Jackson Mitchell and Elaine C. Davis became lawyers. The Alliance of Black Women Attorneys was formed in 1979 for the purpose of advancing the interests of African-American women attorneys and improving the delivery of legal services to Baltimore citizens.

Perhaps the largest percentage of cases involving race came before the Supreme Bench during the civil rights struggles of the 1960s. One of the most memorable of such cases is *State v. Bell.*[139] In that case, Robert M. Bell, then a student at Morgan State University and now Chief Judge of the Court of Appeals of Maryland,[140] was arrested, tried, and convicted of trespassing because he (and many other students) dared to demand service at a public restaurant. Judge Bell was represented by now retired circuit court Judge Robert B. Watts, the late Tucker R. Dearing, and Juanita Jackson Mitchell. The case was prosecuted by Robert C. Murphy, who later served as Chief Judge of the Court of Appeals of Maryland, the late James Murphy (who was elected to the Supreme Bench of Baltimore City in 1970), and now court of appeals Judge Lawrence F. Rodowsky. The student protest challenged not only the legality of racially discriminatory public accommodations but the moral validity of such a policy. This was evidenced by the attitude of Judge Joseph R. Byrnes, the trial judge, who with apparent reluctance entered a technically guilty verdict and suspended a ten-dollar fine, pursuant to the law as it then existed. The ruling was affirmed by the court of appeals. When the case reached the United States Supreme Court, however, the justices were divided. The case was remanded to

[137]*See In re* Charles Taylor, 48 Md. 28 (1877).

[138]*See* University of Maryland v. Murray, 169 Md. 478, 182 A. 590 (1936).

[139]227 Md. 302, 176 A.2d 771 (1962). *See also* Bell v. Maryland, 374 U.S. 805 (1963); Bell v. State 236 Md. 356, 204 A.2d 54 (1964).

[140]After graduating from Morgan State University with honors, and from Harvard Law School, Judge Bell worked with the law firm of Piper & Marbury, later serving with distinction on each level of the Maryland judiciary. Judge Bell served on the District Court of Maryland beginning in 1975, the Circuit Court for Baltimore City beginning in 1980, joined the Court of Special Appeals in 1984, and was appointed to the Court of Appeals of Maryland by Governor William Donald Schaefer in 1991. On October 23, 1996, Judge Robert M. Bell became the head of the same court that voided his 1964 trespassing conviction. As such, he became the twenty-third chief judge and the first African-American judge in the two hundred twenty year history of the Court of Appeals of Maryland. *See* Michael Dresser, *Bell Named to Head Maryland High Court,* BALTIMORE SUN, Oct. 24, 1996, at 1A, 10A; *see also* Dennis O'Brien & Michael James, *From a Name in Law Books to Top of Maryland Bench,* BALTIMORE SUN, Oct. 24, 1996, at 10A.

