

Wm Lewis } Chief Appeals
 } Appeals
State Ind. } from Court
 } at Ball's City

Hon A Kandel
Dear Sir
for appellee

The appellee will contend
as follows

First Point

That the Sentence see
page 8 of record is in
accordance with
the law - see 1 Vol Code
Art 30 Section 98 - page 220
to the law in connection
with 1 Vol Code Article
43; ^{Section 37} page 493. The words
service and labour which
are complained of are
rendering the Sentence
illegal and void and

Mr. [Name] [Address]
[City, State, Zip]

Dear Mr. [Name]:

I am writing to you regarding the [subject].
I have reviewed the [document] and [action].
I am pleased to hear that [news].
I will be in touch with you again [when].
Sincerely,
[Name]

not absolutely necessary, but
only prescribe to be done the
very thing provided in Sec
37 of Act 73. they in no way
alter for the worse the Con-
dition of the Prisoner error
and are no proper cause
of Complaint the Sentence
is in the usual form as
used in the Crim Ct of Bats
City - and is legal in form
and effect.

Second Point

Unless the Sentence or
Judgment contravenes the
law or tends to the con-
dition of the prisoner or
upon whom it is passed
worse ~~than~~ shall not
be reversed or his in-
-stance.

1101 Bishop's Crim

not at all necessary but
and, however, to be sure the
room they purchased in 1808
31 of Oct 30. This is the way
After for the friends the Co
the letter of the 17th in 1808
and are in proper manner
of the purchase the 20th
is in the name of the
made in the name of the
Cit - but is legal in form
and good

I have found
within the boundaries of
jurisdiction of the court
law or beyond the cor
within of the purchase
upon which the purchase
was made shall be
be preserved at the
- please

Law Soc 1/20 Note 2

2d Mendell, Rawlins & State

8 Mendell 203 1/20 11 Rawlins People

5 Alabama Octor & State 463.

Third Point

All the cases referred
to by Hoff in error show
that there must be
substantial injury and
injustice worked by
an erroneous judge
before sentence is
made the appellate
Court to reverse the
judgment. In this case
no injustice or injury
is done by sentence by
~~the court~~ omission
of the judge ^{order} of the
restoration of the property
can not be complained

of by the Puffer error it was
not to his prejudice and
in fact was not inten-
ded by the law to be made
part of the Sentence
See 1 Vol Code art 30 page 23,
and cases referred to
on second point.

J. Dean Smith

A. Randall

atty Gen of Md.

No. 6.—Special Docket.

COURT OF APPEALS OF MARYLAND.

APRIL TERM, 1865.

WILLIAM ISAACS vs. STATE OF MARYLAND.

Appeal from the Criminal Court of Baltimore City.—Writ of Error.

APPELLEE'S POINTS.

The Appellee will contend as follows:—

FIRST POINT.

That the Sentence, page 8 of record, is in exact accordance with the law:—see 1 vol. Code, Art. 30, section 98, page 230, taken in connection with 1st vol. Code, Art. 78, sec. 37, p. 493. The words, *service and labor*, which are complained of as rendering the sentence illegal and void, are not absolutely necessary, but only prescribe to be done the very thing provided in sec. 37 of Art 73; they in no way alter for the worse the condition of the Plff. in Error, and are no proper cause of complaint; the Sentence is in the usual form as used in the Criminal Court of Baltimore city, and is legal in form and effect.

SECOND POINT.

Unless the Sentence or Judgment contravene the law, or render the condition of the prisoner, upon whom it is passed, worse, it will not be reversed at his instance.

1 vol. Bishop's Crim. Law, sec. 420, note 2.

2nd Md., 216, Rawlings vs. State.

8 Wendell, 203 to 211, Kane vs. People.

5 Alabama, Octon vs. State, 463.

4 Cal. (N Y) Dodge vs State 453

3 Gilman M Luid vs The People 76

29 Pa State Rep Morre vs Com 445

5 Casey
20 Ala Rep Seaton vs State 15

5 Washing Webster vs Comm 386

THIRD POINT.

