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TITLES OF LEGISLATIVE ACTS

CARL N. EVERSTINE

The Maryland Constitution contains the requirement that "every law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title; . . . nor shall any law be construed by reason of its title to grant powers or confer rights which are not expressly contained in the body of the Act. . . ."1 These provisions have been construed probably more often than any other part of the Constitution.

Six pages of annotations follow Section 29 of Article 3 of the Constitution in the 1939 Code, most of which have to do with the titles to acts, and additional cases are annotated in the 1947 Supplement. In a total of at least 152 cases the Court of Appeals has cited or construed the constitutional requirements for titles. Opinions of the Court have mentioned more than once the frequency with which titles have been questioned, as in 1910 when Judge Urner observed that the case at bar involved the fifty-eighth time the Court had been called upon to apply this part of Section 29 of Article 3.2

Many of the cases have involved a bona fide point, but there are others in which rather obviously the question of the invalidity of a title has been "thrown in" merely to bolster the main point of the case. In several instances,

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1 Md. Const., Art. 3, Sec. 29.
2 Worcester County v. School Commissioners, 113 Md. 305, 307 (1910).

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* Of the Baltimore City Bar; Assistant Director of Research, Maryland Legislative Council. A.B., University of Maryland, 1930; Ph.D., The Johns Hopkins University, 1938; LL.B., University of Maryland, 1947.
and with appropriate judicial restraint, the Court has made brief comment on the weakness of an argument in this respect.\textsuperscript{3}

Oddly enough, the last clause in the requirement quoted above ("nor shall any law be construed by reason of its title to grant powers or confer rights which are not expressly contained in the body of the Act") seems never to have been ruled upon or considered by the Court of Appeals. All the cases concern the first and main clauses, that "every law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title."

I. DEVELOPMENT OF CONSTITUTIONAL PROVISIONS

The first constitutional requirement in Maryland as to titles of acts was in Section 17 of Article 3 of the Constitution of 1851. The subject was not mentioned in the Constitution of 1776, nor in any of the many amendments to that document. Also, there was nothing about titles in the first draft of what was to become Section 17 of Article 3 of the Constitution of 1851, when it was presented by the Committee on the Legislative Department to the Constitutional Convention of 1850-1851.

The subject of titles first was raised on the motion of Mr. Samuel Sprigg, a member of the Convention from Prince George's County. Several different wordings subsequently were proposed,\textsuperscript{4} ending with this provision in the Constitution of 1851:

\textsuperscript{3} "The fourth ground of error is so vaguely stated that we would be justified . . . in holding it too vague for notice . . . ." said the Court in Slymer v. State, 62 Md. 237, 243 (1884). "All this contention about the subject-matter of the act not being described in the title to the act, is a mere afterthought . . . ." it was said in Hamilton v. Carroll, 82 Md. 326, 336 (1896). In Clark v. Tower, 104 Md. 175, 177 (1906), Judge Boyd's opinion confessed the "inability" of the Court to understand the objection to the title involved. "There ought not to be any serious contention that its title was insufficient . . . ." said the Court in Thrift v. Laird, 125 Md. 55, 69 (1915). "The contention that the statute is invalid because its title does not conform to but offends section 29 of Article 3 . . . is clearly without merit and cannot be sustained," Judge Briscoe wrote in Key v. Key, 134 Md. 418, 421 (1919).

“Every law enacted by the legislature shall embrace but one subject, and that shall be described in the title.”

At the Constitutional Convention of 1864, the Committee on the Legislative Department included the same provision in its first report, except for changing the word “legislature” to “General Assembly.” It was placed as recommended into the Constitution of 1864.

The Committee on the Legislative Department at the Constitutional Convention of 1867 also continued this provision in its report, making one minor change in changing “the title” to “its title.” Subsequently, when the matter came upon the floor of the Convention, Mr. Outerbridge Horsey, a member from Frederick County, suggested as an amendment that there be added to the section the words “nor shall any law be construed by reason of its title to grant powers or confer rights which are not expressly contained in the body of the Act.” The entire text of the matter relating to titles in the present constitution, therefore, is as follows:

“Every law enacted by the General Assembly shall embrace but one subject, and that shall be described in its title; . . . nor shall any law be construed by reason of its title to grant powers or confer rights which are not expressly contained in the body of the Act.”

The entire latter clause, as has been said, seems never to have been referred to by the Court of Appeals, so that it will not be mentioned further. What is left, then, is the dual requirement, (1) that each act have but one subject and (2) that the subject be described in the title.

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5 Md. Const. of 1851, Art. 3, Sec. 17.
6 Debates of the Constitutional Convention of 1864, p. 474.
7 Md. Const. of 1864, Art. 3, Sec. 28.
8 Proceedings of the Constitutional Convention of 1867, pp. 107, 343. There seems to be nothing reported as to debate on the merits of the title provisions, in Perlman’s Debates on the Maryland Constitutional Convention of 1867.
9 Md. Const. of 1867, Art. 3, Sec. 29.
II. THE ORIGINAL NEED FOR IMPROVING TITLES

The recorded debates and proceedings of the several constitutional conventions are not sufficiently complete to give what was said, if anything, as to the need for improving the quality of titles of legislative acts. However, the background conditions have been vividly sketched in a number of subsequent cases involving titles, so that the reasons for adding these title requirements to the Constitution are easily apparent.

The classic statement is in Davis v. State, made just three years after the title provision was first inserted into the Constitution of 1851:

The object of this constitutional provision is obvious and highly commendable. A practice had crept into our system of legislation, of engrafting, upon subjects of great public benefit and importance, for local or selfish purposes, foreign and often pernicious matters, and rather than endanger the main subject, or for the purpose of securing new strength for it, members were often induced to sanction and actually vote for such provisions, which if they were offered as independent subjects, would never have received their support. In this way the people of our State, have been frequently inflicted with evil and injurious legislation. Besides, foreign matter has often been stealthily incorporated into a law, during the haste and confusion always incident upon the close of the sessions of all legislative bodies, and it has not infrequently happened, that in this way the statute books have shown the existence of enactments, that few of the members of the legislature knew anything of before. To remedy such and similar evils, was this provision inserted into the Constitution, and we think wisely inserted.10

Essentially the same was said in another early case, Parkinson v. State, in 1859:

"It cannot be doubted, that this restriction upon the Legislature, was designed to prevent an evil, which had long prevailed in this State, as it had done elsewhere; which was the practice of blending, in the

10 Davis v. State, 7 Md. 151, 160 (1854).
same law, subjects not connected with each other, and often entirely different. This was not unfrequently resorted to for the purpose of obtaining votes, in support of a measure, which could not have been carried without such a device. And in bills of a multifarious character, not inappropriately called omnibus bills, provisions were sometimes smuggled in and passed, in the hurry of business, toward the close of a session, which, if they had been presented singly would have been rejected.”

Later, in a case decided in 1884, the Court’s opinion said that

“Publicity, and a knowledge of the true effect and operation of every bill brought before the Legislature, are the great safeguards against ill-considered and improper legislation. . . . Bills are sometimes read, especially the first time, by their titles only, and the titles only are spread upon the journal. It is, therefore, important that the title of a bill should never be misleading.”

Chief Judge Alvey summed it up neatly in State v. Norris:

“The objects designed to be attained by the constitutional provision are two-fold: The first is to prevent the combination in one act of several distinct and incongruous subjects; and the second is, that the Legislature and the people of the State may be fairly advised of the real nature of pending legislation.”

Very recently, Judge Delaplaine paraphrased the substance of what was quoted above from the Davis case, and cited that case, in applying the provisions of Section 29 of Article 3 of the Constitution.

III. THE DOCTRINE OF LIBERAL CONSTRUCTION

The Court of Appeals has repeated in a number of cases that titles to legislative acts will be declared invalid

13 State v. Norris, 70 Md. 91, 95 (1889).
only when clearly outside the requirements of the Constitution. This is, of course, simply a particular adaptation of the general rule that acts of a legislative body are presumed to be valid.

One of the most striking cases to state this rule was County Commissions v. Meekins.15 It involved a title which Judges Bowie and Alvey in their dissent said was "remarkable," and an utter nullity, because of embracing a variety of subjects and of their not being described therein. The majority, however, held that the act embraced but one subject, and that this subject was properly described in the title, and made this statement in their opinion:

"While it is the duty of the courts to so construe the constitutional provision as to remedy the evils which were intended to be prevented, reason and sound policy demand that when the Legislature has enacted a system, forming but one subject, for the good and effectual government of a county, we should not, by technical interpretation, defeat such legislation by holding that it embraced more than one subject."16

Judge Alvey indicated more than once that he thought the Court of Appeals was being too liberal in construing titles. On one occasion he wrote the opinion concerning the title of Chapter 362 of the Acts of 1888, which was "An Act to add a new section to Article 30 of the Code of Public General Laws, title 'Crimes and Punishments,' sub-title 'Rivers,' to come in after section one hundred and seventy one.” "It certainly requires a very liberal construction of the constitutional provision to maintain the sufficiency of this title . . .," he wrote. "But we regret to say, that, in practice, a strict observance of the terms of the Constitution has not always marked our legislation in this respect. Many acts are passed, and often of great importance, the titles of which are exceedingly deficient in definite and clear description of the subject-matter of

15 50 Md. 28 (1878).
16 Ibid, 42.
the act. But this Court has ever been reluctant to defeat
the will of the Legislature by declaring such legislation
void, if by any construction it could possibly be main-
tained."\textsuperscript{17}

Chief Judge McSherry said in 1906 that:

"This Court has never leaned towards a narrow
interpretation of sec. 29, Art. 3 of the Constitution
and we are unwilling now after the lapse of half a
century since the decision of Davis \textit{v. The State}, to
bring, by a strained construction, under the penalty
of its prohibition, statutes which are not within the
obvious evils and mischiefs, that its adoption as a
part of the organic law was designed to obviate."\textsuperscript{18}

As evidence of its liberal interpretation of the title
clause, the Court in upholding the validity of a title in
\textit{Crouse v. State} observed that "the language used is
susceptible of a meaning that brings the title into harmony
with the constitutional provision."\textsuperscript{19}

Similarly, in a recent case, the statement was, that
"for testing conformity of a title to this constitutional
requirement, there is enjoined upon the courts a disposi-
tion to uphold rather than to defeat the enactment."\textsuperscript{20}
In \textit{Hitchins v. Cumberland} it was added that the Court
has been reluctant to give the title provisions a construc-
tion which would defeat the legislative will, "unless the
Act is in clear violation of some constitutional provision."\textsuperscript{21}

Courts "must search out and follow the true intent of
the lawgiver," it was said in \textit{Parkinson v. State},\textsuperscript{22} quoting
Chancellor Kent.

