

Justice Matters

A publication from the Maryland Judiciary

Vol. 7, Issue 2 August 2003

Judge John C. Eldridge

Love of the Law, Respect for Constitution Mark a 30-Year Career on Court of Appeals



Over the years, when arguments before the Court of Appeals have drifted into the realm of federal case law, one judge in particular could be counted on to bring the discussion back where it belongs—Maryland law and the Maryland Constitution.

“(Judge John C. Eldridge) is very passionate about the Maryland Constitution,” says his colleague on the bench, Chief Judge Robert M. Bell, and feels strongly that the state constitution is the vehicle for solving most problems that arise in the state.

In November, Judge Eldridge will retire after over four decades of public service, including nearly 30 years on Maryland’s highest court. When he retires, he will have served longer than all but two other judges in the entire history of that body. He is, Judge Bell says, the institutional memory of the Court of Appeals. Respect for procedure and tradition is especially important for a

stare decisis court (a court that abides by laws and precedents set down in previous decisions), Judge Bell says, and Judge Eldridge has been a “stabilizing force” on the court over the years.

As a native of Baltimore City, Judge Eldridge first attended public schools before entering the Gilman School. He received his B.A. from Harvard University in 1955. He studied law at Harvard Law School, then

District Court Bailiffs

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Leading Men (and Women) of the Court

Who is the “leading man” of the courtroom? Beware; the answer is not the most likely suspect.

As we look back into early medieval times, we find many a lord of the castle couldn’t be bothered with administering the daily needs of his estate. The lords employed *reeves* to do the supervision. When reeves began presiding over folkmoths (town meetings), they became known as *provosts*, or “leading men.” Once towns and villages acquired self-government, the lead man, the individual who had jurisdiction not only over the local court, but the town itself, was referred to as a *ballivus*, or as we know the word today, a *bailiff*.

The primary job of a bailiff has changed very little in the past 800 to 1,000 years. Bailiffs remain controllers of the court. While it may be the judge who

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Mary Brighthaupt, designer
F Todd Silver, writer
Jeffrey Welsh, editor
Photos by Media Department unless
otherwise noted.

Justice Matters is published quarterly.
We welcome your comments or ideas.
Contact us at:

Court Information Office
361 Rowe Boulevard
Annapolis, Maryland 21401
Tel: 410.260.1488
info@courts.state.md.us

Courts in the Community:

Planning and Contacts Key to Successful Public Forums

Judge Marielsa Bernard has held two very successful public forums in Montgomery County. The forums focused on issues related to domestic violence, but also gave the more than 500 attendees for both forums the opportunity to meet judges and ask questions about the court system. Judge Bernard, who plans to hold a third public forum in the near future, has been asked to create a general guideline for setting up similar public forums in other counties.

Justice Matters: *What prompted you to hold your first public forum last year at Montgomery Blair High School in Silver Spring?*

Marielsa Bernard: The idea really came from my 17 years experience in private practice, where I dealt primarily with Hispanic clients and realized how much of a need there was for information about the legal system and the judicial system. As an attorney and president of the Maryland Hispanic Bar Association, I had started holding community law fairs to inform people about the legal system and their rights. Two years ago, when I was appointed to the Committee on Public Trust and Confidence in the Judicial System (CPTC), I put forward the idea of having a similar event, but as a public forum concept.

JM: *How did you get the school, community and other groups involved?*

MB: I have been lucky enough to build some good relationships with ESOL (English as a second language) and other teachers. They were really instrumental in getting the high school principal interested in a public forum. I was also fortunate to work with a regional director of the county school system who helped facilitate the idea, from obtaining headsets for attendees needing translators to publicizing the forum throughout the county school system. To put on an event like this, it truly takes a collaborative community effort, not just the judiciary and bar associations. For the first forum, I formed a committee from different contacts that I either made or identified—from the school system, legal community, community service groups, social service agencies, community leaders, etc. Each contact agreed to disseminate information regarding the public forum to his or her respective communities.

JM: *Why was the subject (domestic violence) chosen for the public forum?*

MB: At our first meeting, we talked about issues of interest that crossed the many different communities, and identified that domestic violence was a really big issue. I came up with the idea of a skit that would go through the process of a domestic violence case. The skit would help explain how the criminal justice system worked, while at the same time addressing a very real community issue. Once we decided on the theme, domestic violence groups from all areas became very interested in participating. [In the next issue of *Justice Matters*, Judge Bernard talks about seeking public input and generating public interest.]

