



DEPARTMENT OF LAW

217 COURT HOUSE

BALTIMORE-2, MARYLAND

September 20, 1948

THOMAS N. BIDDISON  
CITY SOLICITOR

Mr. Maurice Ogle  
Clerk, Court of Appeals of Maryland  
Court of Appeals Building  
Annapolis, Maryland

Dear Mr. Ogle:

I am enclosing a stipulation on behalf of all the appellees in the case of Green, et al. v. Robert Garrett, et al., entered on the docket for the October Term, 1948, as Case No. 58, which stipulation has been executed by counsel for all parties thereto.

Will you kindly file the above stipulation with the record in the aforementioned proceedings, and oblige

Very truly yours,

TNB/RRS  
Enc.

THOMAS N. BIDDISON  
City Solicitor

Stipulation

Filed: Sep. 21 - 1948

Witness my hand and seal this 7th day of October 1948.

*[Signature]*  
[Name]

Witness my hand and seal this 7th day of October 1948.

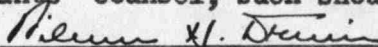
*[Signature]*  
[Name]

Witness my hand and seal this 7th day of October 1948.

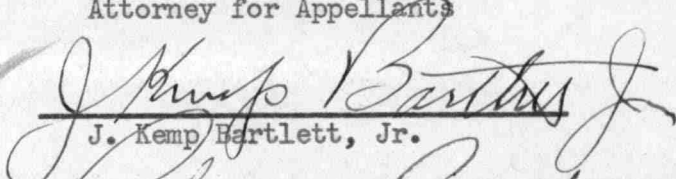


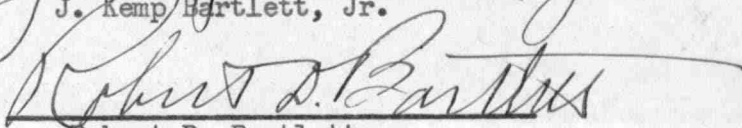
WHEREFORE, IT IS HEREBY STIPULATED AND AGREED,

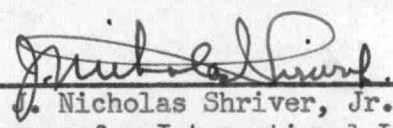
by and between counsel for all parties to the above entitled case that the time for the filing of the said Appellees' Briefs and Appendix, as aforesaid, be extended to October 26, 1948, provided that no delay in the argument of this case shall result therefrom, and provided further that opportunity shall be given Appellants, in accordance with the rules of this Court, to file a reply Brief if, in the opinion of Appellants' counsel, such should become necessary.

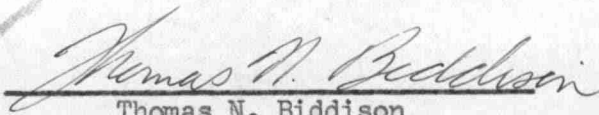


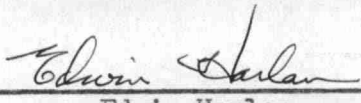
Wilmer H. Driver  
Attorney for Appellants

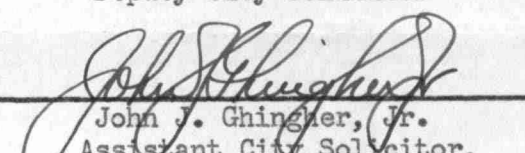
  
J. Kemp Bartlett, Jr.

  
Robert D. Bartlett  
Attorneys for Baltimore Baseball  
& Exhibition Company

  
Nicholas Shriver, Jr.  
Attorney for International League  
of Professional Baseball Clubs

  
Thomas N. Biddison  
City Solicitor

  
Edwin Harlan  
Deputy City Solicitor

  
John J. Ghinger, Jr.  
Assistant City Solicitor,  
Attorneys for Robert Garrett, et al

No. 58 - Oct. T. 1948

FILED OCT 22 1948

---

IN THE  
**Court of Appeals of Maryland**

---

OCTOBER TERM, 1948

---

No. 58

---

FREDERICK E. GREEN and MINNIE C. GREEN,  
his wife, et al.,

*Appellants,*

vs.

ROBERT GARRETT, et al., Constituting THE DEPARTMENT OF RECREATION AND PARKS OF BALTIMORE CITY, THE BALTIMORE BASEBALL AND EXHIBITION COMPANY, THE INTERNATIONAL LEAGUE OF PROFESSIONAL BASEBALL CLUBS,

*Appellees.*

---

APPEAL FROM THE CIRCUIT COURT No. 2  
OF BALTIMORE CITY  
(MASON, J.)

