

State of Maryland,

City of Baltimore, to wit:

The Jurors of the State of Maryland, for the body of the City of Baltimore, do on their oath present

that.....**JOHN H. GURRY**.....

late of said city, on the....**seventeenth**....day of....**June**....., in the year of our Lord
nineteen hundred and...**eleven**...., at the City aforesaid, in violation of a certain ordinance of the Mayor
and City Council of Baltimore theretofore duly enacted and ordained, to wit.**Ordinance Number**.....

~~Six hundred and ninety-two, passed and approved on the fifteenth day of
May in the year of our Lord nineteen hundred and eleven, at the city
aforesaid, being then and there a colored person, unlawfully did move
into and use as a residence and place of abode, a certain house,
building and structure, known as number 581 Laurens Street, otherwise
known as number 581 Sewell Street, said house, building and structure,
being then and there situated and located on a certain block on said
Laurens Street otherwise known as Sewell Street, in said city, between
two adjacent intersecting and crossing streets, to wit, Pennsylvania
Avenue and Fremont Avenue, and the houses, buildings and structures on
said block, so far as the same were then occupied and used as residences
and places of abode, in whole or in part, were then occupied and used as
residences and places of abode by white persons, the said JOHN H. GURRY,
not being then and there a domestic servant employed by and residing with
his employer in said house, building and structure, against the form of
the ordinance in such case made and provided, and against the peace,
government and dignity of the State.~~

Second Count.

And the Jurors aforesaid, on their oath aforesaid, do further
present that the said JOHN H. GURRY, late of said city, on the said day, in
the said year, at the city aforesaid, in violation of a certain
ordinance of the Mayor and City Council of Baltimore theretofore duly
enacted and ordained, to wit, ordinance number six hundred and ninety-two,
passed and approved on the fifteenth day of May in the year of our Lord
nineteen hundred and eleven, at the city aforesaid, being then and there a
colored person, unlawfully did move into as a residence and place of abode
a certain house, building and structure, known as number 581 Laurens
Street, otherwise known as number 581 Sewell Street, said house,
building and structure, being then and there situated and located on a
certain block, on said Laurens Street otherwise known as Sewell Street,
in said city, between two adjacent intersecting and crossing streets,
to wit, Pennsylvania Avenue and Fremont Avenue, and the houses, buildings
and structures on said block, so far as the same were then occupied and
used as residences and places of abode, in whole or in part, were then
occupied and used as residences and places of abode by white persons,
the said John H. Gurry, not being then and there a domestic servant
employed by and residing with his employer in said house, building and
structure, against the form of the ordinance in such case made and provid-
ed and against the peace, government and dignity of the State.

Third Count.

And the Jurors aforesaid, on their oath aforesaid, do
further present that the said JOHN H. GURRY, late of said city, on the
said day, in the said year, at the city aforesaid, in violation of a
certain ordinance of the Mayor and City Council of Baltimore theretofore
duly enacted and ordained, to wit, ordinance number six hundred and ninety
-two, passed and approved on the fifteenth day of May in the year of our
Lord nineteen hundred and eleven, at the city aforesaid, being then and
there a colored person, unlawfully did use as a residence and place of
abode, a certain house, building and structure, known as number 581

~~against the form of the ordinance in such case made and provided, and against the peace, government and
dignity of the State~~

~~John H. Gurry~~

~~The State's Attorney for the City of Baltimore~~

Laurens Street, otherwise known as number 581 Sewell Street, said house, building and structure, being then and there situated and located on a certain block on said Laurens Street otherwise known as Sewell Street, in said city, between two adjacent intersecting and crossing streets, to wit, Pennsylvania Avenue and Fremont Avenue, and the houses, buildings and structures on said block, so far as the same were then occupied and used as residences and places of abode, in whole or in part, were then occupied and used as residences and places of abode by white persons, the said JOHN H. GURRY, not being then and there a domestic servant employed by and residing with his employer in said house, building and structure, against the form of the ordinance in such case made and provided and against the peace, government and dignity of the State.

Albert S. J. Owens,

The State's Attorney for the City of
Baltimore.

2118

570
870

STATE OF MARYLAND

vs.

JOHN H. GURRY

c B

11/28/1911 Pat
3/23/12 "

Indictment.

(TRUE BILL.)

Harry Muller Foreman.