Leading Men and Women, cont. from p. 1

presides over the court, it is the bailiff who brings order, maintains order and secures the court.

Protectors of the Court

A person could sit in a courtroom in Annapolis for hours and hardly notice bailiff William Baton. He enters the court



Bernice Galbreath



William Baton

and announces in a deep, powerful voice that court is in session. Then he blends into the background. After watching him for a few minutes, one could conclude that bailiffs really don't do much—they pick up papers from an attorney and hand them to the judge, then shuffle some more papers to the clerk, who, in turn, hands the bailiff more papers which are then handed over to a defendant sitting quietly on the side.

But the longer one watches, the more obvious it is that he is doing much more. Watching his eyes reveals his other task, his primary responsibility: he is maintaining vigilance over all activity in the court. And in his vigilance he is fulfilling two of his three primary job responsibilities. A bailiff is responsible for maintaining order and security and for handling any emergency situation that arises.

In memoriam

H. Kemp MacDaniel, a judge of the Circuit Court for Baltimore County from 1966 to 1978 and a judge on the Court of Special Appeals from 1978 to 1982.

A background in police work is one of the requirements to become a bailiff in the District Court. Baton believes his extensive experience in law enforcement has trained him to observe people, to notice warning signs of potential problems and to act before a situation escalates into an emergency. “We are continually watching a person’s demeanor in court,” notes Baton. By anticipating potential problems, bailiffs become adept at diffusing a situation before it gets out of control.

Bailiffs, who are armed unless a judge requests otherwise, have the same powers as sworn police officers to enforce the laws of the state on court property.

The Friendly Intimidator

Metal detectors serve as both a device to screen for weapons and other illegal devices and as a powerful psychological deterrent. All who pass through the detectors readily see that bailiffs control and secure the court facility. For many individuals the metal detector is intimidating, especially when the alarm begins beeping and the bailiffs on duty jump to attention. How a bailiff handles the alarming situation, however, makes a difference in how the visitor views the court.

Information Desk

“Bailiffs walk a fine line,” says Bernice Galbreath, a bailiff in Ellicott City. “We’re here to protect the court, the judges, and everyone present, so we are very security conscious. But we’re also here to help. How you react to people does make a difference.”

Being friendly and helpful is the third ingredient of a bailiff’s responsibilities. According to the job description, bailiffs are to “provide assistance to the general public in a courteous and tactful manner.” As the first court representative an individual encounters upon entering the courthouse, bailiffs often serve as the “information desk,” directing people to the clerk’s office, courtroom or other agencies in the building.

“Everything depends upon your attitude,” Galbreath says. “You can make the job easy or difficult; you can be positive or negative. How people respond to you depends upon how you treat people. Bailiffs like working with people. We enjoy our jobs.” And that may be the reason that District Court bailiffs do their job well.

Ken Brown, DCHQ

Awards and Recognitions

The recipient of the 2003 Judge Anselm Sodaro Judicial Civility Award is **Judge Daniel M. Long** of Somerset County Circuit Court. The award is presented annually by the Maryland State Bar Association to the sitting judge who demonstrates judicial temperament, civility and courtesy to attorneys and litigants, values that Judge Sodaro brought to the courtroom during his years on the bench in Baltimore City. Judge Long, who has been on the bench since 1990, is administrative judge of the 1st Circuit and was elected chair of the Conference of Circuit Judges in April. Saying he was honored to be nominated, Judge Long added, "I have long believed that civility from the bench is actually a reflection of the civility of the lawyers that practice before you."

Court Administrator Frank Broccolina received two awards recently. The Equal Justice Council of the Maryland Legal Aid Bureau presented him with the 2003 Executive Director's Award for his work as state court administrator and his commitment to furthering the capabilities of legal assistance programs throughout the state. And the National Association for Court Management (NACM) presented him with its Award of Merit, the highest award NACM gives to an individual. The award recognizes leadership and excellence in the court administration.

The Howard County Bar Association honored **District Court Chief Judge James N. Vaughan** and **Howard County Circuit Court Judge Raymond H. Kane, Jr.** for their service and commitment to the county and state.

The Howard Women's Bar Association gave the Connie Sapp Award to **District Court Judge Alice P. Clark** for her work on behalf of the Women's Bar Association and her commitment to the community.



Judge Long (left) receives award from Bar Association.

Photo courtesy of Maryland State Bar Assoc.

