

March 2, 1981

TO: Mrs. Ruth Eaton, Reference Librarian

FROM: B. A. Goldberg

RE: Research request re Barron v. Baltimore

Barron v. Baltimore, 32 U.S. (7 Pet.) 243 (1833), is the famous case in which Marshall, C.J., held that the first nine amendments to the Constitution did not apply to the states.

The case began in 1822 and was the subject of a trial court opinion in the Baltimore County Court by Stephenson Archer, J., in 1828 or 1829. Judge Archer's opinion was printed in 2 American Jurist 203 (1829).

An appeal was taken to the "court of appeals for the western shore of the state of Maryland." 32 U.S. (7 Pet.) at 252. Judge Archer's judgment for the plaintiffs was reversed, and they took the case to the United States Supreme Court on a "writ of error to the court of appeals for the western shore of the state of Maryland." 32 U.S. (7 Pet.) at 243. The United States Supreme Court dismissed "for the want of jurisdiction." 32 U.S. (7 Pet.) at 249, 250.

I want to know what happened in the "court of appeals for the western shore." It is said in Cumberland v. Willison, 50 Md. 138 (1878), "There was no formal opinion by the court [of appeals for the western shore]....The absence of an opinion in so important a case stating the grounds of decision is of course to be regretted...." 50 Md. at 154.

Is the statement made in 1878 that there was no opinion by the court of appeals for the western shore between 1828 and 1833 correct?

If it is not, can we get a copy of the opinion?

If it is, can we get copies of the briefs, if any, presented to the court of appeals for the western shore and a copy of the memorandum of judgment quoted in 50 Md. at 154?

Can we get copies of the briefs presented to the United States Supreme Court on the writ of error to the court of appeals for the western shore?

Has anyone, particularly a Maryland local historian, ever written on the case in any of the courts? Roger Taney and Mr. Key [Francis Scott?] were counsel for the city. The complete title in the U.S. Supreme Court is "John Barron, survivor of John Craig, for the use of Luke Tiernan, executor of John Craig v. The Mayor and City Council of Baltimore. (These names may be of some help in locating material.)

B.A.G.