Filed **SEP 7 1911**

10/10/12 True on Dem. Held/Notkin

P
S

WITNESSES:

- Sergt. Barwicke
- Off. Stuck
- Catherine Mitchell
- Daniel Samuels
- Joseph Kiel
- Frank Hartzell
- Sgt. Hobbs
- Off. Yengle

5/27/1912 Demanded Inst Filed
4/24/1913 " Sustained

Segregation Ordinance

Drawn by _____

O. K. _____

O. K. _____

95-48-2-11

John H. Gurry, Plaintiff

(Recog. to Answer.)

Form 17. 1-4-09-2M

City of Baltimore, to wit:

BE IT REMBERED, That on the 19th day of August in the year of our Lord one thousand nine hundred and eleven before the Subscriber; a Police Justice of the State of Maryland; in and for the City of Baltimore, personally appeared

John H. Surrage Residence, 581 Laurens
and _____ Residence _____

and acknowledge themselves each and severally, to owe and stand justly indebted to the state of Maryland, in the sum of _____ dollars, current money of the United States, the said sum of money to be made and levied of their bodies, goods and chattels, lands and tenements, respectively to and for the use of the State of Maryland.

The Condition of the above RECOGNIZANCE is such, that if the above bound

John H. Surrage
do and shall well and truly make _____ personal appearance before the Criminal Court of Baltimore, held at the Court House in the City of Baltimore.

then and there to answer unto all such things as shall be alleged _____, and particularly for

Violating Ord. 692 approved May 15 1911 he being a negro or colored person and willfully and unlawfully moving into and beginning to occupy 581 Laurens Street as a residence, the said block of said Street being a White block in Baltimore City State of Maryland

on or about the 17 day of June 1911 and attend the said Court from day to day, and not depart thence without leave thereof; and in the meantime keep the peace, and be of good behavior; then the above Recognizance to be void, or otherwise to remain in full force and virtue in law.

In Testimony Whereof, I hereunto subscribe my name on the day and year aforesaid.

John H. Webb [SEAL]
Police Justice for the North Western District.



TAKE BAIL IN \$

300.
880

State of Maryland,

Baltimore City, to wit:

I, _____
hereby apply to become recognizer for _____

I own and offer as security the following property:
No. _____

It is in fee-leasehold, being subject to the annual
ground rent of _____ Dollars.

My interest therein is absolute, and undivided, or is

the value of which is _____ and is subject to
the following mortgages, incumbrances and other
recognizances:

The taxes are paid up to and including those for
the year 190 _____

Address _____

Sworn to this _____ day of

190 _____, before me.

J. _____ [SEAL]

Police Justice for the _____ District.

Reverend Rectory

No. 1274 708 No. 2118

STATE

vs.

John H. Curry

Charge *Morng. and Residence
in a White House*

WITNESSES:

- Serge Richard Barwick*
- off Joseph Stack 3rd*
- Estern Mitchell*
- 511 Laurens St*
- Daniel Samuels*
- 513 Laurens St*
- Joseph Kiel*
- 575 Laurens St*
- Frank Hartzell*
- 579 Laurens St*
- Serge Newton S. Hobbs*
- off Chas. P. Jencks*
- W. Weston*

PRESENTED,

AUG 23 1911

C. J. Griffith
Ass't

Foreman

AUG 21 1911

Filed _____ 190 _____

No. 2118 Docket 1911

STATE OF MARYLAND

vs.

Criminal Court of Baltimore.

May Term, 1911

John H. Gurry

INDICTED for

Violating Segregation Ordinance

MR. CLERK :

Enter my appearance for Defendant and summon for defense the

Witnesses whose names are endorsed hereon.

FILED

AUG 28 1911

W. Ashby Hawkins

Attorney.

2118

11/746/116

STATE OF MARYLAND

vs.

John H. Berry
381 Laurens St

CAPIAS.

TAKE BAIL IN \$300

J. J. W. JUDGE.

Wm Reag

23 Aug 1911

I recommend that
the process be taken
on his own recognizance

Wm S. Jones

States atty w

Take him. *J. J. W.*
\$300 = 8/25/11

CEPI on Bail

John J. Hanson SHERIFF.

FILED AUG 28 1911

CRIMINAL COURT OF BALTIMORE.

MAY TERM, 1911.