District Court Judges Continue Tradition of Annual Conference with Day-long Meeting in Annapolis

When economic constraints resulted in the cancellation of the Judicial Conference, Chief Judge Vaughan felt so strongly about the importance of bringing District Court judges together at least once a year that he devised a plan to do so at minimal cost: the program was cut from 2 ½ days to one, it was held at the Robert F. Sweeney District Court building in Annapolis, and judges paid for their own lunch. Chief Judge Bell and Chief Judge Vaughan welcomed the 122 judges who attended.

Judges value this annual training for two reasons, says Mimi R. Cooper, chair of the Judicial Education Committee. It is the only time during the year when all District Court judges, including retired judges, can get together to talk, network and discuss casework. *And* the judges look forward to information about new case law, opinions, programs and procedures.

A perennial favorite of judges: the "Scott and Patti Show," an update on new opinions from the appeals courts, highlighting those most relevant to District Court judges,

presented by Judges R. Scott Davis and Patrice E. Lewis. Attendees appreciate the work that goes into the presentation as well as the written summary of new opinions they can take home with them.

The afternoon session offered participants the option of attending two of three breakout sessions: Professor Michael Van Alstine of the UM School of Law presented a session on contracts, highlighting scenarios common to a DC docket; using sample files, Judge Thomas J. Love talked about ways to handle chambers work and affidavit judgments; and Judge Angela M. Eaves used two hypothetical scenarios to facilitate discussion about best practices for bail review hearings.

Says Judge Vaughan, "The annual conference has been an important tradition of the District Court for 32 years and I am very happy and appreciative for the cooperation and assistance of those who participated from the Education Committee to all of the attendees."

PROFILE

Judge Thurmond H. Rhodes

On January 1 Judge Thurman H. Rhodes was appointed administrative judge of the District Court of Maryland for District 5 (Prince George's County), succeeding the retiring Judge Frank M. Kratovil. Judge Rhodes has served as associate judge on that bench since 1988.

Judge Rhodes approaches his new administrative duties with, in his own words, "an open mind towards change, growth, and efficiency." His goals for Maryland's Fifth District are to improve the use of technology for case flow and docket management. He also wants his court to make better use of existing technology. For example, he recently held an educational meeting for judges on the use of e-mail. In addition, Judge Rhodes and Prince George's County Circuit Court Administrative Judge William Missouri placed an ad in the local newspaper asking lawyers to include their email addresses on pleadings to reduce the time clerks spend on the phone responding to questions.

The judge wants to build a good working relationship with the circuit court and other county government offices, believing that doing so fosters better courts. Planning a new drug court in Prince George's, he studied drug courts in Baltimore City and Anne Arundel County as well as the Prince George's circuit court, and sends staff to observe the local circuit court's drug treatment court at least two days a week.



Judge Rhodes

Balancing Act

He keeps a cap in his office that he got after the course on court administration at the Judicial Institute in Reno. It has "CEO" written on the brim, and it serves as a reminder that he wears two hats now—CEO and trial judge. He says the most challenging transition issue is balancing both jobs. As an associate judge, he could walk out of the courtroom and the job was done. As administrative judge, the job continues throughout the day, with none of the predictability of a trial judge's routine. There is little time to reflect or mull over decisions, which often require immediate attention and an immediate answer.

He also notes that as the administrative judge, he must be more careful what he says off the bench. When he remarked that an office supply was running low, a staff member immediately ordered a much larger supply than

the office had ever possessed. How an administrative judge frames issues affecting the court is important, too, he says; to reach a viable and efficient solution, it is necessary to develop an action plan that is specific to the problem.

Civil Matters

With his background in planning issues, he is well versed in civil matters. In fact, he chairs the Maryland Judicial Conference's Committee on Civil Law and Procedures. New, higher limits of claims in civil cases in District Court promise to increase the caseload for business and other civil matters. While Prince George's County has not seen a large increase in civil cases, Judge Rhodes believes the court needs to be able to track cases better to help with increased case loads. He is gathering caseload statistics as part of the first step in having a system to make the transition smoother as civil cases increase.

Judge Rhodes serves not only his District Court, but the entire judiciary as well. In addition to the Civil Law and Procedure Committee mentioned above, he has chaired the Child Support Enforcement Committee, and been a member of the Mental Health, Alcoholism, and Addiction Committee. In addition, he is a member of the adjunct faculty of the Prince George's Community College, and a member of the faculty of the University of Maryland University College, teaching courses in legal writing, litigation, contracts and legal ethics.