All the cases referred to by Plff. in Error, show that there must be substantial injury and injustice worked by an erroneous Judgment or Sentence, to enable the appellate Court to reverse the Judgment. In this case no injustice or injury is done by Sentence, omission of the Judge to order the restoration of the property,— can not be complained of by the Plff. in Error, it was not to his prejudice, and in fact it was not intended by the law to be made part of the sentence.

See 1 vol. Code, Art. 30, page 230, and cases referred to on Second Point.

J. DEAN SMITH.

A. RANDALL,

Attorney Gen'l of Maryland.

Fourth Point

The Court of appeals if they do not approve of this judgment and sentence of the Court below, have power to modify the same and give such judgment as ought to be given by the Court & may do it in this case.

Code title "Appeals" Art. 5 sec. 11 p 22

Beale vs Comm (1 Leary 11) 25 Penn State Rep

Brown vs State (8 English) 13 Ark 96

Reg vs Halloway 5 Eng & Eq Rep 310

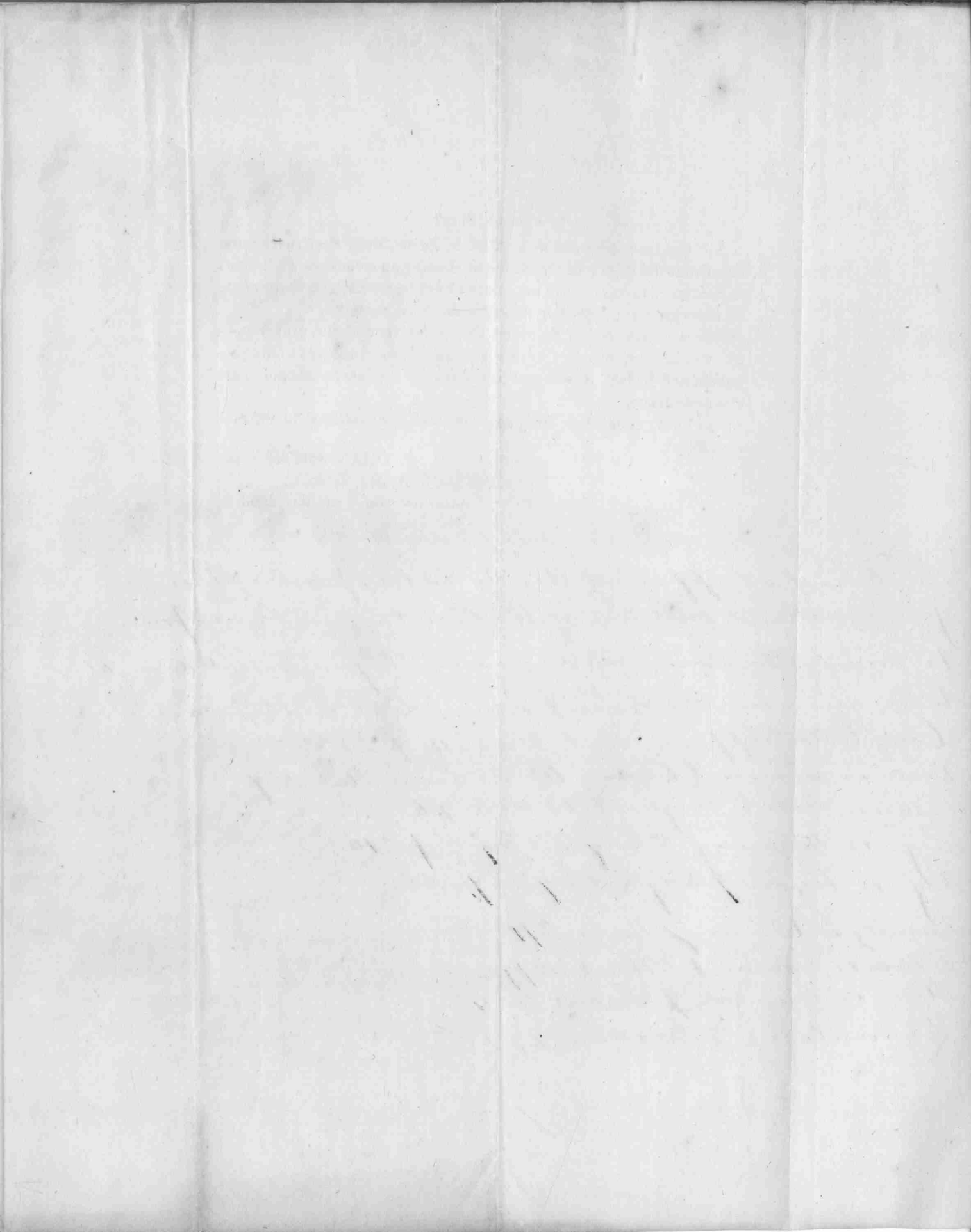
Reg vs Hyde 9 Eng & Eq Rep 363

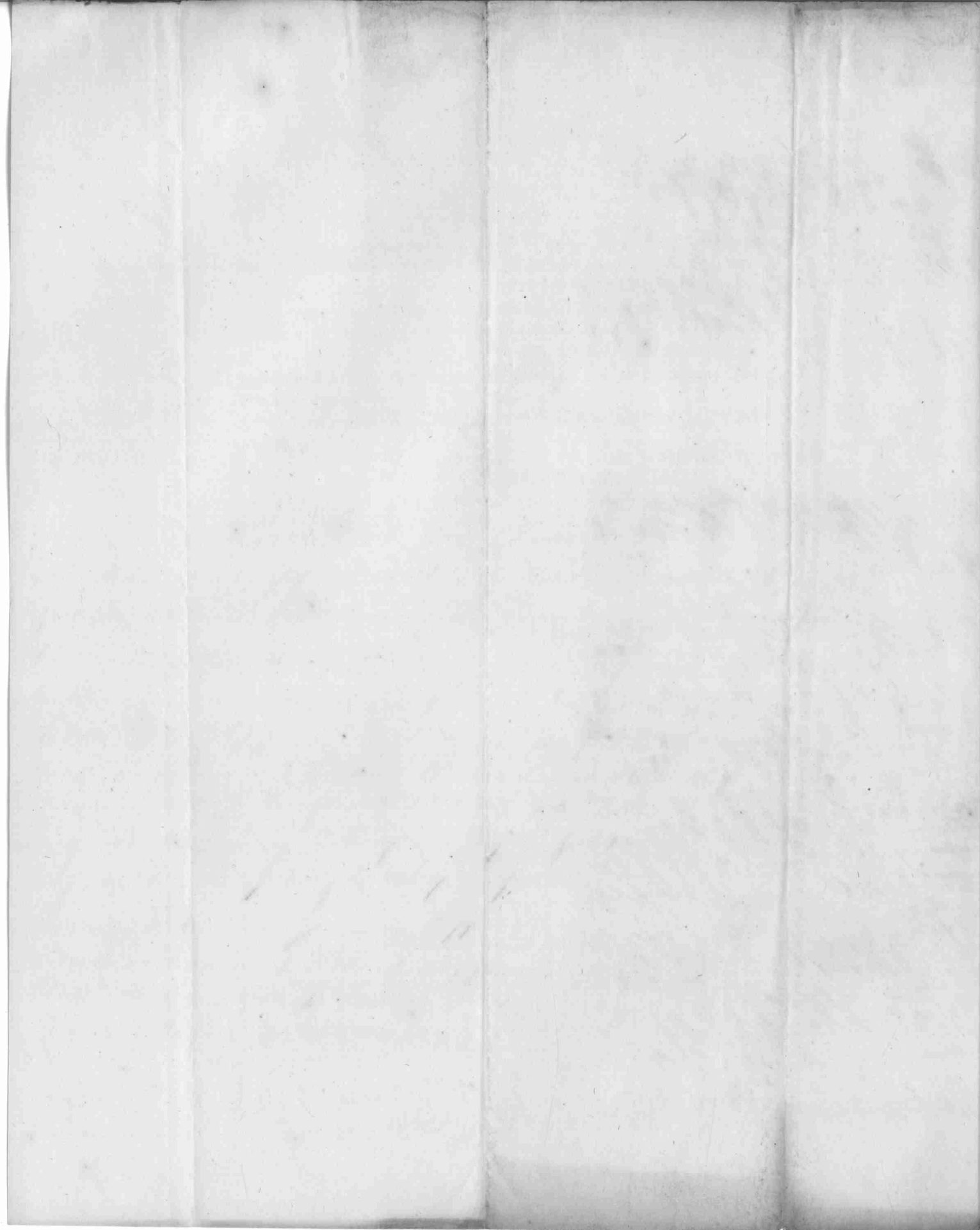
Danely vs Comm 7 Barr 371

Drew vs Comm 1 Whart 279

State vs Church 9 Indel 484

Logans Case 5 Gratton 692





State v. W. Isaac Court of Appeals