THE STATE OF MARYLAND

To the Sheriff of Baltimore City, Greeting

We command you that you take the body of

John H. Curry &

and

him

immediately have before the Court here to answer a presentment for

Viol Bergeration Law

WITNESS the HON. HENRY D. HARLAN, Chief Judge of the Supreme Bench of Baltimore City, the 8th day of May, 1911.

Issued the

23rd

day of

August

1911.

SAM W. PATTISON,

Clerk Criminal Court of Baltimore.

PART 2,

Criminal Court of Baltimore

PART 2,

2118
Bail

7 John H. Gurry c

sd	sd		
Come in for trial			
sd	od		
sd	od		
sp	sp		
sp	sp		
sd	sd		
28	23		

581 Laurens st

8 Sgt Richard Barwick

W 1010

8 Off Joe Strick

u u u

7 Catherine Mitchell

571 Laurens st

7 Daniel Samuels

573 " "

7 Joseph Kiel

575 " "

Inv^t May

Returnable

to testify for State vs. John H. Gurry c

TO THE SHERIFF OF BALTIMORE CITY.

SAM W. PATTISON, Clerk

PART 2, Criminal Court of Baltimore PART 2,

2118
Bail

7 Frank Hartzell
 8 Sgt Stewart Stabb
 8 Off Charles W. Yeagle

sd	sd			
sd	pd			
sd	sd			

579. or 579 Laurens A
 W W W
 u e e

Sub May 28 23

Returnable

to testify for

State vs John H Gurrye

TO THE SHERIFF OF BALTIMORE CITY.

SAM W. PATTISON, Clerk

State of Maryland

) In the

) Criminal Court

vs.

) of

James H. Gurry.

) Baltimore City.

The defendant by Hawkins & McMecheu his attorneys demurs to the indictment and to each count thereof, because the ordinance therein set forth is unconstitutional and void- in that it deprives the defendant of the use of his property without due process of law- denies to him the equal protection of the law- is contrary to the Constitution of Maryland and of the Constitution of the United States, and that the ordinance does not in fact fill the requirements of the Charter provisions, and for other errors appearing in the record.

Wherefore he prays the same may be quashed.

Hawkins & McMecheu
Attorneys for defendant.

IN THE CRIMINAL COURT OF
BALTIMORE CITY.

2118
1911

STATE OF MARYLAND

vs.

JAMES H. GURRY.

DEMURRER.

Mr. Beatti

*Please file
Hawkins & McMechen
Attys. for Defendant*

MAY 22 1912

HAWKINS & McMECHEN
ATTORNEYS AT LAW
21 E. SARATOGA STREET
BALTIMORE, MD.

FILED

STATE OF MARYLAND

VS

JOHN E. GURRY.

) IN THE CRIMINAL COURT

) OF

) BALTIMORE.
)

O P I N I O N .

This case comes before the Court upon a demurrer filed by the traverser John H. Gurry to an indictment found against him charging "that on the seventeenth day of June nineteen hundred and eleven, he, being a colored person, did, unlawfully, move into and use as a residence and place of abode No. 581 Laurens Street, otherwise called No. 581 Sewell Street, said house being located in a block where the houses, so far as they were then occupied and used as residences and places of abode, in whole or in part, were then occupied and used as residences and places of abode by white persons, the said John E. Gurry not being then and there a domestic servant employed by and residing with his employer in said house.

The indictment found against the traverser contains three separate and distinct Counts, one charging that he did "move into and use", one that he did "move into" and the other that he "did use" as a residence and place of abode the house No. 581 Laurens Street.

It is not necessary to consider the separate Counts of the indictment, in as much as the first Count includes the other two, and the demurrer raises the question as to whether or not either in moving into or using said house as a place of residence and abode, he did an act forbidden by law.

In an effort to make the issue as clear as possible, it may be stated that the alleged unlawful character of the act complained of, consists in the two concurrent facts that the traverser, being a colored person, not a domestic living with his employer, has moved into, and used as a place of residence, a house located in a block in which the houses, so far as they were used or occupied, were used as residences by white persons.

It is worth while in passing to note that in accordance with the provisions of the Ordinance upon which the indictment is based, it would be possible to indict a white person who moves into, and uses as a place of residence a house located in a block in which the houses, so far as they were used or occupied, were used or occupied as residences by colored persons.