The newly-appointed administrative judge keeps a busy schedule but still finds time to sing and act. He tried to slack off when he assumed his new duties, but he has such a great reputation for singing that the audiences and organizations he has worked with will not let him rest. He loves singing classical songs, performing Shakespeare and in musicals. Readers may remember seeing him as a member of that local singing group, The Contemplations. The court is lucky he has kept his day job.

In sum, the District Court for Prince George's County is in good hands with Judge Thurmond Rhodes as its new administrative judge. He brings to that job hard work, intelligence, integrity, and a true desire to see that the administration of justice is fair and effective.

Judge Marcella A. Holland

Judge Eldridge to retire, cont. from p. 1

www.courts.state.md.us/mocktrial

Mock Trial Script for Students Now Available

By connecting with the Maryland Judiciary website, middle and high school teachers can download all the materials necessary to conduct a 1-2 day mock criminal jury trial in their classroom.

For students, a mock trial affords a look inside a courtroom and a better understanding of how our justice system operates. It also allows students to confront the same kinds of decisions that citizens face when they serve on juries; weighing facts and arguments and trying to make the right decision about the guilt or innocence of a defendant.

All members of the judiciary are encouraged to promote awareness of these materials to middle and high school teachers statewide. A brochure explaining the mock jury trial is available by contacting the Court Information Office at 410-260-1488.

transferred to the University of Maryland School of Law, where he received his LLB in 1959. After graduation from law school, Judge Eldridge served for two years as a law clerk to Judge Simon E. Sobelev, chief judge of the Fourth Judicial Circuit Court of Appeals (and a former judge of the Court of Appeals of Maryland). He was admitted to the Maryland Bar in June 1960 and, following his clerkship, was employed in the appellant section of the Civil Division of the U.S. Department of Justice. During his tenure with Justice, Judge Eldridge argued cases before the U.S. Supreme Court and in all 11 federal appellate circuits around the country.

In 1969, Judge Eldridge's career focus shifted from the federal government to Maryland when he was appointed chief legislative officer for Governor Marvin Mandel. During this period of time, he also served as the chairman of the Advisory Board of Corrections for the Department of Corrections and as a member of the Governor's Study Commission on the Optometry Laws. He also served as a member of the Commission to Revise the Annotated Code of Maryland, the Commission to Study State Scholarship Laws, and the Governor's Task Force to Implement the Automobile Insurance Reform Laws. In late 1973, the impending retirement of Judge William McWilliams created a vacancy on the Court of Appeals from the Fifth Appellate Circuit and shortly before Christmas in 1973 Judge Eldridge was appointed by Governor Mandel to fill that vacancy. He took the oath of office on January 7, 1974 and was elected to a full term at the general election of 1976.

Lawyers who appear before the Court of Appeals unprepared are likely to characterize Judge Eldridge as gruff and unapproachable—as well as merciless in his questioning—but that characterization is entirely off the mark, Judge Bell says. His

colleague is friendly and approachable, generous with his time, a devotee of old movies, a skilled amateur photographer—and animated when he's talking about the law. He is passionate about the law, an intense jurist who takes every case seriously. During his tenure on the state's highest court, Judge Eldridge has authored over 800 opinions covering virtually every aspect of Maryland law. At the annual convention of the Maryland State Bar Association held in June of this year, Judge Eldridge was honored by the administrative law section for his contributions to administrative law. Judge Eldridge, who has resided in Anne Arundel County since 1962, says he has no special plans for retirement, but like most retired judges will make himself available for continued service upon recall by the Chief Judge of the Court of Appeals.

During his long career, Judge Eldridge has been noted for his incisive legal mind and the breadth of his knowledge of the law. His progressive approach to the development of the law during his appellate service has allowed him to make a mark on the law of Maryland that will be difficult to match. In an article written for the Maryland Law Review, Judge Lynne A. Battaglia, offers this assessment of Judge Eldridge: "What has made Judge Eldridge unique has been his unwavering drive to uphold the rights of individuals as they are guaranteed by the Constitution. His respect for our Constitution inspired him to develop a deep understanding of its intricacies. In service to our State, he has repeatedly applied this understanding to fulfill the pledge he made almost twenty-nine years ago, to uphold the Constitution and the laws of the State of Maryland."

