

NATHANIEL JACKSON,  
Plaintiff

VS

THE PENNSYLVANIA  
RAILROAD COMPANY,  
Defendant

IN THE COURT OF COMMON

PLEAS

.. . . .

NATHANIEL JACKSON, Plaintiff, by C.MORTON

GOLDSTEIN and LEVIN, WEINBERG & GOLDSTEIN, his attorneys, sues  
THE PENNSYLVANIA RAILROAD COMPANY, Defendant:-

FOR THAT heretofore to wit, on or about the 29th day of June 1937, at about 9:10 P.M., the agents and servants of the Defendant were in charge of Engine #3560 and caboose #478225, being operated by them in reverse, on the main line of the Defendant leading into Sparrows Point, before reaching Sollers Point Road, Turners Station, at Dundalk, Baltimore County, State of Maryland; and for that at a point approximately one hundred and fifty feet before reaching Sollers Point Road from Baltimore City, there exists a well defined pathway across the tracks of the right of way of the said Defendant, which has long since been established, and used by the people of the community as a crossing, and well known to the Defendant, its agents and servants, as such. That the said Defendant, its agents and servants, aware of the usage to which said pathway is put, and its proximity to Turners Station has for a long time heralded the coming of trains into the vicinity, by the continual blowing of whistles or bells, giving warning of their approach. That on the aforesaid night of June 29th., 1937, being dark and cloudy with poor visibility, the said Plaintiff was in the act of carefully and prudently crossing the pathway herein described, toward the main highway, when he was suddenly struck down and dragged

by the Engine and caboose of the Defendant, being operated in reverse by its agents and servants, as the result of their negligence, recklessness and carelessness, in that said Engine and caboose failed to exhibit the required lights on said Engine and caboose, and was being operated without the sounding of any whistles or bell such as the community and this Plaintiff had learned to expect, nor by a proper lookout so as to warn the Plaintiff and others of its stealthy approach, as the result of which the said Plaintiff, using due care, was unaware of the proximity of said train, and by reason of being struck was caused serious, painful and permanent injuries about the head, body and limbs, including the necessity of a first guillotine operation below the knee, and a second low mid-thigh amputation of his left leg, and otherwise injuring and demaging him. And the Plaintiff says that the injuries so sustained by him were caused by the negligence, recklessness and carelessness of the Defendant, its agents and servants, without any negligence, recklessness and carelessness on his part directly thereunto contributing.

WHEREFORE this suit is brought and the Plaintiff claims Fifty Thousand (\$50,000) Dollars damages.

*Ernest Goldstein and  
Sera Weisberg and Goldstein*  
Attorneys for Plaintiff

NATHANIEL JACKSON,  
Plaintiff

VS

THE PENNSYLVANIA  
RAILROAD COMPANY,  
Defendant

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;  
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IN THE COURT OF COMMON

PLEAS

.....

AND the Plaintiff prays a Jury Trial.

*Brdortm Goldstem and  
Levin Weinberg and Goldstem*  
\_\_\_\_\_  
Attorneys for Plaintiff

81

420/37

IN THE COURT OF  
COMMON PLEAS

168

401  
17

NATHANIEL JACKSON,  
Plaintiff

VS

THE PENNSYLVANIA  
RAILROAD COMPANY,  
Defendant

D E C L A R A T I O N

Mr. Clerk:-

Please file.  
*Orlinton Goldstein* and  
*Levin Weinberg and Goldstein*  
Attorneys for Plaintiff

LEVIN, WEINBERG & GOLDSTEIN  
604 Union Trust Building  
Baltimore, Maryland

FILED

FILED NOV 4 1937

# SHERIFF'S RETURN

Summoned the The Pennsylvania Railroad Company,

body corporate, by service on W.W.Patchell, Superintendent  
, and a Copy of Nar and Notice to Plead with  
Copy of the Process left with said Superintendent  
, also Notice of  
said Summons left at the principal office of said corporation , also Copy of  
the Writ of Summons, the Process in the within cause, under cover with a postage stamp of  
two cents annexed to an envelope, placed in the Post Office of Baltimore City on the 5th  
day of November, 1937. ~~1932~~ , and directed to W.W.Patchell  
at the principal office , of said Company at Union Station, North Charles Street, in  
the City of Baltimore, he being the Officer in charge thereof.