Historic Firsts by African-American Attorneys

Admitted to Maryland Bar (Male)	E. Everett Waring (1885)
City Council (Baltimore)	Harry Sythe Cummings (1890)
Assistant City Solicitor	Arthur E. Briscoe (1934)
Law Firm	Brown, Allen & Watts (1948)
Admitted to Maryland Bar (Female)	Juanita Jackson Mitchell (1950)
	Elaine Davis (1950)
Police Magistrate	E. Everett Lane (1951)
State's Attorney	Milton B. Allen (1954)
Assistant State's Attorney	George Rosedom (1954)
Assistant U.S. Attorney	John H. Hargrove (1954)
Maryland Senate	Harry A. Cole (1954)
Assistant Attorney General	Harry A. Cole (1950)
General Counsel of U.S. Post Office	Vernon L. Green (1955)
Traffic Court Magistrate	E. Everett Lane (1956)
Judge of People's Court	E. Everett Lane (1958)
Census Director	George L. Russell, Jr. (1960)
Judge, Supreme Bench	George L. Russell, Jr. (1966)
President of Baltimore City Bar Association	George L. Russell, Jr. (1966)
Juvenile Master, Prince George's County Circuit Court	James H. Taylor (1966)
Supreme Court of the United States	Thurgood Marshall (1967)
Chief, Criminal Division, Attorney General's Office	David T. Mason (1967)
Zoning Board	Solomon Baylor (1968)
Elected to Circuit Court	Joseph C. Howard (1968)
Workmen's Compensation Commissioner	J. Franklyn Bourne (1969)
Chairman, State Parole Board	David T. Mason (1969)
Administrative Judge (District Court)	John H. Hargrove (1971)
State Cabinet (Secretary, Department of Human Resources)	David T. Mason (1972)
Judge, Prince George's County District Court	J. Franklyn Bourne (1972)
Orphan's Court Judge	Ben Forman (1972)
Court of Special Appeals	David T. Mason (1974)
Court of Appeals	Harry A. Cole (1977)
Liquor Board	Warner McGuinn
Associate U.S. Deputy Attorney General	Larry S. Gibson (1977)
U.S. District Court for Maryland	Joseph C. Howard (1979)
Juvenile Master (Female)	Mable H. Hubbard (1979)
Assistant State's Attorney (Howard County)	Yvonne C. Holt-Stone (1980)
District Court Judge (Female)	Mable H. Hubbard (1981)
Assistant County Solicitor for Howard County	James E. Henson, Sr. (1982)
Judge, District Court Montgomery County	DeLawrence Beard (1982)
Judge, Circuit Court for Montgomery County	DeLawrence Beard (1984)
Chief Judge, Orphan's Court of Baltimore City	Michael W. Lee (1984)
Circuit Court Judge (Female)	Mable H. Hubbard (1985)
Judge, Anne Arundel County (District Court)	Clayton Greene (1988)
Judge, Baltimore County (District Court)	Michael McCampbell (1990)
Judge, Prince George's County (District Court)(Female)	Sheila Tillerson (1993)
President, Women's Bar Association of Maryland	Toni Clarke (1994)
State's Attorney (Prince George's County)(Female)	Toni Clarke (1994)
State's Attorney for Baltimore City (Female)	Patricia C. Jessamy (1995)
Chief Judge, Court of Appeals of Maryland	Robert M. Bell (1996)

Compiled by the National Bar Association

the Court of Appeals of Maryland, which reconsidered the case on its own motion and reversed the conviction. In the meantime, a Maryland statute had been passed outlawing discrimination in places of public accommodation.[141]

Another prominent black attorney was Clarence M. Mitchell, Jr. He was often referred to as the "101st Senator" because of his persistent, dedicated and skillful lobbying for civil rights in the U.S. Congress. The untimely death of Clarence M. Mitchell, Jr. on March 18, 1984, created a serious void in the Maryland legal community. Mayor William Donald Schaefer, at the suggestion of Judge John Carroll Byrnes, son of the late Judge Joseph R. Byrnes, was persuaded to rededicate the building formerly known as Courthouse West, as the "Clarence M. Mitchell, Jr. Courthouse." The dedication was marked by an elaborate ceremony on March 8, 1985, and included city and state officials, U.S. Supreme Court justices, federal judges, civic and religious leaders, and members of the military.

Today, the vast majority of African-American lawyers practicing in Baltimore City are either in small law firms, sole practices, or in government law offices. The progress of African-American lawyers into the established Baltimore law firms has been exceedingly slow. In the mid-1970s, Frank A. DeCosta became a partner at Weinberg & Green. He became the first African-American partner in a major Baltimore City law firm. At the end of 1978, Mr. DeCosta left Weinberg & Green. It was not until 1986 that another African-American attorney, Harry S. Johnson, became a partner in a major law firm, that of Whiteford, Taylor & Preston. It was reported at the time that he was the first black attorney in Maryland to join a major law firm after law school, work his way up through the associate ranks, and become a partner. He was followed there by Dana C. Peterson.