---

**MOTION TO DISMISS**

---

ROBERT D. BARTLETT,  
J. KEMP BARTLETT, JR.,  
Solicitors for Appellee,  
The Baltimore Baseball  
and Exhibition Company.

J. NICHOLAS SHRIVER, JR.,  
CROSS AND SHRIVER,  
Solicitors for Appellee,  
International League of  
Professional Baseball  
Clubs.

IN THE  
**Court of Appeals of Maryland**

---

OCTOBER TERM, 1948

---

No. 58

---

FREDERICK E. GREEN and MINNIE C. GREEN,  
his wife, et al.,

*Appellants,*

vs.

ROBERT GARRETT, et al., Constituting THE DEPART-  
MENT OF RECREATION AND PARKS OF BALTI-  
MORE CITY, THE BALTIMORE BASEBALL AND  
EXHIBITION COMPANY, THE INTERNATIONAL  
LEAGUE OF PROFESSIONAL BASEBALL CLUBS,

*Appellees.*

---

APPEAL FROM THE CIRCUIT COURT No. 2  
OF BALTIMORE CITY  
(MASON, J.)

---

**MOTION TO DISMISS**

---

The Baltimore Baseball and Exhibition Company, and  
the International League of Professional Baseball Clubs,  
two of the Appellees in the above-entitled cause, by their  
solicitors, respectfully move that the Appeal be dis-  
missed and for grounds therefor say:

That because of the fact that the 1948 baseball season has ended, the questions raised by this appeal have become moot.

In support of its motion it shows that;

The Bill of Complaint filed by the Appellants in the Circuit Court No. 2 of Baltimore City on the 23rd day of December, 1947, alleged "that it was and is the intention of The Baltimore Baseball and Exhibition Company \* \* \* to lease said Stadium for another year" and the intention of the Department of Recreation and Parks to enter into negotiations "looking toward the execution of an agreement covering the 1948 playing season" (Appellants' App. 7).

Mr. Robert Garrett, Chairman of the Department of Recreation and Parks, was called as a witness by the Appellants and testified that his Department had given a hearing to the Stadium Protest Committee and read from the minutes of that meeting as follows:

"Mr. Driver asked the Board if it would allow the Orioles to play in the Stadium for the year 1948, and likewise wanted to know the policy of the Board for future years concerning the Orioles. The Board did not declare itself as to the future but by majority vote agreed to allow the Baltimore Baseball and Exhibition Company the use of the Baltimore Stadium for the 1948 baseball season, provided the Orioles make such a request and present a written agreement which is acceptable to the Board" (Appellants' App. 229-230).

See also in this respect Plaintiffs' Exhibit No. 29 (Appellees' App. 95) and Plaintiffs' Exhibits Nos. 25, 26 and 27 (Appellees' App. 90-93).

The case was tried below on the theory that it involved a lease for a period no longer than the 1948 season.

“(The Court) Of course, this present lease that is covered in this bill of complaint hasn’t anything to do with any lease for a longer period than 1948.

(The Witness) The lease we will make now will probably be for 1948 only.

(The Court) And of course, it did contemplate 1947, but that time is past and was past when the bill was filed, it contemplated 1947 and 1948?

(The Witness) Yes.

(The Court) And no longer.

(The Witness) That is right” (Appellees’ App. 83).

The ruling of the Lower Court upon a proffer by the Department of Recreation and Parks as to proof of the plans for the new stadium, as well as to proof of plans for alteration of the existing stadium after the 1948 season, clearly demonstrated that the proceedings related solely to the 1948 season. For example, Judge Mason, in ruling adversely on one such proffer, stated (page 1186 of typewritten transcript of record):

“As I understand this matter, it is a bill of complaint to enjoin the City from making a contract with the Orioles for the year 1948 to play in the present Stadium”;

and again:

“[Future plans for new construction after the 1948 season are] all speculative. I have to deal with what I have before me now” (Tr. p. 1189).

Finally and even more conclusively, in his opinion Judge Mason said:

“Of course, it must be borne in mind that the agreement which is the subject of this suit is not for a long term. It is for the 1948 season” (Appellants’ App. 491).



The 1948 season ended on September 12, 1948 (Defendant's Exhibit No. 5, Appellants' App. 485).