( ) Fees \$

1.55

Joseph C. Welgan  
Sheriff.

Hennigan  
11/5/37

[WRIT OF SUMMONS]

# STATE OF MARYLAND

BALTIMORE CITY, to wit:

To the Sheriff of Baltimore City, Greeting:

You are hereby commanded to summon.....

The Pennsylvania Railroad Company, Defendant

of Baltimore City, to appear before the Court of Common Pleas, to be held at the Court House in the same City, on the second Monday of November next, to answer an action at the suit of

Nathaniel Jackson

and have you then and there this writ:

WITNESS, *the Honorable* SAMUEL K. DENNIS, *Chief Judge of the Supreme Bench of Baltimore*

City, the 14th day of September 19 37  
ISSUED 4th day of November 19 37

*Frank LeRocq* Clerk.



420/37

9348

No. 81

To November R. D. 19 37

Nathaniel Jackson

vs.

The Pennsylvania Railroad Co.

**WRIT OF SUMMONS**  
**(2) Copies**

1 Action, copy of Nar, and notice to plead to be served on Defendant.

Levin, Weinberg & Goldstein  
Attorney.

Filed day of 19

4

NATHANIEL JACKSON,

Plaintiff

vs.

THE PENNSYLVANIA RAILROAD  
COMPANY, a body corporate,

Defendant.

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IN THE

COURT OF COMMON PLEAS.

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Now comes the defendant, The Pennsylvania Railroad Company, a body corporate, by Edward E. Hargest, Jr., its attorney, and demurs to the declaration filed herein against it and for cause of demurrer says that said declaration is bad in substance and insufficient in law for the reason that the allegations of said declaration do not establish:

1. A state of facts sufficient to establish any duty owing by this defendant to the plaintiff.
2. A state of facts sufficient to establish any negligence on the part of this defendant.

And for other reasons to be assigned at the hearing of this demurrer.

*Edward E. Hargest, Jr.*  
Attorney for Defendant.

Feb. 23, 1938,

demurrer sustained, leave to  
amend within thirty days,  
get to bond



420  
1937  
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IN THE COURT OF COMMON PLEAS  
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NATHANIEL JACKSON,

Plaintiff

vs.

THE PENNSYLVANIA RAILROAD  
COMPANY, a body corporate.  
-----

D E M U R R E R

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MR. CLERK:

Please file.

*Edward E. Hargest Jr.*  
-----  
Attorney for Defendant.

HARGEST, LEVINESS, DUCKETT & McGLANNAN  
ATTORNEYS AT LAW  
1615-1622 MUNSEY BUILDING  
BALTIMORE

FILED DEC 10 1937

Service of Copy admitted this

10<sup>th</sup>

day of December, 1937

C. Morton Goldstein

NATHANIEL JACKSON,	:	IN THE
Plaintiff	:	
	:	
Vs.	:	COURT OF COMMON PLEAS
	:	
THE PENNSYLVANIA RAILROAD	:	
COMPANY, a body corporate,	:	
Defendant	:	

\* \* \* \* \*

AMENDED DECLARATION.

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Nathaniel Jackson, Plaintiff, by C. Morton Goldstein and Levin, Weinberg & Goldstein, his attorneys, by this, his amended declaration, sues the Pennsylvania Railroad Company, a body corporate, Defendant.