The present is, therefore, a case where the guilt or innocence of the traverser depends upon the decision as to whether or not he, being a colored person, has moved into a "white" block, and whether by so doing he has violated a law which the Mayor and City Council had the right to pass, or having that right, has exercised it and made it effective by reasonable regulations.

It goes, without the necessity of saying, that if on the seventeenth day of June nineteen hundred and eleven, No. 581 Laurens Street had been located within the limits of a "colored" block, no indictment could have been found against the traverser for moving into and occupying said house, and it is just as certain that, before he could be punished, it must be ascertained and proved, even allowing that it is an offence for a "colored" person to live in a white block, that the house moved into was within a "white" block.

Nothing is more certain than that when it is proposed to make an act, not so at common law, criminal, it must be defined and limited in such a way that there is no doubt as to what is meant by the provisions of the prohibition.

It is therefore essential that the definition of a "white" block and a "colored" block must be prescribed in a manner at once definite and beyond possible dispute.

Let us therefore look at the Ordinance in that regard.

Section 1, of the Ordinance undertakes to make it "unlawful for any white person to move into, or use as a residence or place of abode, any house situated or located on any block, the houses on which block are occupied or used as residences or places of abode, in whole or in part, by colored persons".

Section 2, has the same provision with regard to colored persons in blocks where the houses are occupied as residences, or places of abode, in whole or in part, by white persons.

These are the inhibitions, the violation of which is made a misdemeanor punishable by fine.

In an effort to interpret these sections we are forced to the conclusion that the thing prohibited is the residence of a white person in a block occupied in whole or in part, by colored persons, or the residence of a colored person in a block occupied, in whole or in part, by white persons.

There is no other definition in the Ordinance of what is intended to be the prohibited blocks, respectively.

Now it is needless to remark that the same block could be, as a great many blocks now are, occupied at the same time "in part" by colored persons, and "in part" by white persons, and by the sections above quoted it would be unlawful for either white or colored persons to move into or remain in the block.

So that every block in the City containing at the present time both white and colored persons would become at once depopulated, upon any enforcement of the Ordinance.

When then, by the definition in the Ordinance a block can be at the same time both a white block and a colored block it would seem unnecessary to say that the Ordinance is invalid and unenforceable to punish either white or colored persons.

This Court does not concern itself with the considerations which may have suggested the enactment of the Ordinance in question, but it is possible that the evident difficulty of securing the objects which its framers may have had in view, had the effect of confusing them, so that in the endeavor to please certain interests they have overlooked the rights of the citizens generally.

It is otherwise difficult to understand Sections 6, 7, 8, and 9 of the Ordinance which appear intended to have no general, but only local application, and not even a local application, except under provisos, so various and involved as to prevent any reasonable or equal enforcement of them.

The Court, however, contents itself with sustaining the demurrer in this case because there is no such reasonable interpretation of the Ordinance now before it as to make amenable to its penalty, the traverser, who admitting the facts set out in the indictment, denies any liability thereunder.

Demurrer sustained.

Thos. Ireland Clatt.

~~2118~~
~~2417~~
Criminal Court
B. Baltimore

State of Maryland

v.

John H. Gurry

Opinion 4/24/13

Filed 24 Apr 1913

Handwritten signature or initials, possibly "J. H. Gurry"

✓

State of Maryland

vs.

John H. Gurry

*

*

*

In the

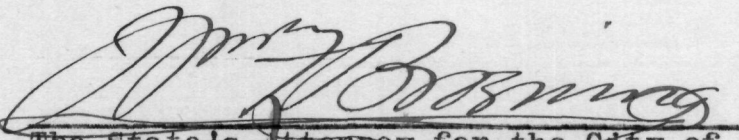
Criminal Court

of Baltimore.

* * * * *

Mr. Clerk:

Enter an appeal from the judgment of the Court in the
above entitled cause to the Court of Appeals of Maryland.


The State's Attorney for the City of
Baltimore.

IN THE CRIMINAL COURT OF
BALTIMORE.

STATE OF MARYLAND

VS.

JOHN H. GURRY.

2118
1911

ORDER FOR APPEAL.

JM Clerk

Please file

John H. Gurry

5/1/13

Stabs is all

MAY 1 - 1913

STATE OF MARYLAND)

VS.)

JOHN H. GURRY)

In The

CRIMINAL COURT OF BALTIMORE.

---o---

No. 2118.