There was a notable example of liberal construction,
and of searching out "the true intent of the lawgiver," in
\textit{McLaughlin v. Warfield}, in 1941. Ch. 408 of the Acts of

\textsuperscript{17} State \textit{v. Norris}, 70 Md. 91, 96 (1889).
\textsuperscript{18} Baltimore City \textit{v. Flack}, 104 Md. 107, 118 (1906).
\textsuperscript{20} Board of Education \textit{v. Wheat}, 174 Md. 314, 318 (1938). See also Bal-
\textsuperscript{21} Hitchens \textit{v. Cumberland}, 177 Md. 72, 79 (1939). See also McLaughlin
\textit{v. Warfield}, 180 Md. 75, 78 (1941).
\textsuperscript{22} Supra, n. 11, 195.
1941 added Section 99A to Article 39 in the Code, to follow Section 99. According to the section numbers in the 1939 Code, however, the new section should have been 111A, to follow 111, and Section 99 in that Code was on a subject entirely different from that of the Act of 1941. The Court held the title to be valid, noting as part of its explanation that:

"The new 1939 Code was not available until late in 1940, and the first copies went to the courts. It was not available to the profession until the Spring of 1941. . . . Without the new Code, the draftsman of the Act could not well avoid the mistake which is responsible for any confusion in the Section, and sub-title, of this Act."23

The Court here was not only searching for legislative intent, but was reconstructing a practical difficulty which may have faced the draftsman of the act. However, the fact that both the title and the enacting clause of Ch. 408 of the Acts of 1941 refer to the 1939 Code, rather than to the 1935 Supplement or to the 1924 Code, throws some doubt upon the Court's hypothesis.

IV. GENERAL STATEMENTS OF PRINCIPLE

The constitutional requirement as to titles, as has been said, is two-fold: first, that every law shall embrace but one subject, and secondly, that this subject shall be described in the title. The Court of Appeals frequently has made a general statement of the principles to be followed in applying these provisions.

Thus, in Baltimore City v. Reitz, the Court's opinion said that:

"If several sections of the law refer to and are germane to the same subject matter, which is described in its title, it is considered as embracing but a single subject, and as satisfying the requirements of the Constitution in this respect. While the title must indicate the subject of the Act, it need not give an abstract of its contents, nor need it mention the

23 McLaughlin v. Warfield, 180 Md. 75, 79 (1941).
means and method by which the general purpose is to be accomplished. If foreign and irrelevant, or discordant matter is introduced, it will be rejected. . . ."\textsuperscript{24}

This statement has been cited and paraphrased in a number of subsequent opinions.\textsuperscript{25}

*Painter v. Mattfeldt* added this statement of general principles:

"The title, whilst it must indicate the subject, need not give an abstract of the Act; nor need it mention the means and methods by which the general purpose is to be accomplished. . . . But though the title need not contain an abstract of the bill, nor give in detail the provisions of the Act, it must not be misleading by apparently limiting the enactment to a much narrower scope than the body of the Act is made to compass . . .; and it must not be such as to divert attention from the matters contained in the body of the Act."\textsuperscript{26}

Another good general statement is in the recent case of *McLaughlin v. Warfield*:

"This Court has consistently held that the purpose of the constitutional provision here invoked is sufficiently complied with if the title of the proposed legislation fairly advises the General Assembly, and the public, of the real nature, and subject matter, of the legislation sought to be accomplished, and in testing conformity of a title of a statute to constitutional requirements that the subject should be described in the title, the courts are disposed to uphold rather than to defeat the statute, and since every presumption favors the validity of a statute, it cannot be stricken down as void, unless it plainly contravenes a provision of the Constitution; a reasonable doubt in its favor is enough to sustain it."\textsuperscript{27}

\textsuperscript{24} Baltimore City v. Reitz, 50 Md. 574, 579 (1879).

\textsuperscript{25} See Catholic Cathedral v. Manning, 72 Md. 110, 133 (1890); Scharf v. Tasker, 73 Md. 378, 383 (1891); Drennan v. Banks, 80 Md. 310, 316 (1894); Baltimore City v. Black, 104 Md. 107, 116 (1906); Fout v. Frederick County, 105 Md. 545, 564 (1907).

\textsuperscript{26} Painter v. Mattfeldt, 119 Md. 466, 474 (1913). See also Culp v. Chester-town, 154 Md. 620, 625 (1928).

\textsuperscript{27} McLaughlin v. Warfield, 180 Md. 75, 78 (1941).
The doctrine of liberal construction and of the presumption of validity also is included here, for though it has been discussed separately it really is part of the general principles of applying the constitutional requirements as to titles.

A favorite test applied in the later cases has been to inquire whether the title put anyone who should read it "on notice" as to the contents of the bill. In the discussion of the title involved in Thrift v. Laird, in 1915, it was said that "every person was chargeable with the notice conveyed by the title."28 Dinneen v. Rider, in 1927, uses the expression that the title in question "put every legislator and the public affected on notice . . ."29 Even more recently, the Court has said that "the true test, in each case, is whether the new law is sufficiently explicit to put interested parties on notice that the thing intended to be done by the legislature is, in fact, accomplished."30

Another statement of this idea is in Quenstedt v. Wilson, decided in 1937, in which the Court said that:

"When the Legislature undertakes to make any material change in any existing law, local or general, there should be some reference to the act to be amended or repealed, under section 29 of Article 3 of the Constitution, so that the public may be on notice of the contemplated alteration or repeal of existing laws."31

Again in Kimble v. Bender, in 1938, the Court held that "the title is sufficient to put anyone interested on notice of the subject-matter of the contemplated legislation."32

In stressing another principle in the art of drafting titles, the Court at least twice has suggested that they should not be too long. In Annapolis v. State it was said that "we should not by a technical interpretation embarrass legislation and encumber laws with long and prolix titles."33 Later, in Benesch v. State, Chief Judge Boyd wrote:

28 Thrift v. Laird, 125 Md. 55, 69 (1915).
29 Dinneen v. Rider, 152 Md. 343, 358 (1927).
31 Quenstedt v. Wilson, 173 Md. 11, 22 (1937).
32 Kimble v. Bender, 173 Md. 608, 613 (1938).
33 Annapolis v. State, 30 Md. 112, 119 (1869).
“In legislating on such a subject it would be practically impossible to specifically refer in the title to everything that was deemed proper to be embodied in the act, without making the title so long that its length might have the effect of causing those interested to overlook the very thing they were most interested in. It was not the design of the framers of the Constitution to require a bill of particulars to be set out in the title.”

Chief Judge Sloan summed it up in a sentence when he wrote that the title must show the purpose and object of the act, so that “he who runs may read.”

General statements of principle like those above, and variations of them, have been repeated in literally dozens of cases in the Maryland Reports. The principles of construing titles, therefore, are well settled; it is only in applying the principles to particular facts that close questions arise.

V. FORMS OF TITLES

There are three generally used styles for drafting titles; and so far as form is concerned, any one of the three is valid.

First, the title may contain a general description of what the Act does, without any reference either to article and section numbers in the Code or to prior acts on the same subject. Secondly, it may contain such references to article and section numbers, or to a prior act, together with the title of the article in the Code, without any general descriptive words. Finally, it may be a combination of these two, the typical example of which would be a title which announces that it amends certain sections of a particular article, followed by a short description of what is to be accomplished. The examples given below have all been considered by the Court of Appeals.

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A. Titles giving a general description only

The first style of title describes in general words what the act is to do, without including any references to the article and section numbers by which the act may be identified in the Code. A number of such titles are illustrated below:

"An Act to regulate inspections in the City of Baltimore."36
"An Act to raise additional revenue to pay the debts of the State by increasing the rates of license to ordinary keepers and traders."37
"An Act to amend and alter the charter of the City of Annapolis."38
"An Act to provide for a general valuation and assessment of property in this State."39
"An Act prohibiting the sale of spirituous or fermented liquors in the several counties of the State, on the day of elections."40
"An Act to incorporate the Town of Laurel in Prince George's County."41
"An Act to establish and endow an agriculture college in the State of Maryland."42
"An Act to inflict corporal punishment upon persons found guilty of wife-beating."43
"An Act to enable the qualified voters of Harford County to determine by ballot whether intoxicating liquors, or alcoholic bitters shall be sold therein."44
"An Act to provide for the payment of the wages and salaries due employees of insolvent employers."45
"An Act to change the name of the Fidelity Loan and Trust Company of Baltimore City, to the Fidelity

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36 Ch. 200 of the Acts of 1854; Davis v. State, 7 Md. 151, 159 (1854).
38 Ch. 240 of the Acts of 1867; Annapolis v. State, 30 Md. 112, 118 (1869).
39 Ch. 157 of the Acts of 1866; Washington County v. Franklin Railroad Company, 34 Md. 150, 163 (1871).
40 Ch. 191 of the Acts of 1865; Cearfoss v. State, 42 Md. 403, 405 (1875).
41 Ch. 280 of the Acts of 1870; Prince George's County v. Laurel, 51 Md. 457, 460 (1879).
42 Ch. 97 of the Acts of 1856; Maryland Agricultural College v. Keating, 55 Md. 559, 584 (1882).
43 Ch. 120 of the Acts of 1882; Foote v. State, 59 Md. 264, 270 (1883).
and Deposit Company of Maryland, and to amend and define the powers of said company."^46

"An Act to provide for the treatment and cure of habitual drunkards."^47

This type of title is not now used as frequently as formerly, but there still are important bills having such a title. The Budget Bill, the omnibus bequest bills, many bond issue bills, and other special types of legislation have as their title simply a general description of their purpose.

B. Titles giving only a Code reference

A second style of titles shows how the bill is to fit into the Code, such as by naming the article and sub-title, or by referring to a prior act of the Legislature, but except in this indirect fashion gives no clue to its subject.