For that at and about the time of the happening of the wrongs and grievances hereinafter complained of, to wit: on or about the 29th day of June, 1937, the Defendant, The Pennsylvania Railroad Company, a body corporate, operated a steam railroad through Baltimore County, in the State of Maryland, upon a right of way and tracks running through and across various streets, roads and highways in said County, among which was Dundalk Avenue or Main Street at and near Turner Station in said County, through and upon and laterally with the bed of which Street said Pennsylvania Railroad owned and maintained tracks and rails upon and over which it operated and moved its locomotives and trains running into, among other places, Sparrow's Point in said County; that on or about the said date, at about 9:10 P.M., certain agents and servants of said Defendant were in charge and control of its locomotive or engine No. 3560 and its caboose No. 478225, the same then and there being backed or operated in reverse on the said rails and tracks of the Defendant running laterally to and through and

and upon the bed of said Dundalk Avenue or Main Street, at or near and in close proximity to said Turner Station, at a place about 150 feet before reaching Sollers Point Road, from Baltimore City, which Road intersects said tracks and rails and runs across and over the same; that at said point approximately 150 feet before reaching said Sollers Point Road, from Baltimore City, and running parallel thereto and likewise intersecting and crossing the right of way of the Defendant and its rails and tracks is, and has been for many years past, a clearly defined and well worn foot path used by pedestrians to cross from one side of said Dundalk Avenue or Main Street to the other side thereof; that the location and neighborhood at and around the places described immediately above, and particularly at and around the said footpath, is, and has been for some years past, a well and thickly settled part of said Baltimore County, comprising a large community of residents, with houses, stores and shops, and it has been the constant custom, habit and usage of the public generally and of persons living in said location and neighborhood, including the Plaintiff, for many years past, in traversing and crossing the said Dundalk Avenue or Main Street and in passing from one side thereof to the other for the purposes of going to and from work and to and from the houses and stores located on opposite sides thereof, constantly, extensively and notoriously to use the said path, of all of which the said defendant, its servants, agents and employees knew, or by reason of the said constant, extensive and notorious use ought to have known the said Defendant, its servants, agents and employees, never, either by act, sign or deed, having objected to the use of the path or of its right of way as a foot path aforesaid; that the said path across the Defendant's tracks, rails and right of way aforesaid has been so constantly and persistently traversed and used by such large numbers of pedes-

trians that it is, and for many years past has been, clearly marked and well defined, the grass, weeds and brush on both sides of said right of way and upon the right of way itself at the place where said path crosses the same having been worn bare, and the railroad ties and cinders at said place clearly showing the imprint and wear of and caused by the passage of large numbers of persons as aforesaid, said path being clearly visible in all directions for a comparatively long distance; that at and about the aforesaid date and for a long time prior thereto all trains of said Defendant moving in both directions upon the rails and tracks at the location of said path, and in approaching thereto, did habitually and customarily herald and warn of such approach by the giving of signals, such as the blowing of a whistle or the ringing of a bell, and did habitually and customarily have upon all cars and locomotives approaching said path lights and a lookout, for the purpose of giving warning to pedestrians using said path of the approach of such cars and trains; that on the aforesaid evening of June 29, 1937, while the Plaintiff, in the exercise of due care, was prudently and carefully crossing the pathway herein described and walking thereon in the direction toward the paved portion of Dundalk Ave. he was suddenly struck down and dragged by the said engine and caboose which were, as aforesaid, in reverse, and backing in a silent and stealthy manner and at a slow rate of speed toward Sollers Point Road, and which were then and there being operated and controlled by the agents, servants or employees of said Defendant, and being so done in a careless and negligent manner in that, although it was the duty of the said Defendant, its agents, servants and employees, in moving and operating its said engine and caboose upon the rails and tracks at and near the said pathway, and in approaching the same, to use ordinary and reasonable care, and to move its said