The men and women who sit on the bench with Judge Eldridge will miss both the intellectual rigor and the fellowship he brought to the conference table. But, as Judge Battaglia writes, his presence will be felt:

"(H)is voice and wisdom will endure omnipresently as the opinions he has authored over these many years continue to shape the development of the law in our state."

eLicenses Go Statewide

A collaborative effort by the Conference of Circuit Clerks and Judicial Information Systems has resulted in a statewide roll-out of eLicensing in Maryland—ahead of schedule. The new system, streamlined to make the courthouse process more efficient, allows businesses to apply for their business licenses with a single visit to the courthouse. With approving agencies connected electronically through the JIS network and up-to-date information stored on a new JIS server, clerk's offices can send application information to outside agencies and, after receiving approval electronically, issue the required licenses.

The system allows clerks to provide more efficient service because they no longer have to wait for the Comptroller's Office to update state files and print licenses. Instead, clerk's offices now update the Judiciary's file, print the license right at the courthouse and send any updates to the Comptroller. When funding is available, there are plans for an electronic feed directly to the

Comptroller's state license files.

Behind the successful roll-out were some important decisions by the clerks as well as effective teamwork. The original plan was to evaluate a two-county pilot, fine-tune the system and then begin deployment. Because of funding constraints, however, the clerks agreed to a statewide pilot test over the winter and then decided to use the pilot system for licensing in 2003; enhancements will be addressed in Fiscal 2004. JIS units (including Complex Systems and Microcomputing) offered important technical and deployment support.

Statewide, more than 150 license clerks were trained in time for the spring license renewal season. Refinements will depend on budget priorities in the coming year, but the system was designed using the latest technology standards and it will be feasible to add major functions to this system (such as processing license renewals via the Internet) if stakeholders agree they are needed.

Kathryn Ruge, JIS

New District Courthouse Dedicated

Chief Judge Bell, Chief Judge Vaughan and Governor Robert L. Ehrlich, Jr. presided over the dedication of the new John R. Hargrove, Sr. Courthouse at 700 East Patapsco Avenue in Baltimore. The late jurist's family attended and his son, Judge John R. Hargrove, Jr., spoke about his father. Judge Hargrove, Sr. was the first African-American to serve as an administrative judge of any court in Maryland. He was the first administrative judge of the District Court in Baltimore City. Judge Hargrove was appointed to the Supreme Bench of Baltimore City (now the Circuit Court) in 1974, and to the federal bench in 1983. He died in 1997.

"John R. Hargrove was ideally suited, by intellect, by training, by experience, by temperament, and by commitment, to be a judge. He was learned in the law; he was conscientious, thorough, courteous, patient, and punctual. He was also just and impartial.

He never sought nor desired public praise, nor was he fearful of public clamor or criticism, and he was not influenced by extraneous factors. Judge Hargrove always gave his judicial duties the highest priority. Moreover, Judge Hargrove was a man of integrity and of flawless moral character."

— Chief Judge Bell,
from a memorial in the
University of Maryland School of Law *Law Review*.



Governor Robert L. Ehrlich, Jr. participates in dedication.

Family Law

Clerks, Staff Walk a Fine Line in *Pro Se* Cases

Two years ago, over 27,000 people walked into Judiciary-sponsored *pro se* clinics throughout Maryland to find help in representing themselves in domestic cases. In the fiscal year that just ended, that number had grown to over 37,000, and there is no reason to think that the number of *pro se* litigants in Maryland will diminish.

The existence of these clinics represents a conscious decision by the Maryland Judiciary in recent years to provide assistance for men and women who choose to represent themselves in court. That decision mirrors policy decisions in dozens of other states that are wrestling with the question of how to allow people to represent themselves in their own courts without undermining the efficiency and equity of the legal system—without damaging their own best interests.

The *pro se* movement, such as it is, is fairly young. A decade ago, very few citizens even considered going to court without a lawyer. In Anne Arundel County, the only help anyone in the Anne Arundel County clerk's office could give was to point them in the direction of the law library. There, they could search a book of legal forms in hopes of finding the right one. As a result, says Robert P. Duckworth, Anne Arundel County Clerk of Court, "A lot of *pro se* litigants probably just gave up."

Much has changed. The law library is still an option, but domestic relations forms—dozens of them—are available to anyone who needs them in the Annapolis courthouse. Two clerks work full time processing divorce and other domestic relations paperwork for men and women who are handling their own cases. And there is a walk-in family law *pro se* clinic on the second floor dispensing advice five days a week.

Struggling with the stress and emotion of difficult family situations, the average person finds the legal system daunting, Duckworth says. "Our role," he says "has been to make it less bewildering for people."



