424, where the record did not show whether a certain prayer was granted or refused, and no exception in reference to the Court's ruling upon it was taken, it was held not to be before the Appellate Court for review;[7] and see Hollowell v. Miller *supra*, from which case it seems that if a motion to quash an execution is acted on *without* proof, it ought to be so stated. And if the exception sets out no evidence, but contains only a prayer which was rejected, the Court will assume that the Court below acted rightly in refusing it, Burtles v. State, 4 Md. 273; Reynolds v. Negroes Juliet, &c., 14 Md. 118; and see Clemens v. Mayor, &c., 16 Md. 208; McTavish v. Carroll, 17 Md. 1; McCann v. B. & O. R. R. Co., 20 Md. 202;[8] though of course this does not apply to the writ or other essential part of the proceedings, which need not be included in an exception, Dorsey v. Dashiell, 1 Md. 198. It must, however, be noticed that in the case of Barnes v. Blakiston, 2 H. & J. 376, the Court of Appeals, while laying down the general rule that the evidence on which the opinion of the Court is prayed ought to be set out in the exception, nevertheless retained an exception in which the Court below had given a direction to the jury but no facts were stated in it, on the ground that they ought to assume that evidence was offered below which would have justified the action of the Court. This was before the Act of 1825, ch. 117.[9] But in Brice v. Randall, 7 G. & J. 349, in 1835, a similar case of bills of exception containing no evidence, the Court followed that ruling, the question raised (upon the supposition that there was evidence below,) being sufficiently pointed and specific. In the first case, the Court observed that the Court below had not said that the facts were not stated or proved. In the other, the Court seem to have gone on the ground that the Act required them to revise the ruling of any point by the Court below which was sufficiently presented. But in general so strict is the rule in requiring the matter of law which the party supposes will help him to be connected with the evidence on which it depends, especially in connection with the Act of 1825, ch. 117, (Code, Art. 5, sec. 12,)[10] that in Ridgely v. Bond, 17 Md. 14, it was held that, though the record disclose other facts of which the party might have availed himself at the trial, yet if he neglect to incorporate them in his prayer, on exception to the ruling thereon he will not be assisted by them in the Appellate Court; and see Walsh v. Gilmor, 3 H. & J. 409; Munroe v. Woodruff, 17 Md. 159; Kent v. Holliday, 17 Md. 387; Gent v. Lynch, 23 Md. 58.[11] Upon appeal

[7] Where a prayer offered by a party is amended by the court and he excepts to the amendment but not to the rejection of the prayer as offered, the latter cannot be reviewed on appeal. Lewis v. Tapman, 90 Md. 294. Cf. Bentley v. Edwards, 100 Md. 652. An exception taken to counsel's "line of argument" before the jury will not be considered on appeal when the ruling of the court on the exception is not set out. Annapolis Co. v. Fredericks, 112 Md. 449.

[8] Webb v. McCloskey, 68 Md. 196; Dorbert v. State, 68 Md. 209.

[9] Code 1860, Art. 5, sec. 12; Code 1911, Art. 5, sec. 9.

[10] Code 1911, Art. 5, sec. 9.

[11] But in some cases evidence in the record, if sufficiently connected with the bill of exception, will be considered therewith on appeal. Blair v. Blair, 39 Md. 556; Owens v. Owens, 81 Md. 518. But see Bell v. State, 57 Md. 108.