cars and trains in a reasonably careful and prudent manner, and to anticipate the presence of persons who might be traversing said pathway upon its right of way, the said Defendant did nevertheless fail to give reasonably adequate and timely warning either by whistle, bell, lights, lookout or other signal, such as the public and the community, including the Plaintiff, were accustomed and entitled to have; that as a result of being so struck down and dragged as aforesaid/<sup>the Plaintiff received</sup> about his head, body serious, painful and permanent injuries/ and limbs, necessitating, among other treatment, a first guillotine operation below the knee, and a second low mid-thigh amputation of his left leg, was confined to a hospital for a long period of time, suffered great physical pain and mental anguish, was forced to expend monies in the treatment of his injuries, was and is permanently crippled and disabled, precluded from following his usual vocation and pursuits, and is otherwise hurt, injured and damaged; and the plaintiff avers that all of his injuries and damages as aforesaid were caused solely through and by reason of the carelessness and negligence of the said Defendant, its agents, servants and employees, and without any negligence on the part of him, the said Plaintiff, directly thereunto contributing.

WHEREFORE, this suit is brought and the plaintiff claims FIFTY THOUSAND (\$50,000.00) DOLLARS damages.

*Isidor Goldstein*  
*Levin Weinberg & Goldstein*

Attorney for Plaintiff

NATHANIEL JACKSON,  
Plaintiff

vs

THE PENNSYLVANIA  
RAILROAD COMPANY,  
Defendant

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IN THE  
COURT OF COMMON PLEAS

.....

AND the Plaintiff prays a Jury Trial.

*Isidore Goldstein*  
*Levin Weinberg & Goldstein*

Attorneys for Plaintiff

IN THE  
COURT OF COMMON PLEAS

NATHANIEL JACKSON,  
Plaintiff

VS

THE PENNSYLVANIA RAILROAD  
COMPANY, a body Corporate,  
Defendant

AMENDED DECLARATION

Mr. Clerk:

Please File; etc.

*C. Morton Goldstein*

*Levin Weisberg & Goldstein*

Attorneys for Plaintiff

Service of copy admitted this  
23<sup>rd</sup> day of March, 1938.

*Edward E. Haig*

Attorney for Defendant

C. MORTON GOLDSTEIN

Attorney-at-Law

Baltimore, Maryland

FILED

FILED MAR 23 1938



NATHANIEL JACKSON,

Plaintiff

vs.

THE PENNSYLVANIA RAILROAD  
COMPANY, a body corporate,

Defendant.

:  
: IN THE  
: COURT OF COMMON  
:  
: PLEAS.  
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Now comes the defendant, The Pennsylvania Railroad Company, a body corporate, by Edward E. Hargest, Jr., its attorney, and demurs to the amended declaration filed herein against it and for cause of demurrer says that said amended declaration is bad in substance and insufficient in law for the reason that the allegations of said amended declaration do not establish:

1. A state of facts sufficient to establish any duty owing by this defendant to the plaintiff.
2. A state of facts sufficient to establish any negligence on the part of this defendant.

And for other reasons to be assigned at the hearing of this demurrer.

*Edward E. Hargest Jr.*  
\_\_\_\_\_  
Attorney for Defendant.

May 27, 1948.

Demurred sustained with  
leave to amend within fifteen  
days  
D. W. Bond

-----  
IN THE COURT OF COMMON PLEAS.  
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NATHANIEL JACKSON,

Plaintiff

vs.

THE PENNSYLVANIA RAILROAD  
COMPANY, a body corporate,

Defendant.  
-----

D E M U R R E R  
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MR. CLERK:

Please file.

*Edward E. Hargest Jr.*  
\_\_\_\_\_  
Attorney for Defendant.

Service of copy admitted this  
*1<sup>st</sup>* day of *April* 1938,

*C. Morton Goldstein*  
\_\_\_\_\_  
Attorney for Plaintiff.

HARGEST, LEVINNESS, DUCKETT & McGLANNAN  
ATTORNEYS AT LAW  
1615-1622 MUNSEY BUILDING  
BALTIMORE

FILED APR 1 - 1938

Mr. Evans -

Please give Judge Bond the  
papers in  
Nathaniel Jackson

v.  
Pa. R. R.

and he will sign order sustaining  
demurrer with leave to amend  
in 30 days.

Thos R. Israelson  
for C. M. Goldstein \*

~~Ames~~

\*  
~~Trick~~

NATHANIEL JACKSON

:

IN THE

vs.