Robert Duckworth

Legal Clinics

Across the Chesapeake Bay, in the centuries-old white courthouse in Centreville, the number of people trying to represent themselves is small—perhaps half a dozen a week—but the problems facing the clerk and his staff are identical: People without legal training want help getting through the complicated legal procedures. And, says Scott MacGlashan, the clerk of court in Queen Anne's County, he and his staff are aware of the fine line between good service and legal advice.



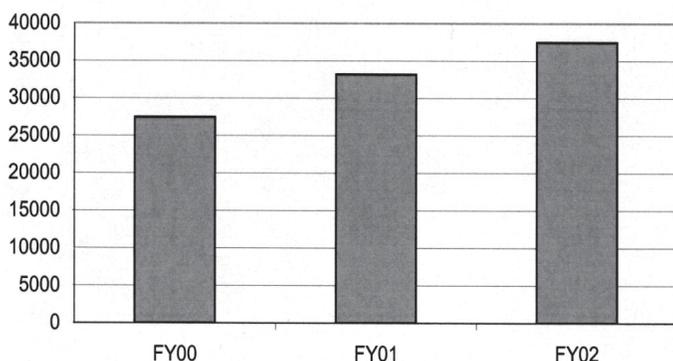
Scott MacGlashan

"I'm not asking for legal advice," people say, even when they are. MacGlashan's reply: "I would be doing you the greatest disservice if I gave you legal advice." Instead, that advice is dispensed at a once-a-week legal clinic operated by the Maryland Volunteer Lawyers Service. Twice a month wasn't enough, says Shelly Coleman, the court's family support services coordinator, a position that was created four-and-a-half years ago to meet the growing demand for support services.

Size notwithstanding, there are obvious similarities between the two programs. Both counties have seen a steady increase in the number of *pro se* litigants handling their own

DATAFILE

Three-year Comparison of Individuals Served by *Pro Se* Programs
FY 2000: 27,461; FY 2001: 33,187; FY 2002: 37,481



cont. on next page

A Fine Line, cont. from previous page

domestic relations cases. Both offer clinics where citizens can get legal advice from lawyers or law students supervised by lawyers. Both are sensitive to the difficulties facing non-lawyers trying to master the complexities of the law and the legal system.

But there are subtle differences, too, and they are evident in difficulties that clerks and their staffs face in working with *pro se* litigants. In Queen Anne's, everyone is referred to the weekly clinic. There are forms and instructions available, but Coleman makes it clear that she will not offer any advice about which form to use. Clerks in the Anne Arundel County courthouse, while equally sensitive to the line between legal advice and legal information, have more flexibility in making sure that *pro se* litigants have the right form and avoid simple mistakes—like forgetting to sign it. This reflects a bench that is “lenient” in making sure people get the help they need, Bob Duckworth says.

The two approaches reflect honest differences of opinion within the legal community, in Maryland and other states. A national survey by the American Judicature Society (AJS)

several years ago showed that some judges welcomed *pro se* litigants, while others took a dim view of self-representation. Officially, clerks of court in Maryland follow an Attorney General's opinion that they must remain strictly neutral. At the same time, the precise location of the line that divides legal advice and legal information is a function of the philosophy of the local bench. What is acceptable in one jurisdiction may be frowned upon in another.

Is it going to get any easier for clerks to assist citizens who are bewildered by the complexities of the law? Yes. When the AJS followed up on its 1998 survey of judges, it found that legal systems across the country were focusing on ways to increase access to the courts for people who want to represent themselves, and that is the case in Maryland. The growth of *pro se* litigation, says Bob Duckworth, “has caused us to rethink how we serve the public, and how we organize to serve the public.”



October 8 - 12

Women Judges to Meet in Washington

The National Association of Women Judges (NAWJ) will hold its 25th annual meeting October 8-12, 2003 in Washington, D.C., and members of the Maryland chapter are playing a key role in preparations.

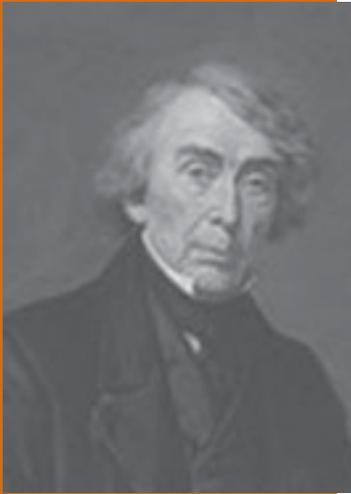
Judge Kathleen O’Ferrall Friedman (retired, Baltimore City Circuit Court) is in charge of educational programs. **Judges Julia B. Weatherly** and **Sherrie L. Krauser** (Prince George’s County Circuit Court) are responsible for the hospitality suite and **Judge Theresa A. Nolan** (retired, Prince George’s County Circuit Court) is chair of the social committee.