Examples of this form of title follow:

"An Act to amend Art. 95, of the Code of Public General Laws by adding an additional section thereto."^48

"An Act to add an additional Article to the Code of Public Local Laws, to be entitled Garrett County."^49

"An Act to add a new section to Article 30 of the Code of Public General Laws, Title 'Crimes and Punishments,' sub-title 'Rivers,' to come in after section one hundred and seventy-one."^50

"An Act to repeal Art. 72 of the Code, title 'Oysters,' and to reenact the same with amendments."^51

"An Act to repeal sec. 183, Article 81, Code of Public General Laws of Maryland, title, Revenue and Taxes, sub-title, Tax on Mortgages, and to reenact the same with amendments."^52

^46 Ch. 263 of the Acts of 1890; Gans v. Carter, 77 Md. 1, 10 (1893).
^47 Ch. 247 of the Acts of 1894; Baltimore City v. Keeley Institute, 81 Md. 106, 117 (1895).
^48 Ch. 358 of the Acts of 1876; Second German American Building Asso. v. Newman, 50 Md. 82, 87 (1878).
^49 Ch. 108 of the Acts of 1878; State v. Fox, 51 Md. 412, 415 (1879).
^50 Ch. 362 of the Acts of 1888; State v. Norris, 70 Md. 91, 95 (1889).
^51 Ch. 380 of the Acts of 1894; State v. Applegarth, 81 Md. 293, 303 (1895).
^52 Ch. 794 of the Acts of 1906; Miller v. Wicomico County, 107 Md. 438, 444 (1908).
"An Act to repeal section 205 of Article 93 of the Code of Public General Laws (as said section stands in the Code of 1904), title 'Testamentary Law,' sub-title 'Inventory and List of Debts,' so far as said section applies to the City of Baltimore; and a new section to Article 4 of the Code of Public Local Laws, title 'City of Baltimore,' sub-title 'Register of Wills,' to follow sections 354 and to be designated as section 354A."

The use of this form of title is perhaps the most definite way of all to avoid question as to its validity, for if its numbers and Code references are correct it cannot be misleading. However, while it may show the general subject it does not explain the precise purpose of the bill, so that it has a practical disadvantage for persons who want a quick explanation of the bill from its title.

C. Combination titles

The third general style of titles is that which combines the first two. It gives the appropriate references to the Code, and then adds a general description to show what the bill is designed to accomplish. Examples of this form are as follows:

"To repeal ch. 193 of the Act of 1872, and reenact the same with amendments, so that oysters sold in the shell at Baltimore, Crisfield, and at all packing establishments, shall be measured in an iron measure."

"An Act to repeal sections 119, 122, and 123 of Art. 8 of the Code of Public Local Laws, title 'Cecil County,' sub-title 'County Treasurer,' and to reenact the same with amendments, providing for the election of a treasurer of said county in 1895, and his appointment in the meantime."

Most of the acts now passed by the General Assembly have titles more or less similar to the latter one above; the work of the Department of Legislative Reference dur-
ing the past thirty years has done much to standardize procedure in this respect.

A minor variation from this sort of title was found in Ch. 124 of the Acts of the First Special Session of 1936:

"An Act to repeal and reenact, with amendments, Sections 104-A, 105, 105-A, 106, 108, 115, 116, 118, 119, 120, 124, 126 and 127 of Article 81 of the Annotated Code of Maryland, 1935 Supplement, title 'Revenue and Taxes,' sub-title 'Inheritance Tax,' and to add a new section to be known as Section 132-A, and to follow immediately after Section 132, said new section providing for reciprocity with other states in respect to the collection of the inheritance tax and similar taxes upon the estates of non-resident decedents."

Here the descriptive matter at the end referred only to part of what preceded it, but since that first part would have been complete without the latter, there was no question as to the validity of the whole.

There is no compelling reason why the two parts of such titles should be in the order illustrated above, with Code references first and general description following. However, there seems to have been only one case involving such a title in which that order was not followed, where the two parts of the title were arranged in what now might be called an "inverted" order:

"An Act regulating the loan of money, when, as security for such loan, a lien is taken upon household furniture and effects, musical instruments, typewriters and sewing machines, in use or located in any dwelling house, by repealing and reenacting with amendments section 7 of Article 49 of the Code of Public General Laws, title 'Interest and Usury,' as the same was re-enacted by Chapter 404 of the Acts of the General Assembly of Maryland, passed at its January Session in the year 1900."

In *Drennen v. Banks* there was a title with two parts, giving first the Code references and secondly the general description of what the act was to accomplish. Notwith-
standing that either of these two parts would of itself have been a sufficient title, it was argued that the combination of the two parts resulted in one being qualified by the other, producing a restricted title not broad enough to cover many of the provisions in the bill. The Court did not accept this contention, Judge McSherry writing of it as follows:

"Two universal propositions, and it is immaterial whether their universality be metaphysical, physical or moral, whose subjects are taken according to their entire extension, because the propositions are universal, can never be equivalent to a particular proposition. If one be contrary of the other they may be mutually nullified; but they cannot by being used together, result in a particular proposition. So likewise, the two general titles of the Act continue to be general though used together, and do not become more restrictive than either would singly be." 

This seems to have been the only contention that Code references and general descriptive matter are logically restrictive or incompatible.

VI. "One Subject"

Before testing whether the subject-matter of an act was properly described in the title, the Court of Appeals frequently has considered the subject itself, under the Constitutional requirement that every law "shall embrace but one subject." In only a few instances has an act been declared invalid because of embracing more than one subject.

The first ruling as to subject was in the well known Davis case, it being that the Constitution does not require a law to "embrace and dispose of the whole subject to which it relates. . . . Few laws, if any, could stand such a test." 

The basic liberal interpretation of the subject clause was in the Parkinson case, in 1859. The title in question

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66 Drennan v. Banks, 80 Md. 310, 318 (1894).
68 Davis v. State, 7 Md. 151, 160 (1854).
was "An Act to prohibit the sale of intoxicating liquors in the City of Annapolis, or within five miles thereof, to minors and people of color." The body of the act prohibited the giving as well as the sale of liquors, and it was contended that since "give" and "sell" are not the same, the act embraced more than one subject. The Court held, however, that the evident intention of the Legislature was to prohibit certain classes of persons from obtaining intoxicating liquor, and that this was the one subject of the act. The Court reviewed how bills of a "multifarious" character frequently were passed by the Legislature, before the title provisions were placed in the Constitution, and continued:

"Whilst it is certainly proper that this provision should be so construed as to prevent a repetition of the evils which it was designed to prohibit, it is no less proper to avoid the opposite extreme, the necessary effect of which would be, in many instances, greatly to embarrass the Legislature in the discharge of their duties, and would also be calculated to produce much controversy in regard to the validity of many laws."

And, said the Court, in a single sentence which has interesting possibilities for application,

"What is the subject of a penal law may generally be perceived, by ascertaining what mischief or evil the law was designed to remedy or to prevent." ⁶⁰

In Annapolis v. State the title was "An Act to amend and alter the charter of the City of Annapolis." A part of the act which ratified acts done and ordinances already passed concerning the closing of a street was declared not to be foreign to the subject-matter as declared by the title, particularly as the act concerned among other things the future power to discontinue streets. ⁶¹

A similar decision as to a county charter was given in State v. Fox. The title of the act in question was "An Act to add an additional Article to the Code of Public Local

⁶⁰ Ch. 55 of the Acts of 1858; Parkinson v. State, 14 Md. 184, 194 (1859).
Laws to be entitled Garrett County.” It was evident, said the Court, that the purpose of the Legislature was to frame an entire system of local laws for Garrett County, which had just been formed, and that this was the one subject with which the law dealt.\(^{62}\)

“To render a law obnoxious to the clause of Art. 3, sec. 29 of the Constitution,” said the Court in 1878, “there must be engrafted upon a law of a general nature, some subject of a private or local character, or two or more discordant or dissimilar subjects must be legislated upon in the same law.”\(^{63}\) Another statement of general principle was made about the same time in *Baltimore City v. Reitz*: “If several sections of the law refer to and are germane to the same subject-matter, which is described in the title, it is considered as embracing but a single subject, and as satisfying the requirements of the Constitution in this respect.” To the argument in that case that one section was discordant and dissimilar to another, it was added: “Had it been enacted as a separate law, its validity could not be denied. If the two sections are not so discordant, that they would be effective and valid as separate laws, why cannot they both be embraced in the same Act—especially as they both refer to the same general subject of public squares or parks” Also, it was said, a new policy of the law does not introduce a new subject.\(^{64}\)

Acting on these broad principles, the Court of Appeals has approved a wide variety of titles.

An interesting example of how “one thing leads to another” and how a number of phases of the same subject may be included in the same act was shown in *Catholic Cathedral v. Manning*. It involved an act designed to give Baltimore City power to open streets through a cemetery. It therefore repealed prior acts forbidding that to be done. Then, it necessarily made provisions for the removal of the remains interred where the streets would be located. And, since the location of streets might make other parts

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\(^{62}\) *State v. Fox*, 51 Md. 412, 415 (1879).

\(^{63}\) *County Commissioners v. Meekins*, 50 Md. 28, 41 (1878).

\(^{64}\) *Baltimore City v. Reitz*, 50 Md. 574 (1879).
of the property unsuited for cemetery purposes, there was provision for removing the remains from these other sections which would not actually be used for streets. Finally, since the City would not want this extra land, it was given the power to convey it. All this, said the Court, was germane to the subject, which is not to be confused with the mere details of interdependent acts prescribed by the statute and authorized to be done in carrying into effect the subject-matter itself.\(^6\)

The law at issue in *Price v. Liquor License Commissioners* showed similarly the flexibility of the concept of "subject." The title was "An Act to enable the registered, qualified voters of Cecil County to determine by ballot whether spirituous or fermented liquors shall be sold in said county." The act provided alternative sets of sections to be in effect, depending upon the outcome of the referendum. Some of these sections provided for a Board of Liquor License Commissioners, empowered to issue licenses to qualified applicants if the referendum decided in favor of the sale of liquors. This was all held to be within the same subject-matter.\(^6\)

Again in *Queen Anne's County v. Talbot County* the word "subject" was liberally construed. The title in question was "An Act to limit and control the expenditure of money upon public highways by the County Commissioners of Talbot County." In the body of the act the Commissioners were prohibited from levying taxes to construct or maintain any bridge not wholly or partly within the county. The Court held that this act embraced only one subject.\(^7\)

In a very recent case there was involved an act which repealed a local law relating to Montgomery County and enacted a new section to be added to Article 57 of the Annotated Code. The new section applied to three counties, including Montgomery, and was similar to the local law

\(^6\) Catholic Cathedral v. Manning, 72 Md. 116, 133 (1890).