Docket of 1911.

---o---

Charge: Violating Segregation Law.

---o---

APPEARING FOR THE STATE,

William F. Broening, Esq.,

State's Attorney for Baltimore City.

Horton S. Smith *Asst State Atty Baltimore City*
APPEARING FOR THE TRAVERSER,

W. A. Hawkins, Esq.

---o---

OK W. A. Hawkins

1911.

21 Aug. Recognizance filed.

23 Aug. Presentment filed -- e.d. -- Capias issued --
Cepi on Bail.

25 Aug. Recognizance taken, personal, as per Order of
Court, \$300.

7 Sept. Indictment filed.

1912.

22 May. Demurrer to Indictment filed.

10 Oct. Issue joined on Demurrer before Elliott, J.
(Held Sub Curia).

1913.

24 Apr. Demurrer sustained. Elliott, J. Opinion
filed.

24 Apr. Judgment, Q.E.S.D.

1 May. Order of Appeal to the Court of Appeals of
Maryland, by the State, filed.

STATE OF MARYLAND,

Baltimore City, to wit:

)
)
)

I Hereby Certify, that the foregoing is a true copy of the Docket entries in the aforesaid case, taken and copied from the record of proceedings of the Criminal Court of Baltimore.

In Testimony Whereof, I hereto set my hand and affix the seal of the Criminal Court of Baltimore, this day of May, A.D., 1913.

Clerk Criminal Court of Baltimore.

STATE OF MARYLAND)
)
 VS.)
)
JOHN H. GURRY)

In The
CRIMINAL COURT OF BALTIMORE.

---o---

No. 2118. Docket of 1911.
Charge: Violating Segregation Law.

---o---

1911.

21 Aug. Presentment filed -- e.d.-- Capias issued --
 Cepi on Bail.

7 Sept. Indictment filed, upon which was endorsed by
 the Grand Jury,

"TRUE BILL
Sep 7 1911
Harry K. Muller,
Foreman,"

in manner and form following, to wit:

STATE OF MARYLAND,

City of Baltimore, to wit:

The Jurors of the State of Maryland, for the body of the City of Baltimore, do on their oath present that JOHN H. GURRY, late of said city, on the seventeenth day of June, in the year of our Lord nineteen hundred and eleven, at the City aforesaid, in violation of a certain ordinance of the Mayor and City Council of Baltimore theretofore duly enacted and ordained, to wit, Ordinance Number Six hundred and ninety-two, passed and approved on the fifteenth day of May in the year of our Lord nineteen hundred and eleven, at the city aforesaid, being then and there a colored person, unlawfully did move into and use as a residence and place of abode, a certain house, building and structure, known as number 581 Laurens Street, otherwise known as number 581 Sewell Street, said house, building and structure, being then and there situated and located on a certain block on said

Laurens Street otherwise known as Sewell Street, in said city, between two adjacent intersecting and crossing streets, to wit, Pennsylvania Avenue and Fremont Avenue, and the houses, buildings and structures on said block, so far as the same were then occupied and used as residences and places of abode, in whole or in part, were then occupied and used as residences and places of abode by white persons, the said JOHN H. GURRY, not being then and there a domestic servant employed by and residing with his employer in said house, building and structure, against the form of the ordinance in such case made and provided, and against the peace, government and dignity of the State.

Second Count.

And the Jurors aforesaid, on their oath aforesaid, do further present that the said JOHN H. GURRY, late of said city, on the said day, in the said year, at the city aforesaid, in violation of a certain ordinance of the Mayor and City

Council of Baltimore theretofore duly enacted and ordained, to wit, ordinance number six hundred and ninety-two, passed and approved on the fifteenth day of May in the year of our Lord nineteen hundred and eleven, at the city aforesaid, being then and there a colored person, unlawfully did move into as a residence and place of abode a certain house, building and structure, known as number 581 Laurens Street, otherwise known as number 581 Sewell Street, said house, building and structure, being then and there situated and located on a certain block, on said Laurens Street otherwise known as Sewell Street, in said city, between two adjacent intersecting and crossing streets, to wit, Pennsylvania Avenue and Fremont Avenue, and the houses, buildings and structures on said block, so far as the same were then occupied and used as residences and places of abode, in whole or in part, were then occupied and used as residences and places of abode by white persons, the said John H. Gurry, not being then and there a domestic servant em-

ployed by and residing with his employer in said house, building and structure, against the form of the ordinance in such case made and provided and against the peace, government and dignity of the State.

