

You are not at liberty, therefore, to depart from the plain requirement and language of the law. If the law works an inconvenience to the Trade, it is to be very much regretted, and will no doubt receive the care of the Legislature, upon proper representations being made to that Body, which alone can provide the remedy in such cases.

Very Respectfully
Yr. Obedt. Servt.

Thomas H. O'Neal,
Secretary of State.

Thos. Harbison
States Atty.
of Washing-
ton Co. con-

Gov. Lowe

Hagerstown, 23 Aug. 52.

Dear Sir:

Swan was removed here from Allegany County. As the States Atty. for this County I have examined the proceedings in that case, and having concluded that they were all wrong, felt it my duty to communicate the reasons of my opinion to you, in order that Swan might be again arrested and brought before the proper tribunal, should you believe my views correct.

Judge Perry, you are also aware, did not sit in that case, and by agreement of counsel filed, Jos. J. Merrick, Esq., of this County, occupied the bench. The point I raise, is, that Judge Perry was not disqualified from sitting by the Constitution, and that the parties could not violate that instrument and confer jurisdiction upon another, even though they acted under the authority of the late Act of Assembly. Judge Perry, I repeat, was qualified to sit in that case. To determine that, we must know the relationship between him and Swan. Perry's wife's mother (Mrs. Vanlear) married Swan's father, but Mrs. Perry and Swan were the children of Mrs. Vanlear by a former husband, & Mr. Swan by a former wife. Now between Mrs. Perry & Swan no one will pretend that there was any consanguinity, nor is there any relationship by affinity. The word affinity means relationship by marriage with the consanguinees of the husband and wife. Hence Perry by marrying Miss Vanlear did not by affinity become related to Swan, because Swan was not a blood relation of his wife. If then there be no relationship between the prisoner & the Judge (as that I understand was conceded by all parties in Allegany) let us see if there be anything else in the Constitution or Law of our land which disqualifies Judge Perry & legalizes the proceedings of Judge Merrick. The 2nd Section of Article 3rd of Md. Constitution reads