\(^6\) Ch. 532 of the Acts of 1888; Price v. Liquor License Commissioners, 98 Md. 346, 352 (1904).

\(^7\) Ch. 300 of the Acts of 1902; Queen Anne's County v. Talbot County, 99 Md. 13, 20 (1904).
which was repealed. The Court of Appeals held that the local law and the general law were germane and were properly included within the same act.\textsuperscript{68}

In a score or more other cases it has been contended that some act combined two subjects, but the Court has ruled otherwise. Usually there has been only a brief statement of the general principle, with little or no discussion of the particular facts involved.

In a few instances acts have been declared invalid because of embracing more than one subject, and in others it has been indicated that some particular set of facts, if it existed, would have rendered an act invalid.

In \textit{Ellicott Machine Co. v. Speed} there was involved a title reading "An Act to provide for the payment of the wages and salaries due employees of insolvent employers." In the body of the act, it was provided that any wages or salaries due from any person or body corporate should be a preferred claim if the person or body corporate should make an assignment for the benefit of creditors or should be adjudicated as an insolvent. The trial court had held on these facts that the act had subjected corporations to the insolvent laws, although theretofore it had been clear that the insolvent laws referred only to natural persons. This holding was overruled, the Court of Appeals saying that if the Legislature had intended to subject corporations to the insolvent laws, in addition to providing for the payment of wages and salaries as a preferred claim, the act then would have embraced more than one subject and would have been in conflict with the Constitution.\textsuperscript{69}

The first act to be declared unconstitutional for embracing more than one subject was Ch. 513 of 1890, the case being \textit{Scharf v. Tasker}. The title was "An Act to provide for the assessment of the unclaimed military lots and tracts of land in Allegany and Garrett counties, and for the collection of State and county taxes thereon by

\textsuperscript{68}Ch. 809 of the Acts of 1943; \textit{supra}, n. 14, 598.

\textsuperscript{69}Ch. 383 of the Acts of 1888; \textit{Ellicott Machine Co. v. Speed}, 72 Md. 22, 25 (1889).
selling the delinquent lands and turning the proceeds into the State treasury." In one section of the act it was provided that in order to enable the county authorities to trace and define the titles to these untaxed lands in time for the assessment, they might have free access to the records in the Land Office; and there was the further provision that the fees charged to Garrett County for certain searches previously made in the Land Office should be remitted.

The Court pointed out that the general laws of the State had a schedule of fees which the Land Office was entitled to demand and receive, and that the present act worked at least an implied repealer of this schedule as to these particular searches. Accordingly, it said, this proposed repealer was not germane to the main purpose of the act. Also, the remission of former charges against Garrett County was held to have nothing to do with the object and purpose of the statute. The act of 1890 therefore was ruled unconstitutional and void.\textsuperscript{70}

The case of \textit{Curtis v. Mactier} construed the title of Ch. 382 of 1910, "An Act to incorporate the village of Chevy Chase." One section of the act authorized and directed the County Commissioners of Montgomery County, upon the petition of the residents of a specified part of the village, to impose a special levy thereon for certain public services, the money to be paid over and spent by the Chevy Chase Improvement Association. "It certainly requires no argument," said the Court, "to demonstrate the proposition that the levying and appropriation of taxes by the County Commissioners in the manner indicated is a different subject from the incorporation of a village. The act under consideration manifestly undertakes to legislate upon two wholly distinct subjects.\textsuperscript{71}

In \textit{Berlin v. Shockley}, in 1938, Chief Judge Bond was construing Article 16 of the State Constitution, as to what laws are or are not referable under the referendum provisions. He raised in passing the question whether the

\textsuperscript{70} Ch. 513 of the Acts of 1890; Scharf v. Tasker, 73 Md. 378 (1891).

\textsuperscript{71} Ch. 382 of the Acts of 1910; Curtis v. Mactier, 115 Md. 388, 394 (1911).
association in a single enactment of a referable law with another not referable would be an attempt to embrace more than one subject in a single act.\(^7\)

The requirement in Section 29 of Article 3 of the Constitution that each act embrace but one subject has been liberally construed, it is clear from the cases; and only when an act clearly embraces two or more subjects will it be declared invalid.

VII. "Described in Its Title"

The main question before the courts in construing titles has been to ascertain whether the subject of an act has been accurately and sufficiently described in its title. As has been said, the Court of Appeals has given a liberal interpretation to this constitutional provision, requiring principally that the title not be misleading and that it put interested persons "on notice" as to the contents of the act. Frequently, as part of its liberal interpretation, the Court has said that by the use of leads contained in the title, or by applying a sort of logic to what is there, the true meaning could be discovered by the reader; this could be construed as a tacit admission that some of the titles approved by the Court have on their face not been entirely clear.

In the first case involving a title after the title requirements were written into the Constitution of 1851, the title was "An Act relating to the trial of facts in the several circuit courts of the State." The question was whether the Superior Court of Baltimore City was to be included within the operation of the act. The Court of Appeals held that it should be included, reasoning as follows:

"The Superior Court is certainly one of the courts of one of the judicial circuits of the State: Baltimore City being by the 8th section of the 4th article of the Constitution made the fifth judicial circuit: Therefore, the Superior Court being a court of one of the judicial circuits of the State, may be regarded in the ordinary interpretation of language, as one of the

\(^7\) Berlin v. Shockley, 174 Md. 442, 446 (1938).
circuit courts, within the meaning of the title of the law. The Superior Court would be clearly embraced by the general language employed in the body of the law, and there being no direct repugnancy with the terms of the title, we must regard this court as within the operation of the act. This view seems to accord with good sense and reason.  

One of the landmark cases on titles is *County Commissioners v. Meekins*, decided in 1878. It concerned the title of Ch. 160 of 1878, which was as follows:

> "An Act to repeal sections 87 and 90 of Article 10 of the Code of Public Local Laws, title ‘Dorchester County,’ sub-title ‘County Commissioners,’ enacted by the act passed at January session, 1870, chapter 449, and all other sections or parts of sections of the Code of Public General Laws and Public Local Laws, and all other acts and sections, of the acts of the General Assembly of Maryland, inconsistent with the provisions of this act, and to enact the following in lieu thereof: . . ."

The descriptive clause “to enact the following in lieu thereof” is the most obviously unorthodox and questionable part of this title. In addition, the earlier act of 1870 had not actually enacted any sections numbered 87 and 90. The 1870 act had added two sections to the local laws of Dorchester County, and the only numbers used were as sections 1 and 2 of the bill.

The Court of Appeals split on the sufficiency of this title, with the majority holding it valid. Two main reasons were given by the majority. First, “any member of the Legislature, upon reading the title, would at once be informed that the County Commissioners, their powers and duties formed the subject to be dealt with by the act.” Then, on the point that sections 87 and 90, which were to be repealed, had not been passed as such, the majority said:

> "It is true that the Act of 1870 did not enact its provisions as sections 87 and 90, but it is evident from a reading of the Act and of sections 87 and 90, which

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73 Ch. 325 of the Acts of 1854; Wright v. Hamner, 5 Md. 370, 375 (1854).
were repealed by it, that section two was intended to take the place of section 87 . . . and the first section to take the place of section 90 of the local code . . . This intention was so evident, that in the Code of the laws of that session, prepared by Messrs. Cohen and Rowland, section two of the act has been codified as section 87, and section one as section 90 in the Local Code.”

Judges Bowie and Alvey dissented in the Meekins case, with the latter writing the dissenting opinion. If the constitutional provisions as to titles are to have any force, he said, it is “too plain for argument” that the act of 1878 and its “remarkable” title are a nullity, because of their “utter disregard” of the constitutional requirement. Judge Alvey went on to point out the variety of matters which were covered in the act of 1878. It contained twenty-one sections, providing for re-districting the county, the duties of the Commissioners, the appointment of a County Treasurer by the Governor, the duties of the Treasurer, the appointment by the Treasurer of tax collectors, the collection and reporting of State taxes, and suits on the bonds of defaulting collectors. This title, he concluded, “not only fails to give a description, but leaves the mind wholly uninformed, even beyond the aid of the imagination, as to what subjects are embraced in the newly enacted law.”

A few months later the Court had before it Ch. 314 of 1876, having this title: “An Act to repeal the act passed 1874, chapter 276, relating to Kent Narrows, and all preceding acts relating thereto, and to reenact as follows.” Judge Alvey wrote the opinion, and while he thought it a bad title he accepted the ruling of the Meekins case as controlling.

About the same time the Court decided Second German American Building Association v. Newman, concerning a title which read “An Act to amend Art. 95, of the Code of Public General Laws, by adding an additional section

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74 Ch. 160 of the Acts of 1878; County Commissioners v. Meekins, 50 Md. 28, 43 (1878).
75 Ibid., 46-48.
76 Ch. 314 of the Acts of 1876; Talbot County v. Queen Anne’s County, 50 Md. 245, 255 (1879); see also Baltimore City v. Stoll, 52 Md. 435 (1879).
thereto.” The Court pointed out that Article 95 contained
the laws on usury, and that the new section was on the
same subject. Accordingly, the title was declared valid.
The Meekins case was cited as decisive of the present one.77

In Prince George's County v. Laurel the title “An
Act to incorporate the Town of Laurel in Prince George's
County” was held broad enough to cover provisions in
the act for maintaining streets in the town, with tax
monies collected by the County Commissioners and turned
over to the town.78

There was a holding of some potential importance in
Maryland Agricultural College v. Keating, concerning the
titles of two appropriation acts, each being “An Act mak-
ing appropriations for the support of the State Govern-
ment for the fiscal year ending. . . .” The two acts had
appropriated to the Maryland Agricultural College, respect-
ively, $5,999. and $5.00, though the act which had estab-
lished the college in 1856 had set the annual appropriation
at $6,000. The Court held that the clauses in the two acts
making appropriations to the college were not so foreign
to the subject of the acts, as indicated in their titles, as to
violate the Constitution.79

A highly subtle argument was made against the title
at issue in Hamilton v. Carroll. The title was

“An Act to provide for the removal of the county
seat of Charles County from Port Tobacco to La Plata
or Chapel Point, if the legal and qualified voters of
said county shall so determine, and to provide for the
errection of a court house and jail, at such place as
shall be so determined on and the procuring of a site
or sites for the same, and to authorize the County
Commissioners of said county to borrow money and
issue bonds for the payment therefor.”