Despite these successes, however, there are still few African-Americans who are either partners or associates at other major firms. Firms state that diversity is a goal, but the current figures evidence what some perceive as a lack of genuine interest in minority hiring. The achievements of the few African-Americans who have survived in this environment should give encouragement to firms to be more active in their efforts.

Of the twenty-nine judges serving on the Circuit Court for Baltimore City as of March 1, 1997, twelve are African-Americans. On the District Court of Maryland in Baltimore City there are five African-Americans out of twenty-four judges. These increases represent a significant improvement over the past. In spite of the racism that persists in our society, the judiciary is expected to play a leading role in promoting the equality of opportunity for all citizens. It will do so more effectively by reason of its own diversity.

A BRIEF HISTORY OF WOMEN OF THE BALTIMORE BAR[142]

The history of the women of the Baltimore area legal community is truly a story of the determination and accomplishments of the women lawyers of Maryland who fought for an equal opportunity to pursue justice with their male brethren. The male and female lawyers of today have inherited a rich tradition and history that actually began some three hundred years before women were admitted to membership in the Bar Association of Baltimore City.

Margaret Brent, the first woman lawyer in North America, arrived in St. Mary's Parish, Maryland in 1638. Frequently addressed in court records as "Gentleman Margaret Brent," she entered her appearance in one hundred twenty-four cases in eight years.[143] It would be more than one hundred fifty years before Maryland would allow another woman attorney, Etta H. Maddox, to practice law in the

[141]*See* MD. ANN. CODE, art. 49B § 5-12 (1994).

[142]The author of the paper from which this portion is excerpted, Joan Bossmann Gordon, is the Historian of the Women's Bar Association of Maryland, Inc.

[143]*See* KAREN BERGER MORELLO, THE INVISIBLE BAR 6 (New York, Random House, 1986); *see also* MARY E.W. RAMEY, CHRONICLES OF MISTRESS MARGARET BRENT 1-12 (1915); Sophie H. Drinker, *Women Attorneys of Colonial Times* MARYLAND HISTORICAL MAGAZINE (1961).

state.[144] Maddox's request, in 1901, to take the state bar examination, was denied by the Court of Appeals of Maryland. The court, however, did invite the General Assembly to enact legislation if it believed that the citizens of Maryland wanted women to be allowed to practice law. The legislature obliged the following year and passed legislation that extended the privilege of practicing law in Maryland to women.

A year later, in 1903, Emilie Doetsch graduated from Goucher College and applied for admission to the University of Maryland School of Law. Her application was rejected because of her sex. She turned to the Baltimore Law School (later the Mount Vernon School of Law, and eventually the University of Baltimore School of Law) and received her law degree from that institution in 1906, becoming the second woman to pass the Maryland State Bar examination. Unable to secure employment as a lawyer, Doetsch became a reporter for the *Baltimore News*.[145]

Fifteen years after Maddox's 1902 admission to the Maryland bar, Sarah Rosenberg Burke applied to the University of Maryland School of Law. The reason given for the denial of her application was the lack of toilet facilities for women. Burke persevered, and in 1920 she was one of four "ladies" to begin degree studies at that law school. Burke and her female classmates, however, were required to use toilet facilities at the hospital across the street from the school. One of Burke's classmates, Jeannette Rosner Wolman, reported in a 1986 interview that there was no discrimination against the women in the law school classes, and there was also no communication between the male and female students either.[146] When the women graduated from the law school in 1924, there were few professional opportunities for them and few experienced women attorneys with whom to share their experiences. It was not uncommon, according to Wolman, for female attorneys to be offered jobs as legal secretaries or clerical workers. Thus, many of them set out on their own as solo practitioners.[147]

The women also faced discrimination from clients. Wolman is fond of telling younger professional women about her early years of practice and of one of her male clients who tried to compensate her for her successful representation of him with a pair of silk stockings. "He was very happy that I won his case for him but his jaw dropped when I handed him the bill," reports Wolman. "He told me that he thought women were in law to find a husband and to keep themselves busy until children came along, and didn't need to charge clients for their legal services."[148] It is not surprising that after three short years of law practice, Burke and Wolman found themselves joining with several other women to form the first professional association of women attorneys in Maryland.

