

provision is made applicable to resentencing following remand by any appellate court. The second sentence is new; it states the rule of Wright v. State, 11 Md. App. 673 (1971). A related question is whether or not credit for pre-original sentence confinement must be given if the original sentence was less than the statutory maximum. In State v. Ewell, 234 Md. 56 (1964) the Court of Appeals answered that question in the negative. Thereafter, North Carolina v. Pearce, 395 U.S. 711 (1969) and Benton v. Maryland, 395 U.S. 784 (1969) were decided. Benton applied the Federal constitutional double jeopardy provisions to the states. Pearce stated the rule requiring credit for a sentence served (or a fine paid) prior to imposition of a second sentence (or fine) for the same offenses, and also imposed strict limitations on an increase in sentence after a new trial; see also Cherry v. State, 9 Md. App. 416 (1970); but see Colten v. Kentucky, 42 S. Ct., (1953). But the question now under consideration was not expressly decided, whatever inferences may be gathered from Pearce and Benton. It was expressly left open in Wright. Therefore, no statutory provision on this point is proposed. However, it should be noted that Ch. 605, Acts of 1973, contains provisions providing for certain "good time" credits accruing during pre-sentence incarceration to be applied against a sentence.

(B) REMAND FOR SENTENCE OR NEW TRIAL -
LIMITATIONS ON INCREASES.

IF AN APPELLATE COURT REMANDS A CRIMINAL CASE TO A LOWER COURT IN ORDER THAT THE LOWER COURT MAY PRONOUNCE THE PROPER JUDGMENT OR SENTENCE, OR CONDUCT A NEW TRIAL, AND IF THERE IS A CONVICTION FOLLOWING THIS NEW TRIAL, THE LOWER COURT MAY IMPOSE ANY SENTENCE AUTHORIZED BY LAW TO BE IMPOSED AS PUNISHMENT FOR THE OFFENSE. HOWEVER, IT MAY NOT IMPOSE A SENTENCE MORE SEVERE THAN THE SENTENCE PREVIOUSLY IMPOSED FOR THE OFFENSE UNLESS:

(1) THE REASONS FOR THE INCREASED SENTENCE AFFIRMATIVELY APPEAR;

(2) THE REASONS ARE BASED UPON OBJECTIVE