The act provided for a referendum, the question submitted
being whether the county seat should be located at La

77 Ch. 358 of the Acts of 1876; Second German American Building Asso.
78 Ch. 260 of the Acts of 1870; Prince George's County v. Laurel, 51 Md.
457, 460 (1879).
79 Chs. 431 and 432 of the Acts of 1880; Maryland Agricultural College
v. Keating, 58 Md. 580, 584 (1882).
Plata or Chapel Point. The argument advanced was that while the title indicated the voters would have a chance to vote on the question of removing the county seat from Port Tobacco, the actual question submitted by the act was only on the location of the new county seat, as between La Plata or Chapel Point.

The Court termed this argument "a refined and subtle distinction" not within the spirit of the constitutional provision on titles, yet the opinion devoted more than two pages to refutation. There can be but one county seat, it was reasoned, and a vote to place the county seat at either La Plata or Chapel Point necessarily was also a vote to remove it from Port Tobacco. Also, the destruction by fire of the court house at Port Tobacco made that place seem no longer desirable as a county seat, and the only question was whether it should thereafter be located at La Plata or Chapel Point. "It was so dealt with by the Legislature," said the Court, "and so understood by the people of the county." The title therefore was held to be valid.\(^\text{a}\)

Another close argument was made on the title of Ch. 381 of 1898, being "An Act to provide for the establishment of an electric light plant in Hagerstown, Maryland." The contention against the title was that there was nothing in it to show that the electric light plant was to be established by the municipality itself. The title was held to be valid. The worst that can be said about the act, said the Court, is that the title does not specify by whom the plant is to be constructed; and while it does not indicate that it was to be a municipal plant, there also is nothing in the title to lead anyone to believe that it was to be established by some private corporation. And, it was further reasoned, the incorporation of electric light companies was covered by a general law, so that the Legislature could not in any event have been passing a special act for such an incorporation. Therefore, "would anyone with the knowledge of the existing law (and the members of the Legislature and others are presumed to have knowledge of it) be

\(^a\) Ch. 546 of the Acts of 1894; Hamilton v. Carroll, 82 Md. 326, 334 (1896).
misled into the belief by the wording of that title that it was not the municipality that the authority was to be given to?"\textsuperscript{81} There was similar reasoning in \textit{Barron v. Smith}. The title being construed was:

"An Act to repeal section 205 of Article 93 of the Code of Public General Laws (as said section stands in the Code of 1904), title 'Testamentary Law,' sub-title 'Inventory and List of Debts,' so far as said section applies to the City of Baltimore; and a new section to Article 4, of the Code of Public Laws, title 'City of Baltimore,' sub-title 'Register of Wills,' to follow section 354 and to be designated as section 354A."

The act provided for the appointment of appraisers for the estates of decedents. The Court held the title to be valid, saying that the portion of it which referred to the repeal of a public general law "can be taken to aid in throwing light upon the subject to be dealt with in the new section to be added in the local code for Baltimore City.\textsuperscript{82}

In \textit{Mt. Vernon Co. v. Frankfort Co.} there was involved an act from which a number of counties were exempt, though from the title it appeared to be a State-wide law. The title was:

"An Act to repeal and reenact Section 4 of Article 100 of the Code of Public General Laws, as enacted by Chapter 317, Acts of 1894, title 'Work—Hours of, in Factories,' regulating the employment of children."

In the body of the act there was a list of counties to which it was not to apply, and it was contended that the title was misleading in that it said nothing about these exceptions from the act. However, the Court held the title to be valid, pointing out that much legislation was enacted

\textsuperscript{81}Ch. 75 of the Acts of 1900; Mealey v. Hagerstown, 92 Md. 741, 743 (1901).

\textsuperscript{82}Ch. 118 of the Acts of 1908; Barron v. Smith, 108 Md. 317, 327 (1908). The words "to add" were omitted from the last part of this title.
in this State with one or more counties excepted, and
that there had never been any serious question of its
constitutionality. 83

The title of Chapter 635 of the Acts of 1908 was to
amend one section of Article 77, on the subject of public
education, and to add six new sections to that Article,
"designed to provide a commercial course in certain
approved high schools." One of these new sections pro-
vided for increased salaries for public school teachers,
according to their period of service. Judge Urner, in
writing the opinion, conceded that the question of the
validity of the title "is not at all free from difficulty,"
but the title was declared valid. He pointed out that
while everything in the act, including the pay raise,
was included in the general subject of public education,
the descriptive matter in the last clause of the title tended
to restrict the purpose of the statute to a more narrow
phase of this subject-matter. However, this was held
not to be such a flagrant disregard of the Constitution
as would warrant declaring the title invalid. 84

Another possibly misleading title was at issue in
increased the fees for liquor licenses. The title had a
clause at the end providing "for the payment of the
increases provided for to the Treasurer of the State, for
the general purposes of the State." This part of the
title, it was contended, gave the impression that the
State was to get all the increase; the act, on the other
hand, provided that the increase was to be distributed
in the same manner as the former license fees, meaning
that part was to be paid to the localities, so that the
State could not get the full amount of the increase. The
Court held the title to be valid, citing the case of
Worcester County v. School Commissioners for the
proposition that there was here not such a flagrant dis-

83 Ch. 566 of the Acts of 1902; Mt. Vernon Co. v. Frankfort Co., 111 Md.
561, 568 (1909).

84 Ch. 635 of the Acts of 1908; Worcester Co. v. School Commissioners,
113 Md. 305, 308 (1910).
regard of constitutional principles as to require invalidating the title.85

Similarly, in Crouse v. State, there was concerned the title to Chapter 340 of the Acts of 1916, "providing for the creation by popular vote of anti-saloon territory within Carroll County." It was contended that this language in the title described an act to create anti-saloon territory in the various sub-divisions of the county, while the act itself submitted the question "shall this county become anti-saloon territory?" The Court held the title to be valid, being "susceptible of a meaning that brings the title into harmony with the constitutional provision."86

There is a good example in State v. Case of the Court bringing in facts outside the title, and its own logic, in validating a title. Chapter 704 of the Acts of 1916 had provided in its title, among other things, for the licensing of construction firms or companies. In the body of the act the licensing requirement was as to "any person, firm or corporation." The question was whether the title covered the licensing of a "person." The title was held valid, the Court saying:

"We are of the opinion that the question is settled by Section 7 of Article 1 of the Code, being one of the rules of interpretation. It is as follows: 'The singular always includes the plural, and vice versa, except when such construction would be unreasonable.' The word 'firms' as used in the title is the plural of 'person' and, under the rule, includes it, if to so construe it is not unreasonable. That it is not unreasonable is apparent from the scope of the whole act. In fact, it would be unreasonable to suppose that the Legislature, in providing for an increase in the revenue of the State, through additional license fees, would have intended to tax firms and corporations for the privilege of constructing buildings and at the same time allow individuals to exercise the same right free of cost."87

The same title also provided for the licensing of "cash registers and adding machines," while in the body of the act the license requirement was imposed upon persons displaying cash registers and adding machines for sale. The title was declared to be valid also in this respect, on similar reasoning:

"It is true that the expression, 'licensing cash registers and adding machines,' is an awkward and inaccurate one; but when considered in connection with the place where it is found and in relation to the wording of the entire title, and taking into consideration the general knowledge of the uses of such machines, it is difficult to believe that it could have deceived any one. . . . The only possible meaning that 'licensing cash registers and adding machines' could have other than that contained in the body of the act would be licensing the possession or use of them. As such a tax would have been as unreasonable as a license tax on the possession of a piano or cook stove it is not to be supposed that meaning would be attributed to the expression, especially under the sub-title of the Code, 'Traders.'"

In *Dean v. Slacum* this title was upheld:

"An Act to add a new section to article 10 of the Code of Public Laws of Maryland, title 'Dorchester County,' said section to be known as section 185CC, to follow immediately after section 185C of said article, and to be under sub-title 'Fish.'"

The sub-title indicated the general subject of the legislation, the Court said, and the omission of the word "Local" from the reference to the Code could not have caused any doubts that the Code of Public Local Laws was meant, in view of the other descriptive terms employed.

In the State Office Building Bond Bill the title called for issuing bonds in an amount "not exceeding" one million dollars, while in section 2 of the act provision was made for issuing the bonds in series "until the entire amount of one million dollars shall have been issued."

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89 Ch. 495 of the Acts of 1924; Dean v. Slacum, 149 Md. 578, 580 (1926).
The Court held that the act did not require the issue of the full one million dollars in bonds, so that there was no mis-description in the title.\textsuperscript{90}

In a recent case the act incorporating the town of College Park was at issue. The title was as follows:

"An Act to incorporate the town of 'College Park' and the adjacent communities of 'Calvert Hills,' 'Lakeland,' and the adjacent town of 'Berwyn' in Prince George's County, Maryland, as a municipal corporation to be known as 'Town of College Park,' and to define its boundaries."

As originally drafted the act set up and defined four districts. The bill was amended in the Legislature by adding a Fifth District, but no change was made in the title. The Court held the title to be valid, ruling that the Fifth District was included in what was generally known throughout the community as the town of Berwyn, so that the original title was sufficient.\textsuperscript{91}

These cases illustrate the liberal interpretation which the Court of Appeals has brought to the constitutional requirements as to titles, and the Court's willingness on occasion to apply its reasoning to what is there, or to take a sort of judicial notice of other facts, in order to spell out the validity of a title. Using such an approach, the Court has ruled valid most of the titles which have been questioned, but in some twenty instances has held them to be invalid.