Appellee's Fourth Point June 1885

The Court of Appeals - if they do not approve of the judgment and Sentence of the Court below, have power to modify the Same and to give such judgment as ought to be given by that Court - and may do so in this case.

Code, title "Appeals" - Art 5 Sec 14 par 22

Isaac Smith

A. Randall

atty Genl. of the

for Appellee

Dear Mother
I received your letter of the 10th and was
glad to hear from you and to hear
that you were all well.

I am well at present and hope
these few lines will find you all
the same. I am writing you
to let you know that I am
still in the hospital and
am not yet able to go home.

I am sure you will be
glad to hear from me and
I hope to hear from you
soon. I am your affectionate
son,
John Doe

Chg 98
\$7.20

Filed April 8th 1865

No. 6 SPECIAL DOCKET.

WILLIAM ISAACS
vs.
THE STATE OF MARYLAND. } COURT OF APPEALS,
JANUARY TERM, 1865.

Writ of Error to the Criminal Court
of Baltimore City.

William Isaacs, the Plaintiff in Error, was indicted for Larceny in the Circuit Court for Baltimore County, (Rec. p. 3,) and the case was on his application removed to the Criminal Court of Baltimore City, (Rec. 5,) in which Court he was tried before a jury, who, on the 2d October, 1863, rendered a verdict of guilty against him, (Rec. 7).

The Court thereupon on the 26th of October, 1863, caused the said Plaintiff in Error to be brought before it for sentence, and then and there passed sentence upon him in the following words, (Rec. 8).

“It is therefore considered by the Court here that the said William Isaacs do undergo a confinement in the Penitentiary, for the period of 12 years; and that he *serve and labour* for the said period in the aforesaid Penitentiary according to the Act of Assembly in such case made and provided.”

The said Isaacs was thereupon committed to the custody of the Warden of the Penitentiary, accompanied by the following transcript of the said sentence:

"STATE OF MARYLAND,

vs.

WILLIAM ISAACS.

Criminal Court of Baltimore.
Presentment and Indictment
for Larceny.
Plea *non cul* and issue.
Jury sworn—Verdict guilty.

Judgment that the Prisoner *serve and labour* in the Penitentiary for the period of twelve years." (Rec. 8.)

The Prisoner thereupon by S. A. Leakin, Esq., his Attorney, sued out of the Circuit Court of Baltimore City this Writ of Error. (Rec. 8.)

The Plaintiff in Error will contend:

FIRST POINT.

That the sentence pronounced upon the Prisoner in this case is erroneous and unauthorized by the Laws of Maryland.

