

State of Maryland

Baltimore County Court.

At a Court of the South Judicial District of the State of Maryland, begun and held at the Court House, in the City of Baltimore, in and for the County aforesaid, on the first day of May, in the year of our Lord one thousand eight hundred and forty eight.

Now Present,

The Honorable { Arvonson Archer Chief Judge
John Furrance &
John C. L. Grand Associate Judges,
John Kellomell Esquire Sheriff of Baltimore City.
A. W. Bradford Clerk.

Among other were the following proceedings, to wit:

The State of Maryland, on Bill of Discovery & the suggestion of John O. Wharton and Samuel Dickinson Commissioners of Lotteries, that heretofore, to wit: on the tenth day of April, in the year of our Lord one thousand eight hundred and forty eight, came into Alfred R. Day Baltimore County Court here sitting as a Court of Equity. The State of Maryland,

(The Complainant in this cause, on the suggestion of John O. Wharton and Samuel Dickinson, Commissioners of Lotteries, by J. C. Campbell Esquire, of Solicitor, and exhibited its Bill of Complaint in form following, to wit:

To the Honorable the Judges of Baltimore County Court sitting in Equity. The State of Maryland upon the suggestion of John O. Wharton and Samuel Dickinson Esquires, its Commissioners of Lotteries, sheweth by this its Bill of Discovery, that under the act of Assembly, passed at December Session A. D. 1846, Chapter 109, it hath, on the suggestion of its Commissioners aforesaid, instituted before Henry F. Friess Esquire one of its Justices of the Peace for the City of Baltimore six separate actions of Debt agst a certain Alfred R. Day, to recover from him the fines, by said act imposed for violations of the third section thereof, and that said actions of Debt are now depending before said Justice who hath fixed the 18th day of this present month of April A. D. 1848 for the trial thereof.

The said State further sheweth that said actions are brought against said Day for insurance, of certain numbers of Lottery Tickets, in which illegal business he, largely engaged, and which he conducts, exclusively with persons of Color, and that the insurance, for which said actions were brought were made with persons of that description, and that at the time of making the same he delivered to said parties, the several Memorandums hereunto filed in Exhibit A. and received money from them.

The said State further sheweth that said Memorandums need

an explanation which cannot be given by the parties, to whom they were delivered because of their incompetency as witnesses, and that it is material to the proper decision of said actions, that the said Day should discover on Oath when and for what Consideration & to whom the said Memorandums were given and what is their meaning.

To the end therefore, that the said Alfred R. Day may upon his Oath and full true and perfect Oath make to all the matters & things above mentioned, and that he may set forth and discover in time for said trial, the true purport and meaning of said Memorandums in Exhibit A. and of each and all of them and to what description of persons they were issued by him, that is to say, whether whites or colored and what Consideration he received from each person for them.

May it please your Honor, to grant such Order in the premises, as is needful, and also the writ of Subpoena to the said Alfred R. Day to be directed Commanding him at a certain day and under a certain pain therein inserted, personally to be appear before

J. M. Campbell Com. Ple. Ct.

The Exhibit A. referred to in the foregoing Bill of Discovery is as follows, to wit:

11. 9. 20	6. 11. 10 & 12	1. 7. 20
25. S. N.	E. 6. 5	22 S. N.
E. 6. 5		E. 6. 5

S. 10. 15 & 12	8. 11. 19	9. 29. 37 & 12
E. 6. 5	24 S. N.	E. 6. 5

Whereupon issued Subpoena, as prayed for in said Bill in form following, to wit:

Great Seal of the State of Maryland, To Alfred R. Day of Baltimore & City greeting: We Command and require you, that all manner, not said, you be in your person before the Judge, of Baltimore County Court, at the Court-House in said County, on the first day of May next, to answer the Complaint of the State of Maryland on the suggestion of John O. Wharton & Samuel Dickerson, Commissioners of Lotteries, against you in said Court exhibited.

Hereof fail not as you will Answer to the contrary at your peril.