\textbf{VIII. \textit{INVALID TITLES}}

The first title to be declared invalid was that of Chapter 403 of the Acts of 1880, reading as follows:

"An Act to repeal an Act passed at the January Session, 1872, ch. 363, entitled 'An Act to. . .'"

Although the title said only that an earlier statute was to be repealed, the act also enacted affirmative legislation.

\textsuperscript{90} Ch. 368 of the Acts of 1937; Bickel v. Nice, 173 Md. 1, 5 (1937).
\textsuperscript{91} Ch. 1051 of the Acts of 1945; Duvall v. Hess, 52 A. (2d) 108 (1947).
The title was held to be misleading, and the act was held unconstitutional and void insofar as it attempted to enact affirmative legislation; however, the repeal of the earlier statute was in strict conformity with the title and therefore valid.\(^2\)

In *Whitman v. State* the title of the act in question indicated that the act was “to regulate” the liquor traffic in the town of Cambridge. The act went on, however, to prohibit entirely sales by pharmacists in an area larger than Cambridge. Because regulation does not mean total abolition, and because of the greater geographical area involved, that section of the act having to do with sales by pharmacists was declared invalid.\(^3\)

Chapter 536 of the Acts of 1890 provided in its title “for the payment by every newly incorporated company of a bonus on its capital stock.” There was the further provision in the body of the act that corporations previously created also should pay a bonus on every increase in capital stock. The Court held that the title was defective and misleading as to this provision for existing corporations, and that the part of the act concerning existing corporations was unconstitutional.\(^4\)

In the title of Chapter 505 of the Acts of 1898 there was provision for “licenses for stevedores.” The part of the act which concerned licenses was declared valid, but further provisions requiring each stevedore to give a bond were held unconstitutional since they were beyond the object of the statute as declared in the title.\(^5\)

A case which frequently is cited in discussions of titles is *Luman v. Hitchens Bros. Co.*, in which this title was at issue:

> “An Act to prohibit railroad and mining corporations, their officers and agents, from selling or bartering goods, wares or merchandise in Allegany County to their employees.”


\(^3\) Ch. 494 of the Acts of 1894; *Whitman v. State*, 80 Md. 410, 418 (1895).

\(^4\) Ch. 536 of the Acts of 1890; *State v. The Schultz Co.*, 83 Md. 58, 62 (1896).

\(^5\) Ch. 505 of the Acts of 1898; *Steenken & Berkmeler v. State*, 88 Md. 708, 711 (1898).
The body of the act contained a section entirely to prohibit any such company from doing a merchandise business in the county, and in addition had another section making it unlawful for any officer of any such corporation to own or have any interest whatever in any store or merchandise business in Allegany County, both without reference to whether sales were made only to the employees of railroad and mining corporations. Chief Judge McSherry, writing the opinion, pointed out that "there are two things prohibited in the body of the act under a title indicating a purpose to do but one thing; and that one thing is a wholly different thing from the two which are prohibited. . . . No one reading a title which was confined to a prohibition against particular persons selling to their employees would ever infer that the thing actually prohibited in the act itself was a sale by those persons to anyone." Accordingly, the act was held to be void. 

In *Kafka v. Wilkinson* there was this title to be construed:

"An Act to repeal secs. 122 and 128 of Art. 23 of the Code of Public General Laws, title 'Corporations,' sub-title 'Insurance,' and to reenact the same with amendments; and to add an additional section to said Article to be known as sec. 122A; and to repeal sec. 143EI of said Article."

In the body of the act secs. 122 and 128 were amended, sec. 122A was added, and then there was a section 122B added. The Court held this last section to be void; not only was it not described in the title, but the title had indicated that only one new section was to be added.

The title of Chapter 212 of the Acts of 1904 was as follows:

"An Act to add an additional section to Article 81 of the Code of Public General Laws of Maryland, title 'Revenue and Taxes,' sub-title 'Payment of Taxes by Corporations,' to follow sec. 81A and to be designated as sec. 81B."

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In the enacting clause, however, the additional section was enacted to follow section 86A and to be known as section 86B. There was at the time no section 81A in the Article, and section 81 concerned a subject not the same as the newly enacted section. This title, it was held:

"does not fairly advise the Legislature and the people of the real nature of the legislation sought to be accomplished by the passage of the act. If the title had stopped with the designation of the Article, title and sub-title to which the additional section was to be added we would have been authorized to hold it sufficient. ... But the title goes further and locates the new section to be enacted as a sub-section of No. 81 to follow 81A, and to be designated as 81B. As there was at the date of the passage of that act no section 81A, in Article 81, and section 81 of that Article related to ... a subject wholly foreign to the purpose of the new section to be enacted that reference in the title tended to create a false impression as to the purpose of the act."

The act was therefore held to be void.98

In State v. Cumberland and Pennsylvania Railroad Co., there was concerned the title of an act to amend the railroad's charter as to its power to connect with the trackage of another company. Section 1 of the act made the change, in conformity with the title, but sections 2 and 3 then went on to provide how the company might lose its charter if it did any of the things prohibited by section 1. These two latter sections, said the Court, would have accomplished a change in the general corporation laws, and since the title had no mention or intimation of such a change the two sections were held to be invalid.99

Following the destruction of two of the State's five tobacco warehouses in the Baltimore Fire of 1904,

98 Ch. 212 of the Acts of 1904; State v. German Savings Bank, 103 Md. 198, 201 (1906).

the Legislature passed Charter 804 of the Acts of 1906, which from its title was to authorize the Board of Public Works to collect insurance upon the two buildings (known as No. 1 and No. 2), to re-build a warehouse on the same site, or to build upon another site to be chosen by it. In the body of the act, however, there was created a State Tobacco Warehouse Building Commission, with power to re-build and enlarge warehouses 3, 4, and 5, and to build a new warehouse either on part of the site of No. 3 or elsewhere. The Court held that between the title and the body of the act there was a clear difference as to what was to be done and the agency to do it, and the act was declared void.\(^ {100}\)

The title "An Act to incorporate the Pocomoke Bridge Company" was held not to cover one section of the act which required the county commissioners of two adjoining counties to make annual payments to the company. This one section was held invalid.\(^ {101}\)

Similarly, the title "An Act to incorporate the village of Chevy Chase" was held not broad enough to cover a section in the act which gave to the county commissioners of the county sole taxing powers in a designated part of the village. If only this section were held invalid, the Court pointed out, there would be no taxing power anywhere over this excepted district, a result which the Court felt the Legislature could not have desired. Accordingly, the whole act was held unconstitutional.\(^ {102}\)

Another case which frequently is cited is *Nutwell v. Anne Arundel County*, in which this title was construed:

> "An Act to add two new sections to Article 2 of the Code of Public Local Laws, title 'Anne Arundel County,' sub-title 'Roads,' so as to require all owners of vehicles using public streets and roads in Anne Arundel County to have a license therefor."

\(^ {100}\) Ch. 804 of the Acts of 1906; Christmas v. Warfield, 105 Md. 530, 545 (1907).
\(^ {101}\) Ch. 14 of the Acts of 1865; Somerset County v. Pocomoke Bridge Company, 109 Md. 1 (1908).
\(^ {102}\) Ch. 382 of the Acts of 1910; Curtis v. Mactier, 115 Md. 386, 399 (1911).
Although the title seemed to require licenses of "all" vehicles, the body of the act exempted ox carts, horse carts, farm wagons, and milk wagons from the license provisions. Also, the act provided that any vehicle so licensed should be relieved from the payment of any other tax upon it. Since these two important forms of exemptions were not described in the title, it was held to be misleading. And, since the tax exemption feature was inseparably connected with the whole scheme of the act and the Court felt the act probably would not have been passed without it, the entire act was held invalid.\(^{103}\)

Chapter 345 of the Acts of 1912 also was held to have a misleading title. It established a Good Roads Commission in Baltimore County and provided for a program of road building, with the title containing this further provision as to financing "and providing also the ways and means for the construction and improvement thereof by a bond issue of one million five hundred thousand dollars. . . ." In the body of the act, however, the County Commissioners were made responsible for salaries and administrative expenses, and for damages assessed against the Good Roads Commission. This title, said the Court, diverted public attention from a great and indefinite liability imposed upon the taxpayers, in excess of the sum mentioned. "It is a glaringly false, deceptive and misleading title." and since to take out only the bad features of the act would result in its mutilation and emasculation, the entire act was declared unconstitutional and void.\(^{104}\)

Another tax matter was at issue in Weber v. Probey. The title of Chapter 250 of the Acts of 1914 had specified that the town of Mt. Rainier could levy taxes on the assessable property of the town, in order to redeem bonds authorized for sewer construction. In the body of the act, however, assessments upon abutting property owners were authorized. The title was held to be misleading, and

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\(^{103}\) Ch. 672 of the Acts of 1908; Nutwell v. Anne Arundel County, 110 Md. 667, 672 (1909).

\(^{104}\) Ch. 345 of the Acts of 1912; Painter v. Mattfeldt, 119 Md. 466, 480 (1913).
since all of the provisions of the act were closely connected the entire act was invalid.\textsuperscript{105}

Perhaps the oddest opinion as to titles is in \textit{Shea v. State}, construing this title:

"An Act to repeal and reenact, with amendments, Sections 332, 333, 334, 336, 339 and 340 of Article 3 of the Code of Public Local Laws of Maryland, title ‘Baltimore County,’ sub-title ‘Liquor and Intoxicating Drinks,’ as codified by T. Scott Offutt Esq., regulating the manufacture and sale of certain alcoholic and fermented beverages."

The trial court had held this title did not comply with the requirements of Article 3, Section 29 of the Constitution. The Court of Appeals held this decision to have been correct, with no discussion,\textsuperscript{106} so that it is not possible to judge the merits of the case. The appellee's brief had contended the title was misleading because the body of the act concerned alcoholic beverages which had less than 3½% of alcohol by volume, these being declared in the act to be "non intoxicating beverages within the meaning of the Eighteenth Amendment."