Because, therefore, of the fact that the 1948 baseball season has ended, the questions raised by this appeal have become moot.

In the case of *Cook v. Normac Corp.*, 176 Md. 396-397, it was said:

"In the argument it has been stated that the work has been completed during the time occupied by the litigation, and that fact would foreclose any question of stopping it; the question would be moot."

See also:

*Iverson v. Jones*, 171 Md. 649;  
*Public Service Commission v. Chesapeake and Potomac Telephone Co.*, 147 Md. 279;  
*Syfer v. Spence*, 103 Md. 66.

Respectfully submitted,

ROBERT D. BARTLETT,  
 J. KEMP BARTLETT, JR.,  
 Solicitors for Appellee,  
 The Baltimore Baseball  
 and Exhibition Company.

J. NICHOLAS SHRIVER, JR.,  
 CROSS AND SHRIVER,  
 Solicitors for Appellee,  
 International League of  
 Professional Baseball  
 Clubs.

PHONE PLAZA 6098

LAW OFFICE OF  
**WILMER H. DRIVER**  
819-20 FIDELITY BUILDING  
**BALTIMORE**

July 21, 1948

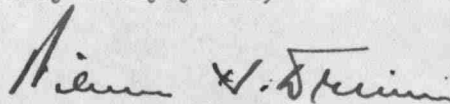
Hon. Maurice Ogle, Clerk  
Court of Appeals of Maryland  
Court of Appeals Building  
Annapolis, Maryland

Dear Mr. Ogle:

Re: Frederick E. Green, et al, vs.  
Robert Garrett, et al

I enclose herewith Stipulation executed by all counsel in the above-captioned case, providing for extending the time for filing the appendix and brief on behalf of the appellants to thirty days from August 8, 1948.

Very truly yours,

  
Wilmer H. Driver

WHD/fmw

No. 58- Oct. T. 1948

Stipulation

Filed, July 22-1948

FREDERICK E. GREEN and  
MINNIE C. GREEN, his wife, et al  
Appellants

IN THE

vs.

COURT OF APPEALS

ROBERT GARRETT, President,  
J. MARSHALL BOONE, MRS. HOWARD W.  
FORD, S. LAWRENCE HAMMERMAN,  
BERNARD HARRIS, R. WILBURT MARSHECK,  
WESTON B. SCRIMGER, in their official  
capacities and comprising and con-  
stituting the DEPARTMENT OF RECREATION  
AND PARKS OF BALTIMORE CITY and  
BALTIMORE BASEBALL AND EXHIBITION  
COMPANY, a Maryland Corporation, and  
the INTERNATIONAL LEAGUE OF PROFESSIONAL  
BASEBALL CLUBS,

OF

MARYLAND

No. 58, October Term, 1948

Appellees

: : : : : : :

STIPULATION

It is stipulated and agreed by and between the parties hereto, that the time for filing the appendix and brief on behalf of the Appellants in the above-captioned case be extended for a period of thirty days from August 8, 1948.

*Due  
Sept. 7<sup>th</sup>*

*Thomas N. Biddison*  
Thomas N. Biddison, City Solicitor of  
Baltimore City

*J. Kemp Bartlett*  
J. Kemp Bartlett, Counsel for Baltimore  
Baseball and Exhibition Company

*Eben J. D. Cross*  
Eben J. D. Cross, Counsel for Interna-  
tional League of Professional Baseball  
Clubs

*Wilmer H. Driver*  
Wilmer H. Driver, Attorney for Frederick  
E. Green and Minnie C. Green, his wife,  
et al

September 3, 1948

Wilmer H. Driver, Esquire  
819 Fidelity Building  
Baltimore, Maryland

Dear Mr. Driver:

This is to advise you that Chief Judge Marbury has signed the Order attached to your petition extending from fifty to sixty pages the appellants' brief in the case of Frederick E. Green, et al. vs. Robert Garrett, et al., No. 58, October Term, 1948.

Very truly yours,

JLY/arh

Copies to

Thomas N. Biddison, Esq.  
905 Maryland Trust Bld'g  
Baltimore-2, Md.

J. Kemp Bartlett, Jr., Esq.  
34 U.S.F. & G. Bld'g  
Baltimore-2, Md.

Messrs. Cross & Shriver  
610 Mercantile Trust Bld'g  
Baltimore-2, Md.