The *Baltimore Sun* on April 12 and May 2, 1927, announced that the Women Lawyer's Association of Maryland was organized for the purpose of "promoting fraternalism and an interchange of ideas," after four of its seven founding members, including Burke and Wolman, applied for but were denied membership in the Maryland State Bar Association. By 1936, the Women Lawyer's Association had merged into the Women's Bar Association of Baltimore City that had forty members who met regularly in one another's homes to present papers on a variety of timely legal topics.

Over the years, Rose Zetzer and Jeannette Rosner Wolman repeatedly sought membership in both the Maryland State and Baltimore City Bar Associations. By June 1944, the Maryland State Bar Association remained the only state bar association in the country that continued to deny membership to women, despite the fact that as early as 1927 other bar associations such as the American Bar Association had voted to admit women members. But the women were un-

[144]Gertrude James, a non-lawyer, was allowed to plead her own case in proper person in Maryland's colonial court system in the 1700s. MORELLO *supra* note 143, *at* 8.

[145]*See* WINIFRED G. HELMES, NOTABLE MARYLAND WOMEN 107-09 (Cambridge, Maryland, Tidewater Publishers, 1977).

[146]*People Who Shaped the Way We Live,* BALTIMORE SUN MAGAZINE, May 17, 1987.

[147]*See id.*

[148]Telephone interview with Joan Bossman Gordon, April, 1993, and remarks at Women's Bar Association annual meeting October 15, 1985.

daunted. On October 22, 1946, after more than fifteen unsuccessful applications, Rose Zetzer was finally accepted by the Maryland State Bar Association as its first woman member.[149] Throughout their careers, both Rose Zetzer and Jeannette Wolman continued to encourage women lawyers to join the Association. In addition to efforts to win admission to state and local bar associations, the women lawyers in Baltimore City campaigned during these years to secure the right of women to serve on juries. In 1947, a partial Women's Jury Service Bill was finally passed by the Maryland General Assembly.[150]

In 1950, women began to dedicate themselves to the appointment and election of women to public office. Attorney Dorothy Jackson (Miller) was elected to the Maryland House of Delegates in 1950 and again in 1954. In 1951, Helen Elizabeth Brown, was appointed Magistrate of the Housing Court in Baltimore City. Brown would later advance to her most notable achievement — her fourteen-year tenure as a commissioner on the State's Workmen's Compensation Commission from 1955-1969. As the trustee of the Marjorie Cook Foundation, she funded many efforts to further equal rights for women. The 1950s was also a time that saw the appointment of the first female juvenile master, Anna Sanford.

When women lawyers celebrated the 25th anniversary of the Women's Bar Association of Baltimore City in 1952 ("WBA"), they were still barred from membership in the larger Bar Association of Baltimore City. Nevertheless, WBA members were among the leaders of the profession in the Baltimore area. The WBA's president in 1952 was Shirley Brannock Jones. Jones, a woman of remarkable accomplishments, went on to serve as the first woman Assistant Attorney General of Maryland in 1958, as judge of the Orphans' Court of Baltimore City and, in 1961, she became the first woman to be appointed to the Supreme Bench of Baltimore City. Jones would later become the first woman to serve as a federal district court judge for the District of Maryland. She served in that capacity from 1979 until her retirement in 1981.