In a recent case there was involved an act creating the office of police justice in Prince George's County, which official was given exclusive jurisdiction in motor vehicle cases. This would have caused for that county a material change in the general laws of the State, which gave jurisdiction in such cases to the nearest justice of the peace. No mention of this change had been made in the title of the act. The title was held invalid. "When the Legislature undertakes to make any material change in any existing law, local or general," said the Court, "there should be some reference to the act to be amended or repealed, under section 29 of article 3 of the Constitution, so that the public may be put on notice of the contemplated alteration or repeal of existing laws."\textsuperscript{107}

\textsuperscript{105} Ch. 250 of the Acts of 1914; Weber v. Probey, 125 Md. 544, 553 (1915). See also Culp v. Chestertown, 154 Md. 620 (1928); United Railways and Electric Co. v. Baltimore City, 121 Md. 552 (1913).
\textsuperscript{106} Ch. 350 of the Acts of 1920; Shea v. State, 148 Md. 256 (1925).
\textsuperscript{107} Ch. 426 of the Acts of 1927; Quenstedt v. Wilson, 173 Md. 11, 22 (1937).
Since the Court has given every presumption of validity to the titles it has construed, and has declared them invalid only when it could see no alternative, those cases in which titles have been ruled unconstitutional seem to be well reasoned and not open to question.

**IX. Effect Of Invalidity**

Once a title has been found to be misleading, and invalid, the further question remains whether the act should be declared unconstitutional in whole or only in part. As has been seen in the cases described in the preceding section, the Court of Appeals follows the general rule that only so much of a statute as necessarily or reasonably is invalid, should be held unconstitutional; and if there is any fair possibility of saving part while rejecting another part, that will be done.

The Court first set up this principle in a title case in *Davis v. State*:

"We are not prepared to say, that a whole law, otherwise constitutional would be rendered void by the introduction of a single foreign or irrelevant subject into it, and where such subject was not indicated in the title. In such a case the irrelevant matter would be rejected as void, while the principal subject of the law would be supported, if properly described in the title. But if an Act of Assembly, be composed of a number of discordant and dissimilar subjects, so that no one could be clearly recognized as the controlling or principal one, the whole law would be void."\(^{108}\)

This statement has frequently been repeated or paraphrased in subsequent cases. Chief Judge Boyd said similarly in 1908:

"It is well settled that it is not necessary to strike down an entire act because one provision is void, 'unless the provisions are so connected together in subject-matter, meaning or purpose, that it cannot be presumed the Legislature would have passed the one without the other'."\(^{109}\)

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108 Davis v. State, 7 Md. 151, 160 (1854).
109 Somerset County v. Pocomoke Bridge Company, 100 Md. 1, 8 (1908).
And in *Painter v. Mattfeldt*, the Court gave this quotation from a Massachusetts case:

"The constitutional and unconstitutional provisions may even be contained in the same sections, and yet be perfectly distinct and separable, so that the first may stand, though the last fall. The point is, not whether they are contained in the same section, for the distribution into sections is purely artificial; but whether they are essentially and inseparably connected in substance."

The doctrine that a statute may be in part constitutional and in part unconstitutional had an interesting modification in *United Railways and Electric Co. v. Baltimore City*, where a title was ruled ineffective only insofar as it affected certain companies. The titles at stake were those of Chapter 401 of 1906 and Chapter 202 of 1908 which, among other things, authorized the assessment of paving costs against abutting property owners. The body of the latter act provided that the Railway Company should repave between their tracks, which would have constituted, the Court held, an amendment to the Company's charter, without the title having given notice of any such contemplated change. "Our conclusion is," said the Court, "that this section 8 is not invalid but that it does not apply to those companies upon which the obligation to repair only existed." The title would be valid and effective, that is, as to any company not having contrary provisions in its charter.

X. MISCELLANEOUS

In its many discussions of titles the Court of Appeals has made case law on a variety of uses and applications of titles in particular fact situations.

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110 Painter v. Mattfeldt, 119 Md. 466, 475 (1913).

A. Use of the title in construing the act

It is well established that a title is not a part of the body of law enacted by a statute, but it is frequently said in Maryland that a title may be used in helping to construe the substantive part of the act. The earliest pronouncement seems to be in an old case decided nearly twenty years before the title requirements first were put into the Constitution of 1851, in which Chancellor Bland appeared to give favorable regard to a statement made earlier by Chief Justice Marshall. "It is laid down in some of the books," wrote Chancellor Bland, "that in construing a statute, the title (being no part of it,) is not to be regarded, but we have high authority in this country for a different rule of construction," his reference being to the case of United States v. Fisher, a Supreme Court decision. Marshall had written in that opinion:

"Where the mind labours to discover the design of the legislature, it seizes everything from which aid can be derived; and in such case the title claims a degree of notice, and will have its due share of consideration."\(^1\)

In another early Maryland case it was said that

"The title of the act, and the preamble to the act, are, strictly speaking, no part of it, though they may be resorted to in explanation of the enacting clause, if it be doubtful; or to restrain its generality, when it would be inconvenient if not restrained. This is the whole extent of the influence of the title and preamble in the construction of a statute."\(^2\)

In Maxwell v. State ex rel Baldwin,\(^3\) in 1874, there was in an indication in the dissenting opinion that a title may properly be considered in construing an act. Later, in State v. Archer, the principle was clearly applied:

\(^{112}\) Canal Co. v. Railroad Co., 4 G. & J. 1, 90 (1832).
\(^{113}\) United States v. Fisher, 2 Cranch 358, 386.
\(^{114}\) Lucas v. McBlair, 12 G. & J. 1, 17 (1841).
"So, if there be any doubt as to the precise meaning of the language used in the body of the act now before us, which we by no means concede, yet, when construed in connection with this title, we are forced to the conclusion that..."\textsuperscript{118}

Again, in Levin v. Hewes,

"Legislative enactments are not to be defeated on account of mistakes, errors or omissions, provided the intent of the legislature can be collected from the whole statute. If a mistake in the act of the legislature renders the intention doubtful, the Courts may look to the title and preamble, as well as the body of the act for assistance in determining such intention."\textsuperscript{117}

In a very recent case involving the construction of a statute the Court quoted from the title and then went on in the opinion to say that "the ordinary and natural import of this language in the titling it that..."\textsuperscript{118} Similarly, in Miggins v. Mallott, it was said that "the title, therefore, in conjunction with the body of the act, brings out with resounding clarity the patent intent, purpose, and effect of the amending statute in no uncertain manner."\textsuperscript{119} Here were two practical applications of the principle that a title may be considered in the construction of the body of the act.

Conceivably the use of a title in construing the body of an act could raise some question under that part of Section 29 of Article 3 of the Constitution which says "nor shall any law be construed by reason of its title to grant powers or confer rights which are not expressly contained in the body of the act." This provision has apparently never been construed by the Court of Appeals.

\textsuperscript{118} State v. Archer, 73 Md. 44, 61 (1890). See also Henderson v. Maryland Home Insurance Co., 90 Md. 47, 52 (1899); Bond v. Baltimore City, 116 Md. 653, 687 (1911).

\textsuperscript{117} Levin v. Hewes, 118 Md. 624, 634 (1912). See also Baltimore City v. Deegan, 163 Md. 234, 238 (1932).

\textsuperscript{118} Barrett v. Clark, 54 A. (2d) 128, 133 (1947).

B. Use of the act in construing the title

There are two cases in the Maryland Reports that may indicate a disposition on the part of the Court to use the body of the act in the interpretation and application of the title. The point must be advanced very tentatively, as it may involve giving more import than is warranted to a few words from the opinions.

The title in question in State v. Case was to impose a license tax upon construction firms or companies, while the body of the act required the tax from persons, as well as from firms and corporations. The Court held that as by a statutory rule of construction the singular always includes the plural, and vice versa, the word "firms" in the title might properly be held to include the word "persons" in the body of the act. Then, it continued, that this construction "is not unreasonable is apparent from the scope of the whole act."\(^{120}\)

The other example is in another case concerning the same title, and it is even more obscure. The title also mentioned the licensing of "cash registers and adding machines," while the body of the act imposed the license tax upon persons displaying for sale cash registers and adding machines. The Court held that although the title might have been phrased more accurately, it was not actually misleading, and anyone reading it could hardly have been deceived. For, it was said, "the only possible meaning that 'licensing cash registers and adding machines' could have had other than that contained in the body of the act would be licensing the possession and use of them. As such a tax would have been as unreasonable as a license tax upon the possession of a piano or cook stove, it is not to be supposed that meaning would be attributed to the expression. . . ."\(^{121}\)

\(^{120}\) State v. Case, 132 Md. 269, 273 (1918).

\(^{121}\) Adding Machine Co. v. State, 146 Md. 192, 197 (1924).
C. Subsequent validation of a title

Titles which may originally have been invalid may subsequently be cured, so that the law enacted can be applied without question. Perhaps the best example, more important formerly than now, is to have the law confirmed by having it included in a Code adopted by the General Assembly. Thus, when the title of Chapter 233 of the Acts of 1874 was questioned, the Court did not consider its provisions at any length, for, it said, these sections of the act "were adopted and confirmed by the act of the Legislature adopting the Code." The reference was to the Code of 1888, which was adopted by the General Assembly. The same point could be made as to every-thing contained in the Code of 1860, which also was adopted. Since 1888, however, the several editions of the Annotated Code have simply been legalized and made evidence of the law, so that the inclusion of a statute therein would not cure a defect in its original title.

In Mt. Vernon Co. v. Frankfort Co., an act passed in 1894 was amended in 1902, with the title of the latter act referring specifically to the former. It was contended that the title of the 1894 act was bad, and that since the 1902 act was based upon the earlier one it also must fall. On this point the Court said:

"There would be much force in this contention if the title of the act of 1894 was defective, and the title of the act of 1902 simply referred to the title of the former act, for in that case as the title of the former act was insufficient the title of the latter must also fail to give proper notice of the legislation proposed. But . . . if an act contains in its title a sufficient description of the subject of the act its validity is not affected by the fact that it also proposes in its title to repeal and reenact, and does repeal and reenact an act the title of which was defective, nor is it dependent in any sense for its validity upon the act so repealed and reenacted."\(^{123}\)


In a more recent case, *Toomey v. Shipley*, there was a series of three related acts and titles in question, with all three being held valid.\(^{124}\)

An act held invalid by reason of a misleading title is not validated by having been approved by the voters at a referendum\(^{124a}\).

