

An. Code, 1924, sec. 15. 1912, sec. 16. 1904, sec. 16. 1888, sec. 16. 1809, ch. 125, sec. 5.

15. No citizen of this State committed to the custody of an officer for any criminal matter shall be removed from thence into the custody of another officer, unless it be by *habeas corpus* or by other legal writ, except where the prisoner shall be delivered to a constable or other inferior officer, to be carried to some common jail, or shall be removed from one place to another within the said county or an adjoining county, in order to his discharge or trial in due course of law; or in case of sudden fire or infection, or other necessity; or where the prisoner shall be charged by affidavit or other lawful evidence with treason, felony or other crime alleged to be done in any other of the United States of America or territories thereof—in which last case he shall, on the demand of the executive authority of the State, district or territory from which he fled, be immediately delivered up.

This section is intended to prevent the danger of protracting the imprisonment, and affirms the principle that the prisoner ought to be committed to the proper prison in the first instance. *Cocking v. Wade*, 87 Md. 539.

This section does away with the necessity for a writ for the removal of a prisoner from one county to an adjoining county. *Blake v. Burke*, 42 Md. 49.

An. Code, 1924, sec. 16. 1912, sec. 17. 1904, sec. 17. 1888, sec. 17. 1880, ch. 6, sec. 17.

16. Whenever any court in this State having jurisdiction in the premises, other than the court of appeals, or when any judge of any court in this State having jurisdiction in the premises shall release or discharge any person brought before such court or judge, under the writ of *habeas corpus*, charged with the violation of the provisions of any act of assembly of this State, or section thereof or of any article or section of the code of public general laws or public local laws of this State, upon the ground, or for the reason, that such act of assembly, or section thereof, or such article or section of the code of public general laws or public local laws is unconstitutional and void, in whole or in part, because contrary to the constitution or bill or rights of this State, or because contrary to the constitution of the United States, it shall be the duty of the said court or judge ordering such release or discharge for said cause to reduce his opinion to writing within five days after ordering said release or discharge, and to transmit the original papers in said case, together with a copy of its or his order of release or discharge, and of his said opinion, under his hand and seal, to the clerk of the court of appeals; and it shall be the duty of the said court to consider the papers so transmitted to its said clerk, including said order of release or discharge, and said opinion, at the earliest practicable period, after the receipt thereof by its said clerk, and to give its opinion in writing upon the case so presented; and the said opinion so given shall have and possess the same authority as if the same was filed in a case formally heard and determined in said court on appeal.

Order for *habeas corpus* reversed; art. 56, sec. 204, held constitutional. See notes thereto and to art. 52, sec. 13. *Dougherty v. Supt.*, etc., 144 Md. 205.

*Habeas corpus* issued in accordance with this section, and prisoner released; ch. 195 (1931), relating to police justice of Takoma Park held invalid. *Day v. Sheriff*, 162 Md. 222.

When prisoner is released on *habeas corpus* on ground that Act under which committed is unconstitutional, Court of Appeals will hear case as in other appeals. *Quenstedt v. Wilson*, 173 Md. 11.

*Habeas corpus* issued in accordance with this section; question of constitutionality of the liquor law of 1917, ch. 13, applying to certain districts of Prince George's County. See notes to art. 16, sec. 1, Md. Constitution. *Beall v. State*, 131 Md. 671.

For a case held to be properly before the appellate court for review under this section, see *State v. Glenn*, 54 Md. 593.

This section held to have no application. *Annapolis v. Howard*, 80 Md. 246.