Third Count.

And the Jurors aforesaid, on their oath aforesaid, do further present that the said JOHN H. GURRY, late of said city, on the said day, in the said year, at the city aforesaid, in violation of a certain ordinance of the Mayor and City Council of Baltimore theretofore duly enacted and ordained, to wit, ordinance number six hundred and ninety-two, passed and approved on the fifteenth day of May in the year of our Lord nineteen hundred and eleven, at the city aforesaid, being then and there a colored person, unlawfully did use as a residence and place of abode, a certain house, building and structure, known as number 581 Laurens Street, otherwise known as number 581 Sewell Street,

said house, building and structure, being then and there situated and located on a certain block on said Laurens Street otherwise known as Sewell Street, in said city, between two adjacent intersecting and crossing streets, to wit, Pennsylvania Avenue and Fremont Avenue, and the houses, buildings and structures on said block, so far as the same were then occupied and used as residences and places of abode, in whole or in part, were then occupied and used as residences and places of abode by white persons, the said JOHN H. GURRY, not being then and there a domestic servant employed by and residing with his employer in said house, building and structure, against the form of the ordinance in such case made and provided and against the peace, government and dignity of the State.

Albert S. J. Owens,
The State's Attorney for the City of
Baltimore.

1912.

22 May. Demurrer to Indictment filed, in manner and form following, to wit:

State of Maryland)	In The
)	
vs.)	Criminal Court of
)	
John H. Gurry)	Baltimore City.

The defendant by Hawkins & McMechen his attorneys demurs to the indictment and to each count thereof, because the ordinance therein set forth is unconstitutional and void, in that it deprives the defendant of the use of his property without due process of law, denies to him the equal protection of the law, is contrary to the Constitution of Maryland and of the Constitution of the United States, and that the ordinance does not in fact fill the requirements of the Charter provisions, and for other errors appearing in the record.

Wherefore he prays the same may be quashed.

Hawkins & McMechen,

Attorneys for defendant.

1912.

10 Oct. Issue joined on Demurrer before Elliott, J.
(Held Sub Curia.)

1913.

24 Apr. Demurrer sustained. Elliott, J. Opinion
filed, as follows:

"This case comes before the Court upon a demurrer filed by the traverser, John H. Gurry, to an indictment found against him charging 'that on the seventeenth day of June, nineteen hundred and eleven, he, being a colored person, did, unlawfully, move into and use as a residence and place of abode No. 581 Laurens Street, otherwise called No. 581 Sewell Street, said house being located in a block where the houses, so far as they were then occupied and used as residences and places of abode by white persons, the said John H. Gurry not being then and there a domestic servant employed by and residing with his employer in said house.'

The indictment found against the traverser contains three separate and distinct counts, one charging that he did 'move into and use,' one that he did 'move into' and the other than he 'did use' as a residence and place of abode the house No. 581 Laurens Street.

It is not necessary to consider the separate Counts of the indictment, inasmuch as the first count includes the other two, and the demurrer raises the question as to whether or not either in moving into or using said house as a place of residence and abode, he did an act forbidden by law.

In an effort to make the issue as clear as possible, it may be stated that the alleged unlawful character of the act complained of, consists in the two concurrent facts that the traverser, being a colored person, not a domestic living with his employer, has moved into, and used as a place of residence, a house located in a block in which the houses, so far as they were used or occupied, were used as residences by white persons.

It is worth while in passing to note that in accordance with the provisions of the Ordinance upon which the indictment is based, it would be possible to indict a white person who moves into, and uses as a place of residence a house located in a block in which the houses, so far as they were used or occupied, were used or occupied as residences by colored persons.

The present is, therefore, a case where the guilt or innocence of the traverser depends upon the decision as to whether or not he, being a colored person, has moved into a 'white' block, and whether by so doing he has violated a law which the Mayor and City Council had the right to pass, or having that right, has exercised it and made it effective by reasonable regulations.

It goes, without the necessity of saying, that if on the seventeenth day of June, nineteen hundred and eleven, No. 581 Laurens Street had been located within the limits of a 'colored' block, no indictment could have been found against the traverser for moving into and occupying said house,

and it is just as certain that, before he could be punished, it must be ascertained and proved, even allowing that it is an offence for a 'colored' person to live in a white block, that the house moved into was within a 'white' block.