1.—Because the sentence is that the Prisoner "*serve and labour* in the Penitentiary for 12 years," whereas the only sentence authorized by law is that the Prisoner be "confined in the Penitentiary," and therefore the award of sentence that he "*serve and labour*" in the Penitentiary was illegal, and renders the sentence *illegal and void*.

For the proper sentence see

1st Vol. Code, Art. 30, Sec. 98, page 230.

That the sentence passed was illegal and void, see

- 7 Barr, (Pa.) 371. *Daniels vs. Commonwealth.*
- 3 Binney, (Pa.) 584. *Kraemer vs. Comm.*
- 2 Gale & Davidson, 617. *Silverside vs. The Queen.*
- 4 Medcalf, 360, 371. *Stevens vs. Comm.*
- 6 Serg & R., (Pa.) 554. *Guldin vs. Comm.*
- 2 Medf., 408, 412. *Wilde vs. Comm.*
- 5 Wisconsin, 529. *Haney vs. The State.*
- 4 Wisconsin, 395. *Fitzgerald vs. The State.*

2d.—Because the Law of Maryland punishing Larceny declares that the prisoner who shall be convicted thereof shall restore the thing stolen or its value, and be sentenced to the Penitentiary for not less than one nor more than fifteen years; and the Court in passing sentence upon the Plaintiff in Error omitted to make it a part of its sentence that said Prisoner should restore the things stolen, or their value.

1 *Code*, p. 230, *Art.* 30, *Sec.* 98.

That a prisoner may have reversed a sentence against him, though it is more favorable to him than the sentence prescribed by Law, see

7 *Add. & Ell. N. S.* 582. (*Eng. Com. L.*, vol 53, p. 582.)

Whitehead vs. The Queen.

4 *Wisconsin*, 395. *Fitzgerald vs. State.*

5 *Do.*, 529. *Haney vs. State.*

4 *Metcf.*, 360, 371.

The Court can pronounce no sentence except the particular one prescribed by the Law.

14 *Maryland*, 412. *Watkins vs. State.*

15 *Maryland*, 208. *Cornish vs. State.*

SECOND POINT.

That the sentenced pronounced against the Plaintiff in Error being erroneous and void, the judgment must be reversed and the Prisoner discharged.

14 *Maryland*, 412. *Watkins vs. State.*

2 *Gale & Davidson*, 617.

7 *Ad. & Ell.*, 58.

2 *Metcf.*, 419. *Sheperd vs. Comm.*

7 *Barr*, (*Pa.*) 371.

BERNARD CARTER,

For Plaintiff in Error.

34.—Because the law of Maryland providing for the discharge of the prisoner who shall be convicted thereof shall restore the thing stolen or its value, and be sentenced to the Penitentiary for not less than one nor more than fifteen years; and the Court is passing sentence upon the Plaintiff in favor omitted to make it a part of its sentence that said Prisoner should restore the thing stolen or their value.

1 Code, p. 230, 241, 25, 26, 28.

That a prisoner may have received a sentence against him though it is more favorable to him than the sentence prescribed by law, see

7 Abb. & E. M. 2, 251. (Arg. Com. A. vol. 52, p. 281.)

Wichard vs. The Queen.

1 Wisconsin, 328. Richards vs. State.

5 Do. 529. Honey vs. State.

2 Mead, 260, 271.

The Court can pronounce no sentence except the punishment one prescribed by the law.

14 Maryland, 412. Haines vs. State.

15 Maryland, 208. Evans vs. State.

SECOND POINT.

That the sentence pronounced against the Plaintiff in error being erroneous and void, the judgment must be reversed and the Prisoner discharged.

14 Maryland, 412. Haines vs. State.

2 Galt & Davidson, 672.

1 Ab. & E. M. 2, 28.

2 Mead, 412. Haines vs. State.

1 Barb. (N.Y.), 371.

BERNARD CARTER,

for Plaintiff in Error.