Justices Sandra Day O’Connor and Ruth Bader Ginsberg will host a reception for the women judges at the Supreme Court Building on October 10th. Fourth Circuit Judge Diana G. Motz, who is from Maryland, is the chair of the committee organizing the reception. There will also be a banquet at the Building Museum on the first night of the conference.

The theme of the meeting is “Justice in America-Justice in the World” and will be held at the Mayflower Hotel. The educational topics include such compelling issues as “International Child Abduction: Handling Hague Convention Cases in United States Courts,” “International Economic Policy and Women,” “Commonalities and Differences between Military Courts and Civilian Courts,” and “Monitoring Your Own Bias in the Courtroom,” presented by Maryland Court of Appeals **Judge Lynne A. Battaglia**. The NAWJ has invited several international judges to attend the conference.

History

Maryland's Taney Fought a President over Government's Right to Arrest Citizens



Portrait of Roger Brooke Taney
by Henry Ulke, 1881.
Courtesy of Maryland Archives.

Most viewers of history see it through its popular headlines and not its detail. Everyone knows this headline, “Lincoln frees slaves, wins war” or to a lesser degree, “Chief Justice Taney upholds slave laws.”

How about a lesser known set of banners, also true: “Lincoln suspends habeas corpus: arrests thousands of citizens without cause,” or this gem, “Chief Justice Taney defies President, issues habeas corpus to release prisoners.” But it is the first set of headlines that we associate with the two men, although the second casts each in a different light.

Consider Roger Brooke Taney. History’s perspective, certainly not debatable, has cast this Chief Justice of the Supreme Court and son of Maryland as an apologist for slavery and slave laws. In sustaining fugitive slave laws, Taney denied to free states the power of refusing obedience to federal statutes requiring the surrender of escaped slaves (although Taney felt the police power of a state entitled it to make reasonable regulatory laws even if they appeared to override provisions of the U.S. Constitution.) Taney’s support of slave laws was most onerously expressed in 1857 in the Dred Scott case, wherein he held that

slaves (even free descendants of slaves) were not citizens and might not sue in the federal courts.

But a different view of Taney emerges when one considers his reaction to President Abraham Lincoln’s order during the Civil War suspending the writ of habeas corpus, enabling the army to arrest people without cause. There was much resistance to this action by the President as being oppressive and constitutionally violative. (Lincoln had even arrested a former Ohio congressman, Clement Laird Vallandigham, for uttering disloyal opinions.) The matter reached a critical stage when one John Merryman was arrested in May, 1861 in his home, taken to Ft. McHenry, and imprisoned without a warrant. At the time, Chief Justice Taney was working as circuit judge for the Federal District Court of Maryland. He immediately issued a writ of habeas corpus demanding Merryman’s release but was refused. In fact, the Chief Justice of the United States was ignored.

He continued to argue that only Congress had the authority to suspend habeas corpus as required by the Constitution, but his challenge to Lincoln was largely ignored. Ultimately, Congress ceded the authority to suspend habeas corpus to the president and Taney’s argument became meaningless.

The recent controversies regarding the detention of foreigners (combatants or noncombatants) has raised similar issues about the power of the presidency and warrantless arrests. In the light of recent concerns for individual freedoms and criticism of the exercise of possible arbitrary presidential authority, the context of Roger Brooke Taney’s place in history may be less jaundiced and kinder in its treatment. (But I doubt it).

Judge Ralph M. Burnett

News from the Bench

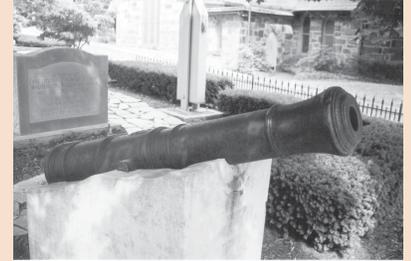
Judge Michael M. Galloway was appointed administrative judge of the Circuit Court for Carroll County by Chief Judge Robert M. Bell. With the appointment, which was effective June 2nd, Judge Galloway replaced Judge Raymond E. Beck, Sr., who had been administrative judge since 1991.