The WBA's president in 1954 was Mary Arabian, a Baltimore attorney whose first legal work was performing real estate title searches. She eventually worked her way up the ranks of the legal profession to become a judge on Baltimore's Municipal Court (later the District Court of Maryland for Baltimore City) in 1961. In 1975, Judge Arabian became the second woman appointed to the Supreme Bench of Baltimore City. Judge Arabian would serve on the Circuit Court for Baltimore City until her retirement in 1990. In a recent interview, Judge Arabian recalled that she had to fight her way into law school at the University of Maryland, and that professors would address the students as "gentlemen," despite the fact that Arabian and one other female student were present in class.[151] After law school, she found that although male lawyers were polite, they did not take her or other women attorneys seriously.

In 1955, women lawyers realized another milestone when Lucy Ann Garvey became the first female prosecutor in the Baltimore City State's Attorney's Office. In the 1940s Garvey had worked as a legal secretary for a Baltimore attorney who encouraged her to apply to law school. The University of Maryland informed Garvey that it had its "quota" of women, but the University of Baltimore accepted her for its pre-law night school program. She eventually graduated from the university's law school in 1948, but continued to work for a time as a legal secretary. After serving in the domestic relations division of the State's Attorney's Office for two years, Garvey was appointed to the criminal division, where she served from 1957 to 1966. Garvey went on to win appointment as Domestic Relations Master for the Supreme Bench where she served until her retirement in 1990.[152]

During the 1950s, women lawyers in Baltimore continued to pursue their goal of achieving integrated

[149]*See* Joan Bossman Gordon, *History of the Women's Bar Association of Maryland, Inc., 1927-1996.*

[150]*See* 1947 Md. Laws 595.

[151]Interview with Ashley Spencer, February 19, 1996.

[152]Interview with Ashley Spencer, March 8, 1996.

bar associations. In 1957, Jeannette Rosner Wolman became the first woman admitted to the Bar Association of Baltimore City. That year, black attorneys were also admitted for the first time to the city bar association. The vote was 614 to 409 to admit women and 606 to 417 to admit blacks. Juanita Jackson Mitchell, the first African-American woman admitted to the practice of law in Maryland, was a champion of civil rights for blacks and women and was active in Baltimore bar associations. Verda Freeman Welcome was another pioneering female who, not a lawyer but a schoolteacher, became the first black woman elected to the Maryland House of Delegates in 1958, and the Maryland Senate in 1962, where she served until 1983.

The 1970s were a time of promise and change for women. In 1971, women constituted only three percent of the practicing lawyers in the United States.[153] Law schools across the country, however, were opening their doors to women, and by 1980 women represented eight percent of the country's lawyers.[154] In 1971, the Baltimore legal community welcomed the arrival of the Women's Law Center, Inc.

The active decade of the seventies brought a third women's organization to the Baltimore legal community with the founding of the Alliance of Black Women Attorneys in 1979. An affiliate of the National Bar Association and the American Bar Association, the alliance created a network to enhance the professional development of African-American women attorneys. Its three major goals were, and are, the promotion of the interests of African-American women attorneys, the improvement of legal skills for efficient practice, and the increase of viability and recognition of African-American women attorneys.[155] Its first president was Jeanne Hitchcock (1979-1986). The Alliance of Black Women Attorneys has also been an active presence in the community, sponsoring scholarships, developing a mentoring program, and conducting a conference on the prevention of youth violence.

In 1984, twenty-seven years after its decision to admit women and blacks, the Bar Association of Baltimore City elected its first women president, Sheila K. Sachs, a partner in Gordon, Feinblatt, Rothman, Hoffberger, and Hollander, L.L.C. In 1994, she became the first female president of the Baltimore Courthouse and Law Museum Foundation , Inc.