Witness the Honorable Stevenor Archer, Chief Judge of said Court, the first day of April in the year of our Lord one thousand eight hundred and forty eight. Issued the 10. day of April 1848

J. M. Bradford Clk.

And on the same tenth day of April, the Sheriff of Baltimore City of said, to whom the said subpoena was delivered to be served, made return of the same to the Court here, thus endorsed, to wit: Summoned John Kettlewell Clk. And on the same tenth day of April, the Court passed the following order to answer the said Bill and interrogatories therein contained, to wit:

In Baltimore County Court, in Equity.

Ordered this 10th day of April A.D. 1848 that the said Alfred R. Day, Answer upon Oath the matters and things stated in the foregoing Bill of the Interrogatories therein contained, a show Cause to the contrary, on or before the 17th Instant, provide a Copy of said Bill & of this Order served on him or left at his residence or place of business on or before the 11th Instant -

Thos. C. LeGrand

All afterword, to-wit: on the twelfth day of April in the year aforesaid, the following Certificate of service of Copy of Bill and Order was filed in said Cause to-wit: -

The State of Maryland, on the suggestion of John O. Wharton & Samuel Dickerson, Commissioners of Lotteries	On the Equity Side of Baltimore County Court
Alfred R. Day	A Copy of the Bill in this case, and of the order thereon of the 10 th April A.D. 1848, served this 11 th day of April A.D. 1848 on Alfred R. Day, by J. Kellensell Sheriff of the County.

All afterword, to-wit: on the thirteenth day of April in the year aforesaid, came into the County Court here, the said Alfred R. Day, the Defendant, by William F. Giles, his solicitor, and filed in said Cause the following Demurrer to said Bill of Discovery, to-wit: -

The Demurrer of Alfred R. Day to the Bill of Discovery of the State of Maryland upon the suggestion of Samuel Dickerson and John O. Wharton, Commissioners of Lotteries, in Baltimore County Court sitting as a Court of Equity, Exhibited.

This Defendant by protestation not confessing or acknowledging all or any of the matters and things in the said Bill of Discovery contained to be true in manner and form, at the time are therein set forth, with demurrer thereto, and for Causes of Demurrer show -

1st - That the said Complainant hath not, in and by the said Bill, shew such a case as doth or ought to entitle him to any such discovery as is therein sought and prayed for from this Defendant: -

2nd - That the Actors of Debt, instituted by the said State against this Defendant as stated in the said Bill of Discovery, are for penalties for supposed violations of the Laws of this State, and that this Defendant cannot therefore be held to make Discovery concerning the same: -

Wherefore this Defendant demands the judgment of this Court, whether he shall be compelled to make any further Answer to the said Bill, or any of the matters and things therein contained; and he prays to be hence dismissed &c.

William F. Giles, Deputy solicitor

The said Cause so standing was continued until the first day of May then next. At which said term, to-wit: on the twenty second day of May in the year aforesaid, the Court passed the following decree overruling Demurrer &c. to-wit: -

(The)

The State of Maryland on
the suggestion of John O. Wharton
& Samuel Dickinson,
Commissioners of Lotteries,
Vergil O
A. R. Day

On the Equity Side of Baltimore
County Court.

This case standing ready
for hearing on the Demand of the
Defendant, and the solicitor of the
parties, having been fully heard, the
proceedings were read and considered.

It is, therefore this 22nd day of May A.D. 1848 by Baltimore
County Court sitting in Equity, and by the Authority thereof, adjudged and
ordered that the Demand of the Defendant be overruled, and it
is further ordered that the said A. R. Day pay to the Complainant
the Cost of his said Demand to be taxed by the Clerk including a
solicitor's fee, and the sum of Five pounds, Current money, and that he
be in Contempt till the said Cost and sum of money be by him dis-
charged and paid.

And it is further Ordered adjudged and decreed
that the said Defendant do put in a good and sufficient Answer to
the said Bill on Oath on or before the 10th day of June A.D. 1848.

Ino. C. L. Grand

The said Cause so standing was continued until the first day of
June, then next. At which said term, to-wit: on the fifteenth
day of June, in the year aforesaid, the said Defendant by his said
solicitor, filed in said Cause the following prayer of appeal, to-wit: -

State in the relation of
The Commissioners of Lotteries,
13
V
Alfred R. Day.

Bill of Recourse.