Courthouse Treasures

Justice Matters introduces a new series that explores county courthouses in search of lost, valuable or historic treasures. From a British cannon used during the War of 1812, to a set of bird prints worth close to ten million dollars, the *Justice Matters* exploration team digs deep to uncover a wealth of history in our residences of justice. If you think your courthouse has such a treasure, email the Court Information Office at cio@courts.state.md.us.

Howard County Courthouse, Ellicott City

Located on the front lawn of this 160-year-old courthouse is a battered cannon used by the British in the infamous Battle of Bladensburg during the War of 1812. After burning most of the Nation's Capital, the British headed up to Baltimore (where a soldier named Francis Scott Key would, for the first time, see the rocket's red glare) and were greeted along the way by untrained soldiers and the American Army. During one skirmish, the Americans briefly forced the British to fall back, and in doing so, confiscated weapons left behind. A group of young men from Howard County seized a cannon, but didn't have time to engage it as the British fought forward with quick results. The men dragged the cannon back to their home, resting it on the grounds of what would become the county courthouse, built in 1843. The hill the courthouse (and cannon) sits on was formerly called Mt. Misery, but interestingly the name doesn't reflect a series of war battles. Instead, the name was given by weary laborers for the strenuous time they had transporting construction materials, including heavy quarry granite, up the sharply inclined hill. The elevated spot for the courthouse may have been chosen in an effort to reduce the noise on the local road from cattle being transported to the Baltimore marketplace.



Battle of Bladensburg canon.

Queen Anne's County Courthouse, Centreville

Ever since this courthouse was erected on a plantation known as Chesterfield, the ancestral home of Judge Joseph Hopper Nicholson—who became Chief Judge of the Sixth Judicial Circuit (then comprising Baltimore and Harford counties) and was the member of the U.S. House of Representatives who, painfully ill, was carried into Congress to cast the deciding vote for Thomas Jefferson in his battle with Aaron Burr over the presidency—an eagle adorning the pediment has watched over the judicial structure. The eagle was created and donated by an unknown artist who used his/her own interpretation of the Great Seal of the United States to carve the unique design. For over 200 years, the hand-



18th century eagle.

crafted wooden eagle represented truth and justice within the walls that it oversaw. Still strong in stature, but weathered by the elements and Father Time, the eagle was finally brought into the courthouse earlier this year and retired to a showcase in the main hallway of the courthouse. At a dedication ceremony in April, a gold leaf exact replica of the eagle was presented and placed atop the courthouse.



The new eagle was officially unveiled during a ceremony by Governor Ehrlich and Chief Judge Bell. Approximately 250 people attended the event outside the historic courthouse.

Special thanks to Judge John W. Sause, Jr., Scott MacGlashan, Margaret Rappaport, and the Howard County Historical Society for contributing to these stories.

References

Holland, Celia M Ellicott City, Maryland; *Mill Town, U.S.A.* Tuxedo, Md: Printers II, Inc., 1970.

Radoff, Morris *The County Courthouses and Records of Maryland; Part One: The Courthouses.* Hall of Records Commission of the State of Maryland, 1960

"Routed by British, Howard County Men Kept Gun" *The Baltimore Sun* March 3, 1921: 42-A.

Court Information Office

Robert C. Murphy Courts of Appeal Building
361 Rowe Blvd.
Annapolis, Maryland 21401

www.courts.state.md.us

calendar

september

- 15 Conference of Circuit Judges
- 18 Maryland State Law Library Anniversary Lecture Series, "Judicial Independence" James N. Vaughan, District Court Chief Judge, 12:00 noon, Annapolis
- 23 Conference of Circuit Court Clerks
- 26 District Court Admin. Judges Committee

october

- 7 Sixth Annual Maryland County Law Library Conference, Howard County Law Library, Ellicott City

Contributors

Judge Robert M. Bell, Judge Marielsa Bernard, Judge William O. Carr, Judge Marcella A. Holland, Judge M. Brooke Murdock, Judge John W. Sause, Jr., Judge Ralph M. Burnett, Judge Mimi Cooper, Judge Thurmond H. Rhodes, William Baton, Ken Brown, Robert P. Duckworth, Bernice Galbreath, Scott MacGlashan, Diane Paulowicz, Margaret Rappaport, Kathryn Ruge.

november

- 5 Maryland State Law Library Anniversary Lecture Series, "Elder Law in Maryland," Jason Frank, Esq. 12:00 noon, Annapolis
- 17 Conference of Circuit Judges
- 19 Conference of Circuit Court Clerks