

Reese and Green, "That Elusive Word, 'Residence'", 6 Vand. L. Rev. 561 (1953). Judge Chesnut, after a discussion of many opinions in the Court of Appeals of Maryland, concluded:

"The meaning of the word 'resident' varies with the context and subject matter. When used in connection with the exercise of political rights it may have a different connotation from that given it when it is used to determine property rights."

Suit v. Shailer, 18 F. Supp. 568, 571 (D. Md. 1937).

The Courts have had enormous difficulty in defining "resident" and "non-resident," even within the same context. The treatise, *Words and Phrases*, devotes over 50 pages, citing approximately 440 cases, to the word "resident" and another 19 pages, citing approximately 175 cases, to defining "non-resident." Under Maryland law, there are, for example, various distinctions in the definition of a "resident" for purposes of adoption, divorce, jurisdiction, taxation, voting, and about 15 other subjects.

A bizarre feature of Senate Bill 209 is that it does not even attempt to pick out one of the many definitions of "resident" or "non-resident" which already are contained in the Maryland Code. See also on this subject, Beale, "Residence and Domicil," 4 Iowa L. Bull. 3 (1918); 1 Beale, *Conflict of Laws* 109-22 (1935); Kennan, *Residence and Domicil*, (1934) (collection of 100 cases in American Courts which hold definitely that residence and domicil are synonymous, and another hundred cases to the effect that they are not synonymous).

### III.

One cannot always hope for completely unambiguous statutes. However, in the area of real property law, it is essential that statutes be drafted with clarity. If they are not drafted with clarity, substantial problems relating to the marketability of title will be created. Because Senate Bill 209 uses a term—"non-resident"—which is not defined and which is one of the most ambiguous terms in legal parlance, real estate lawyers and title companies have already expressed the opinion that Senate Bill 209 will create insuperable difficulties.

A. How is the title searcher to know whether the trustee of a deed of trust is a resident of Maryland or is not a resident of Maryland?

B. Even if the person who prepares the deed of trust recites that the trustee is a resident of Maryland, is the title searcher to make an independent inquiry to determine whether in fact the trustee was a resident of the State of Maryland?

C. If the trustee was not a resident of Maryland, are all acts taken by the trustee invalid? For example, would the purchaser at a foreclosure sale from a non-resident trustee get valid title? Would a release signed by a non-resident trustee be valid?

D. If the trustee changes his residence during the time he is serving as trustee, what effect will this change have on the transaction? If he were a resident when he became a trustee, must he resign if he moves from Maryland into the District of Columbia? If he were a resident of the District of Columbia when he became a trustee, but he subsequently moves to Maryland, will his move cure any defect?