:

THE PENNSYLVANIA RAILROAD COMPANY,  
a body corporate.

:

COURT OF COMMON PLEAS

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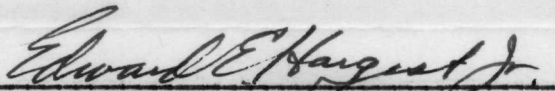
TO THE HONORABLE THE JUDGE OF SAID COURT:

The petition of The Pennsylvania Railroad Company, a body corporate, defendant herein, respectfully shows:

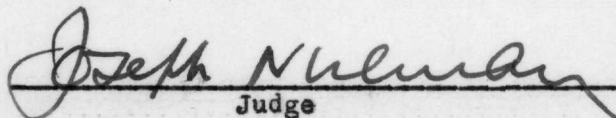
1. That on May 28, 1938, the demurrer filed by the defendant to the amended declaration herein was sustained with leave to the plaintiff to amend within fifteen days.

2. That the plaintiff has failed to file an amended declaration within the time allowed by this Honorable Court.

Wherefore, the defendant prays that a judgment be entered in its favor for costs in this suit.

  
Attorney for Defendant

Upon the foregoing petition, it is ORDERED this 29<sup>th</sup> day of July, 1938, by the Court of Common Pleas of Baltimore City, that judgment be entered in favor of the defendant for costs in the above entitled cause.

  
Judge

420/39

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IN THE  
COURT OF COMMON PLEAS

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NATHANIEL JACKSON

vs.

THE PENNSYLVANIA RAILROAD COMPANY,  
a body corporate.

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PETITION and ORDER OF COURT

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Mr. Clerk:

Please file.

Edward E. Hargest, Jr.  
Attorney for Defendant

HARGEST, LEVINNESS, DUCKETT & McGLANNAN  
ATTORNEYS AT LAW  
1615-1622 MUNSEY BUILDING  
BALTIMORE

FILED JUL 29 1938

NATHANIEL JACKSON : IN THE  
 : COURT OF COMMON PLEAS  
 vs. :  
 :  
 THE PENNSYLVANIA RAILROAD :  
 COMPANY, a body corporate :

\* \* \* \* \*

Mr. Clerk:

Enter an appeal to the Court of Appeals of Maryland on behalf of Nathaniel Jackson, plaintiff, from the judgment of this Court entered July 29th, 1938.

*C. Morton Goldstein*  
*Leonard J. Levin*  
 Attorneys for Appellant

State of Maryland, Baltimore City, to wit:

I Hereby Certify that on this 16<sup>th</sup> day of September, 1938, before the subscriber, a notary public of the State of Maryland, in and for Baltimore City aforesaid, personally appeared Nathaniel Jackson, plaintiff - appellant in the above entitled case, and he made oath in due form of law that the appeal to the Court of Appeals of Maryland in the above case is not taken for the purpose of delay.

As witness my hand and notarial seal.

*Marie M. Zink*  
 Notary Public.



Receipt for Registered Article No. 23089

Registered at the Post Office indicated in the Postmark

Fee paid \_\_\_\_\_ cents Class postage \_\_\_\_\_

Declared value NY \_\_\_\_\_ Surcharge paid, \$ \_\_\_\_\_

Return Receipt fee \_\_\_\_\_ Spl. Del'y fee \_\_\_\_\_

Delivery restricted to addressee:

in person \_\_\_\_\_, or order \_\_\_\_\_ Fee paid \_\_\_\_\_

Accepting employee will place his initials in space indicating restricted delivery.

POSTMASTER, per \_\_\_\_\_

(MAILING OFFICE)

The sender should write the name of the addressee on back hereof as an identification. Preserve and submit this receipt in case of inquiry or application for indemnity.