D. *Surplusage in a title*

A title will not be held invalid simply because it indicates something is in the body of the act, which in fact is not there. The extra matter is simply rejected as surplusage. In a strict sense, of course, such a title is misleading, but by a sort of *damnnum absque injuria* reasoning the Court holds that no one has been too seriously misled; though the Court has never expressed it in these terms, perhaps the distinction is between a negative misleading and a positive misleading, with only the latter rendering an act invalid.

In *Strauss v. Heiss*, the act in question had revised the corporation laws. The title, in addition to other matters, purported to repeal Sections 99-103 of Article 16 of the Code. These sections related to equity proceedings and had nothing to do with corporations; the Court thought that the reference should have been to these section numbers in Article 75. In any event, there was nothing in the body of the act repealing these sections in Article 16. The title was held valid, the Court saying:

"The mere fact that part of the title of an act refers to a subject-matter foreign to, and inconsistent with, other parts of the title, and which finds no corresponding provision in the body of the law, would not in itself render the act invalid. In such a case, so much of the title as was repugnant to, and inconsistent with, the act would be rejected as mere surplusage."\(^{125}\)

What might loosely be called surplusage also appears in titles which indicate the act is to be State-wide in


\(^{124a}\) *Culp v. Chestertown*, 154 Md. 620, 631 (1928).

\(^{125}\) *Strauss v. Heiss*, 48 Md. 292, 297 (1878).
application and effect, while in fact they operate only in part of the State. Chapter 566 of the Acts of 1902 had in its title the stated purpose of regulating the employment of children, but nothing was said in the title as to the exemption of a number of counties from the operation of the act. The title was held valid, the Court pointing out that much legislation was enacted in Maryland in this way and that no serious question of constitutionality ever had been raised. A subsequent case gave the same opinion as to a title which appeared to be on a State-wide bill, though actually the act was to be effective in Baltimore City only.

A recent case involved Chapter 809 of the Acts of 1943, part of the title of which was "specifying the time within which counties and municipalities of Maryland must be notified of claims for damages and the method of giving such notice." Though nothing was said in the title as to any territorial restriction, the act actually applied only to Caroline, Montgomery and Prince George's counties. The Court held the title valid, since it was broader than the body of the act.

E. User does not create validity

An act with an invalid title cannot be cured simply by long adherence to the act as though it were valid. In *Somerset County v. Pocomoke Bridge Company*, the title "An Act to incorporate the Pocomoke Bridge Company" was held not to cover a provision in the body of the act that two counties make annual payments to the bridge company. And, said the Court, "the long acquiescence by the county, in paying the amount for so many years, cannot stop the present County Commissioners from raising the question, and thereby make an unconstitutional law in effect constitutional."

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127 Church Home v. Baltimore City, 178 Md. 326, 334 (1940).
129 Somerset County v. Pocomoke Bridge Company, 109 Md. 1, 7 (1908).
Again in *Baltimore City v. Williams*, it was contended that long observance of a statute as valid should prevail against arguments as to its invalid title, but the Court said it could find no authorities in support of such a proposition.\(^{130}\)

**F. Emergency clause**

A title need not specify that the act has an emergency clause, to make it effective when passed. Such a contention was made in *Dinneen v. Rider*, but the title in question was held valid. "The sufficient reply to this," said the Court, "is that the time the act became effective was not its subject-matter, but simply the time when the act became operative as a law."\(^{131}\)

**G. Constitutional amendments**

The title provisions in Section 29 of Article 3 of the Constitution do not apply to bills proposing amendments to the Constitution, it was held in *Hillman v. Stockett*. The wording of this section makes clear that it applies only to acts, as distinguished from bills, and a title cannot be invalid until the bill has become an act. "It is only when it has finally passed, and become a law in one of the methods above set out, that section 29 becomes operative upon it. That section, therefore, can never become operative upon a bill proposing a constitutional amendment, and such a bill is not subject to its provisions."\(^{132}\)

**H. Suit on title must be held to its facts**

When a suit is brought contesting the validity of a title in relation to some particular section of an act, the inquiry must be confined to the sufficiency of the title for this one section. If the title is sufficient for the validity of the section in question, it will be upheld, even if insufficient for the remainder of the act.\(^{133}\)

\(^{130}\) *Baltimore City v. Williams*, 124 Md. 502, 516 (1915).

\(^{131}\) *Dinneen v. Rider*, 152 Md. 343, 358 (1927).


\(^{133}\) *Baltimore City v. Perrin*, 178 Md. 101, 111 (1940).
I. Res judicata

The case of Holt v. Moxley was brought in the Circuit Court of Prince George's County, contesting a local law applying to the town of Brentwood, on the ground that its title was insufficient. The defendants cited that in a previous case in the same court, involving them and other plaintiffs of the same class, the act had been ruled valid, and no appeal had been taken from that decision. The present plaintiff answered that he had had no knowledge of the prior suit, so that he could not have intervened in it. On appeal, the Court of Appeals applied the doctrines of class representation and res judicata, in holding that the issues raised in the present case were foreclosed by the decree in the prior case.\(^\text{134}\)

J. Substitute bills

The validity of a substitute or “bob-tail” title and bill was upheld in Thrift v. Tower. The bill had been introduced in the Senate, and then was completely rewritten by a committee amendment adopted on second reading, by “striking out everything after the words ‘a bill entitled.’” It passed second and third readings in the Senate and all three readings in the House in its amended form. However, the outside page of the bill continued to bear the original title, and all the Journal entries showed the bill under its original title. It was contended, therefore, that in all its readings in both houses the bill was read and passed under its original title. The Court agreed that if this had occurred the act must be declared void, as no bill could have been validly passed under the original title to accomplish what the amended bill was designed for. But, said the Court, there is no requirement in the Constitution that the title shall appear on the outside wrapper of a bill, and a properly authenticated act cannot be impeached by the Journals alone. Competent and clear evidence that only the original act was read would be required, it was continued, and there was no such evidence here. Also, “in dealing with the

\(^{134}\) Holt v. Moxley, 157 Md. 619 (1929).
question here presented it must be borne in mind that
there is a wide distinction between taking up an act
which has been passed by the Legislature, comparing it
with the Constitution, and declaring whether its provisions
are in accord with that instrument or not, and looking
into the details of the method of procedure by the legisla-
tive bodies in passing the act and the regularity of the
steps they took in so doing.\textsuperscript{135}

K. Baltimore City ordinances

The Charter of Baltimore City has in it a requirement
for ordinances passed by the City, which is practically
identical with the title provisions for legislative acts,
in the Constitution. The City Charter says that

"Every ordinance enacted by the City shall embrace
but one subject, which shall be described in its
title. . .\"\textsuperscript{136}

This has been construed by the Court of Appeals in about
a dozen cases, and not unnaturally the Court has applied
to it the same principles as it has established for Section
29 of Article 3 of the Constitution.\textsuperscript{137}

XI. Postscript

Probably no court has ever decided 152 cases in con-
struing and applying a narrow point of law without leav-
ing itself open to the charge of inconsistency somewhere
along the line. Probably also among the Maryland cases
involving the titles to legislative acts there are those which,
it could be submitted, are not consistent, one with the
other.

The Court of Appeals has been enforcing our title
requirements for nearly a century, with no change in the
basic principles applied. One of these principles has been

\textsuperscript{135} Thrift v. Towers, 127 Md. 54, 61 (1915).
\textsuperscript{136} Baltimore City Charter (1946), Sec. 28 [1938 Ed., Sec. 303].
\textsuperscript{137} Clark v. Baltimore City, 29 Md. 277 (1868); Baltimore City v. Stewart,
92 Md. 533 (1901); Gould v. Baltimore City, 120 Md. 534 (1913); State v.
Gurry, 121 Md. 534 (1913); Baltimore City v. Wollman, 123 Md. 310
(1914); Mogul v. Gaither, 124 Md. 380 (1923); Smith v. Standard Oil Co.,
149 Md. 61 (1925); Baltimore City v. Bloecher & Schaaf, 149 Md. 648
(1926); Douty v. Baltimore City, 155 Md. 125 (1928); Liberto v. Baltimore
City, 180 Md. 105 (1941); Brooklyn Apartments v. Baltimore City, 55 A.
(2d) 500 (Md. 1947).
that of liberal construction, under which a title will not be held invalid if it can be given a construction to make it valid. Without laboring over possible minor aberrations, a word may be said as to this approach.

Since there has been a studied effort to hold titles valid, it has followed that most of the questionable titles have been held valid, and that when a title was so faulty as to be held unconstitutional there has not been much reason for questioning the decision.

As a result, those cases in which titles have been held invalid make as a class clearer and simpler and more convincing reading than do the cases in which titles have been upheld. When the Court, in the process of upholding a title, has had to apply to it its own extensive reasoning or has said that one of the rules of interpretation in Article 1 of the Code might by enlisted to explain the title, it may be answered in return that the purpose of the Constitutional provision was to make every title clear upon its face. And, when the Court’s opinions have said that there is no “direct repugnancy” between a title and the body of an act, or that the subject-matter of the act was not “so foreign” to the title as to make it bad, or that an admitted variance between a title and the body of the act was not such a “flagrant disregard” of the Constitution as to warrant holding the title invalid, it may be asked in return whether the Constitution permits any repugnancy, or foreign matter, or disregard of its provisions.

One may wonder, therefore, whether the application by the Court of Appeals of the title provisions in Section 29 of Article 3 of the Constitution has not been both a little more complicated and a little less strict, than was envisaged by the several constitutional conventions which added these provisions to the Maryland Constitution.

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138 As in County Commissioners v. Meskins, 50 Md. 28, 43 (1878); Hamilton v. Carroll, 82 Md. 326, 334 (1896); Mealey v. Hagerstown, 92 Md. 741, 743 (1901).
139 State v. Case, 132 Md. 269, 273 (1918).
140 Wright v. Hamner, 5 Md. 370, 375 (1854).
141 Maryland Agricultural College v. Keating, 58 Md. 580, 584 (1882).
142 Worcester County v. School Commissioners, 113 Md. 305, 308 (1910); Ruehl v. State, 130 Md. 188, 192 (1917).