100% COTTON-CONTENT  
Agawam Oron Shan

PHONE PLAZA 6098

LAW OFFICE OF  
**WILMER H. DRIVER**  
819-20 FIDELITY BUILDING  
**BALTIMORE**

September 1, 1948

Hon. Ogle Marbury  
Chief Judge, Court of  
Appeals of Maryland  
529 Main Street  
Laurel, Maryland

Dear Judge Marbury:

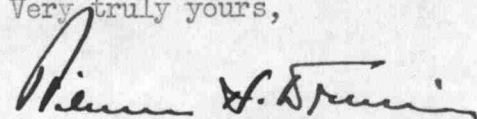
Re: Frederick E. Green, et al, vs.  
Robert Garrett, et al - No. 58,  
October Term, 1948 - Court of  
Appeals of Maryland

I enclose herewith a petition and order requesting the extension of the length of the Appellants' Brief in the above-styled case from 50 pages to 60 pages. The reason for this request is due to the fact that the Appellants' Appendix is rather voluminous, consisting of 510 pages; and as one aspect of the case turns on factual matters, it has been impossible to keep the Brief, prepared by me on behalf of the Appellants, within the limit prescribed by the Rules of Court without eliminating certain factors which I feel should be brought to the Court's attention.

The Appellants' Brief is due September 7th, and because of this fact as well as the intervening Labor Day holiday, I would greatly appreciate your having the Clerk advise me of the Court's action.

Thanking you for your courtesy in this regard, I am

Very truly yours,



Wilmer H. Driver

WHD/fmw

*M.D.:*  
*Please notify Mr. Driver.*  
*OK.*

No. 58 - Oct. T. 1948

ATTORNEY AT LAW  
WILMER H. DRIVER

ORDER

The accompanying petition praying that the  
photocopies of the briefs be extended from 50 pages to 60 pages.

*[Handwritten signature]*

Chief Judge

*Petition and Order  
extending pages  
of appellants brief.*

*Filed. Sept. 3-1948.*

RECORDS SECTION  
COURT HOUSE  
MILWAUKEE, WISCONSIN

FREDERICK E. GREEN and  
MINNIE C. GREEN, his wife, et al.  
Appellants

IN THE

vs.

COURT OF APPEALS

ROBERT GARRETT, President,  
J. MARSHALL BOONE, MRS. HOWARD W.  
FORD, S. LAWRENCE HAMMERMAN,  
BERNARD HARRIS, R. WILBURT MARSHECK,  
WESTON B. SCRIMGER, in their official  
capacities and comprising and con-  
stituting the DEPARTMENT OF RECREATION  
AND PARKS OF BALTIMORE CITY and  
BALTIMORE BASEBALL AND EXHIBITION  
COMPANY, a Maryland Corporation, and  
the INTERNATIONAL LEAGUE OF PROFESSIONAL  
BASEBALL CLUBS,

OF

MARYLAND

No. 58, October Term, 1948

Appellees

: : : : : : : :

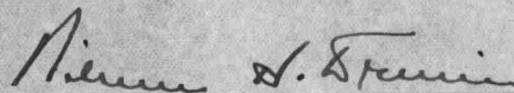
PETITION AND ORDER

TO THE HONORABLE OGLE MARBURY, CHIEF JUDGE OF THE COURTS OF APPEALS OF MARYLAND:

Comes now Wilmer H. Driver, counsel for the Appellants in the above-entitled cause, and respectfully represents as follows:

1. That the transcript in the above-entitled case is in excess of 1,700 pages, and the Appellants' Appendix is 510 pages in length.
2. That it has been impossible for counsel for the Appellants to keep the Appellants' Brief within the 50-page limit prescribed by the rules of this Court for the reason that the case turns on factual matters, and it has been impossible to keep the Brief within the 50-page limit without eliminating certain matters which counsel for the Appellants feels should be brought to the Court's attention.
3. That counsel for the Appellants is advised by the printer that the brief, as now constituted, will contain 60 pages.

WHEREFORE, Appellants pray that an order be passed authorizing Appellants' Brief to be extended from 50 pages to 60 pages.



Wilmer H. Driver, Attorney for the  
Appellants



ORDER

The foregoing Petition having been read and considered, it is there-  
upon ORDERED this 2nd day of September, 1948, that the Appellants' Brief in  
the foregoing cause may be extended from 50 pages to 60 pages.

*D. H. Mumber*

Chief Judge

*4000 - 80 - 80 - 100*

*to the  
of the  
to the  
to the*

*to the  
to the  
to the  
to the*

PERMANENT RECORD