As the year 2000 approaches, it is tempting to look back over the past century, measure how far women have advanced in the legal profession, and look ahead to calculate how much further they need to advance to realize full equality under the law and in the practice of the law. Lottie Friedler, a longtime Baltimore trial attorney, champion of women's causes, and president of the WBA from 1967 to 1969, laments that young attorneys today do not understand how difficult it has been for women to advance in the legal community. She worries that "too many women lawyers today think only of their own careers, and seem to have forgotten that women still don't have full equality in all areas."[156]

The history of Baltimore's women lawyers is still being written, and advances are still being made. In 1991, Baltimore lawyer Louise Michaux Gonzales, became the first woman president of the Maryland State Bar Association, and in 1995, Patricia C. Jessamy became the first female to head the Baltimore City State's Attorney's Office. Yet, despite progress, and despite the fact that fifty percent of law school graduates today are female,[157] women lawyers still constitute only twenty-three percent of all lawyers.[158] There are also disparities between the salaries of men and women in the legal field, and women are still noticeably absent from the partnership rolls of Baltimore's large firms. An October, 1995 *Daily Record* article reported that only fourteen percent of

[153]*See* U.S. NEWS & WORLD REPORT, January 15, 1996 at 14 (citing data from the ABA).

[154]*See id.*

[155]Kathy Crosby, Historian, Alliance of Black Women Attorneys, June 15, 1996.

[156]Interview with Joan Bossman Gordon, December 4, 1995.

[157]*See* THE DAILY RECORD, October 7, 1995 at 1, 15.

[158]*See* U.S. NEWS & WORLD REPORT, *supra* note 153, at 14.

the 317 partners in Baltimore's five largest firms are women.[159] The same article also reported that none of the twenty largest law firms in Baltimore had a female managing partner.

From a small group of seven women in 1927, women lawyers of Baltimore now constitute a significant part of the Baltimore legal community. The original narrow purposes of the Women Lawyers Association of Baltimore have broadened, and women lawyers today look to maintain the honor and integrity of the legal profession and to advance the status of all women in society through law related activities.

Judge Mary Arabian's advice to young female lawyers today is "Full steam ahead! Law is always exciting . . . . it's a very creative field; it's meant to evolve, to be developed and improved — women are very good at that."[160] Judge Shirley Jones' advice to women lawyers on the eve of the twenty-first century is this: "Be a lawyer. Period. And be the best lawyer you can be, without focusing upon adjectives."[161]

CONCLUSION

Given the extensive changes and developments in Maryland's judiciary since this state's original colonization in 1634, Maryland's courts will likely see more changes in the future. As time passes, new minds will be admitted to the bench and bar, and are certain to have an impact. Old ideas will probably be revisited, and new ones developed and instituted. Whatever changes the future centuries hold for the State and Baltimore City's judiciary, they are certain to add to an already rich history.

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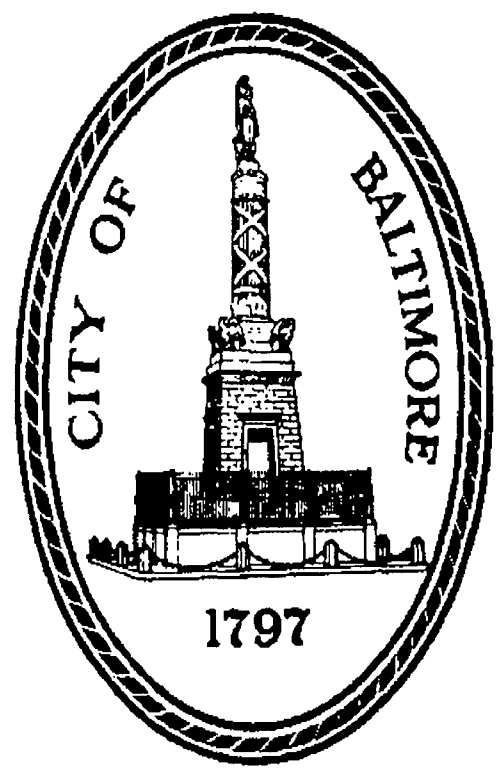

[159]*See* THE DAILY RECORD, *supra* note 157, at 15.

[160]Interview with Ashley Spencer, February 19, 1996.

[161]*Id.*