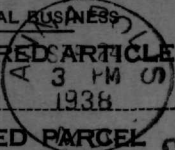
Registry Fees and Indemnity.—Domestic registry fees range from 15 cents for indemnity not exceeding \$5 up to \$1 for indemnity not exceeding \$1,000. The fee on domestic registered matter without intrinsic value and for which indemnity is not paid is 15 cents. Consult postmaster as to the specific domestic registry fees and surcharges and as to the registry fees chargeable on registered parcel-post packages for foreign countries. Fees on domestic registered C. O. D. mail range from 25 cents to \$1.20. Indemnity claims must be filed within one year (C. O. D. six months) from date of mailing.



Post Office Department

OFFICIAL BUSINESS

REGISTERED ARTICLE



No. ----- 1938

INSURED PARCEL

23009

No. -----

PENALTY FOR PRIVATE USE  
TO AVOID PAYMENT OF  
POSTAGE, \$300.

POSTMARK OF DELIVERING  
OFFICE

AND DATE OF DELIVERY

Return to -----

*Court of Common Pleas*

(NAME OF SENDER)

Street and Number,  
or Post Office Box, -----

BALTIMORE,

MARYLAND.



# RETURN RECEIPT

---

*Received from the Postmaster the Registered or Insured Article, the original number of which appears on the face of this Card.*

*Clark Grant of Appas*

(Signature or name of addressee)

*John C. Hyde*

(Signature of addressee's agent)

Date of delivery SEP 24 1938, 19    

Form 3811

U. S. GOVERNMENT PRINTING OFFICE

c 5-6116

IN THE COURT OF COMMON PLEAS

NATHANIEL JACKSON

vs.

THE PENNSYLVANIA RAILROAD  
COMPANY, a body corporate.

ORDER FOR APPEAL

Mr. Clerk:

Please file, etc.

*C. Martan Goldstein*

*Sigmund Levin*

Attorneys for Appellant.

SIGMUND LEVIN  
ATTORNEY AND COUNSELLOR AT LAW  
16 SAINT PAUL STREET  
BALTIMORE

THE PRICE CO., BALTO., MD.  
FILED SEP 20 1938

Nathaniel Jackson

vs.

The Pennsylvania  
Railroad Company

IN THE

Court of Common Pleas

ACTION, &c.

FRANK C. ROBEY,

Clerk:

Enter my appearance for the Plaintiff in the above  
entitled cause.

Sigmund Levin

Attorney for Plaintiff

No. ....

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**Court of Common Pleas**

Nathaniel Jackson

---

---

vs.

Pennsylvania Railroad  
Company

---

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**ORDER OF APPEARANCE.**

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FRANK C. ROBEY, CLERK,

*Please file the within order.*

*Sydney L. ...*  
Attorney for  
*Plaintiff*

Filed ..... day of ..... 19

FILED AUG 3 - 1938

# COURT OF APPEALS OF MARYLAND

No. 88, October Term 1938

Nathaniel Jackson,

vs.

The Pennsylvania Railroad Company, a  
body corporate.

Appeal from the Court of Common Pleas  
of Baltimore City.

Filed: September 24, 1938.

January 11, 1939, Judgment affirmed with  
costs.

Opinion filed.

Op.- Parke, J.

## Appellant's Cost in the Court of Appeals of Maryland,

Record . . . . .	\$ 19.00	
Brief . . . . .	\$ 70.50	
Appearance Fee . . . . .	\$ 10.00	
Clerk's Costs . . . . .	\$ <u>2.00</u>	\$101.50

## Appellee's Cost in the Court of Appeals of Maryland,

Brief . . . . .	\$ 24.00	
Appearance Fee . . . . .	\$ 10.00	
Clerk's Costs . . . . .	\$ <u>.75</u>	<u>34.75</u> \$136.25

## STATE OF MARYLAND, Sct:

I, James A. Young, Clerk of the Court of Appeals of Maryland, do hereby certify that the foregoing is truly taken from the record and proceedings of the said Court of Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Appeals, this ----- thirteenth ----- day of --- February --- A. D. 19 39

*James A. Young* Clerk  
of the Court of Appeals of Maryland.



420/37

FILED FEB 14 1939