The Defendant prays an
appeal from the Decree passed by the
Court in the above Cause to the Court of
Appeals, for the Western Shore, and asks
the Court to prescribe the penalty of the Appeal Bond to be given by
him on said Appeal.

William F. Cole,
Sol. for Defendant

Upon which is thus adjudged, to-wit:
Appeal allowed especially of Bond fixed at \$200. 27th May 1848.
Ino. C. L. Grand -

And on the same fifteenth day of June, the said
Defendant files in said Cause an Appeal Bond as follows, to-wit:
KNOW all Men by these presents, that We Alfred R. Day,
Christophus Birch, and Daniel Dorsey, are held and firmly
bound unto the State of Maryland, in the just and full sum of
two hundred Dollars, to be paid to the State of Maryland should it attain
a priori, to the payment whereof well and truly to be made and done,
We bind ourselves, our heirs, executors, and Administrators, jointly and
severally, firmly by these presents, sealed with our seals and dated
the seventh day of June, in the year of our said one thousand eight
(enclosed)

hundred and forty eight. Whereby Decree of Baltimore County Court, dated on the twenty second day of May in the year of our Lord one thousand eight hundred and forty eight, passed in the Cause wherein the State of Maryland on the suggestion of John O. McClelland and Samuel Dickinson, Complainers of Lotteries, is Complainant and Alfred R. Day, is Defendant. It was by Baltimore County Court sitting in Equity, and by the Authority thereof, adjudged and Ordered that the Verdict of the Defendant be overruled, and it was further Ordered that the said Alfred R. Day pay to the Complainant the Costs of the said Decree to be taxed by the Clerk including a Solicitor's fee, and the sum of Five pounds Current Money, and that he be in Contempt till the said Costs and Sums of money be by him discharged and paid, and it was further Ordered, adjudged and decreed that the said Defendant should put in a good and sufficient Answer to the said Bill on oath, on or before the 10th day of June 1848. from which Decree the said Alfred R. Day hath prayed an Appeal to the next Court of Appeals, to be held for the Western Shore of the State of Maryland.

NOW the Condition of the above obligation is such that if the said Alfred R. Day shall not Cause a transcript of the Record and proceedings of the said Decree, to be transmitted to the Court of Appeals, to be holden for the Western Shore within the time required by law, and prosecute the said appeal with speed, and also satisfy and pay to the State of Maryland the said sum of five pounds, or its equivalent, in case the said Decree shall be affirmed, as well the damages and Costs, adjudged in the County Court as a Court of Equity, as aforesaid, and also all Damages and Costs that may be awarded by the Court of Appeals, as aforesaid, then the said Bond to be and remain in full force and entire effect, otherwise of no effect.

Signed, sealed and delivered
in the presence of (as to Day, Herd)
W. F. Giles.

Alfred R. Day
Christopher Birch
Daniel Dorse,

P. E. Dorse,

Baltimore City Court.

Be it remembered that on this 14th day of June 1848, before me the subscribed a Justice of the Peace of the State of Maryland, in and for the said City, personally appeared John M. Michlhofer, and made oath in due form of law that Christopher Birch and Daniel Dorse, the Sureties in the aforesaid Bond, are sufficient to answer the specialty thereof.
I witness hereof. Hugh J. Morrison

On the back whereof is thus subscribed, to wit:

"Bond approved 15th June 1848. Robert Grand"

It is therefore Ordered by the Court here, that a transcript of the Record and proceedings in the Cause aforesaid, with all things thereto relating, be transmitted to the said Court of Appeals, and the same is hereby transmitted accordingly.

(Ch)

In Testimony that the foregoing is a full, true and perfect Record of
all the proceedings in the therein entitled Cause, In Equity

I have hereunto set my hand, and affixed the seal
of Baltimore County Court this Twentieth day of
June Anno Domini Eighteen hundred and
seventy eight.

A. W. Bradford Clk

Balt. Co. Ct.

28 sides

Alfred R. Day

Transcript

of the
Records

The State of Maryland, on the
suggestion of John C. Harton and
Samuel Dickinson
Commissaries of Lotteries

Filed 4 July 1848

Appellant's Costs - \$ 14.17 1/2

Appellee's - " - \$ 24.58 1/2

Dec. 1848

Cost \$ 14.59

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