Nothing is more certain than that when it is proposed to make an act, not so at common law, criminal, it must be defined and limited in such a way that there is no doubt as to what is meant by the provisions of the prohibition.

It is therefore essential that the definition of a 'white' block and a 'colored' block must be prescribed in a manner at once definite and beyond possible dispute.

Let us, therefore, look at the Ordinance in that regard.

Section 1 of the Ordinance undertakes to make it 'unlawful for any white person to move into, or use as a residence or place of abode, any house situated or located on any block, the houses on which block are occupied or used as residences or places of abode, in whole or in part, by colored persons.'

Section 2 has the same provision with regard to colored persons in blocks where the houses are occupied as residences, or places of abode, in whole or in part, by white persons.

These are the inhibitions, the violation of which is made a misdemeanor punishable by fine.

In an effort to interpret these sections we are forced to the conclusion that the thing prohibited is the residence of a white person in a block occupied in whole or in part, by colored persons, or the residence of a colored person in a block occupied, in whole or in part, by white persons.

There is no other definition in the Ordinance of what is intended to be the prohibited blocks, respectively.

Now it is needless to remark that the same block could be, as a great many blocks now are, occupied at the same time 'in part' by colored persons, and 'in part' by white persons, and by the sections above quoted it would be unlawful for either white or colored persons to move into or remain in the block.

So that every block in the City containing at the present time both white and colored persons would become at once depopulated, upon any enforcement of the Ordinance.

When then, by the definition in the Ordinance a block can be at the same time both a white block and a colored block it would seem unnecessary to say that the Ordinance is invalid and unenforceable to punish either white or colored persons.

This Court does not concern itself with the considerations which may have suggested the enactment of the Ordinance in question, but it is possible that the evident difficulty of securing the objects which its framers may have had in view, had the effect of confusing them, so that in the endeavor to please certain interests they have overlooked the rights of the citizens generally.

It is otherwise difficult to understand Sections 6, 7, 8 and 9 of the Ordinance which appear intended to have no general, but only local application, and not even a local application, except under provisos, so various and involved as to prevent any reasonable or equal enforcement of them.

The Court, however, contents itself with sustaining the demurrer in this case because there is no such reasonable interpretation of the Ordinance now before it as to make amenable to its penalty, the traverser, who admitting the facts set out in the indictment, denies any liability thereunder.

Demurrer sustained.

Thos. Ireland Elliott."

1913.

24 Apr. Judgment, Q.E.S.D.

1 May. Order of Appeal to the Court of Appeals
of Maryland, by the State, filed, as
follows, to wit:

"Mr. Clerk:

Enter an appeal from
the judgment of the Court in the above
entitled cause to the Court of Appeals
of Maryland.

Wm. F. Broening,
The State's Attorney for the
City of Baltimore."

STATE OF MARYLAND,

Baltimore City, to wit:

I Hereby Certify, that the foregoing is a true copy of the record and proceedings in the aforesaid case, taken and copied from the record of proceedings of the Criminal Court of Baltimore.

In Testimony Whereof, I hereto set my hand and affix the seal of the Criminal Court of Baltimore, this day of May, A.D., 1913.

Clerk Criminal Court of Baltimore.

COURT OF APPEALS OF MARYLAND

October Term, 1913.

State of Maryland } *Appeal from the Criminal Court of*
John St. Guerry } *Dalton City.*
1913 August 5 " *Judgment affirmed,*
Opinion will be hereafter filed.

Per curiam filed.
1913 October 7 " *Judgment affirmed*
Opinion filed. *Op. Constable, J.*
To be reported.

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

Record,	\$ 22.50	
Brief,		
Appearance Fee,	10.00	
Clerk,	1.30	\$ 33.80

Appellee's Costs in the Court of Appeals of Maryland,

Brief,	\$ 30.00	
Appearance Fee,	10.00	
Clerk,	1.45	\$ 41.45

STATE OF MARYLAND, Sct:

I, C. C. Magruder, 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 Sixth day of April A. D., 1914



C. C. Magruder, Clerk
of the Court of Appeals of Maryland.

No 70

353
1911

Mandate.

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Filed 8 Apr 1914



COURT OF APPEALS OF MARYLAND

October Term 1911