

Written Testimony by DogsBite.org

Judicial Proceedings Committee Maryland Senate February 6, 2014 Opposition to Senate Bill 247

In light of the many arguments that will be repeated in this year's testimony about how and why to "undo" the *Solesky* decision, DogsBite.org chose a path of historical reflection first begun by the Court in its opening paragraph by citing a 1916 Baltimore pit bull mauling. From 1844 to 1922, we reviewed articles published by Baltimore newspapers concerning fatalities, maulings and civil lawsuits involving pit bulls.

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A special thanks to the generous research assistance provided by Dorothea Malm.



DogsBite.org is a national dog bite victims' group dedicated to reducing serious dog attacks. Through our work, we hope to protect both people and pets from future attacks. Our website contains a wide collection of data to help policy-makers and citizens learn about dangerous dogs. Our research focuses on pit bull type dogs. Due to selective breeding practices that emphasize aggression and tenacity, this class of dogs negatively impacts communities the most.

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Historical Baltimore Pit Bull Maulings 1844 - 1922

In November of 1844, the first known recorded pit bull fatality in America occurred in the City of Baltimore. John A. Dubernard, a respected aging adult citizen, was so badly injured by a resident's pit bull ("bull terrier") that he died several days later. The 1844 article illustrates how Baltimore society felt about this dog breed at that time. The article is simply titled, "Dead."

> His death is a melancholy comment upon the impolicy, we might also say the <u>criminality</u> of keeping dogs, so ferocious in the character as this one was, in the yards of private dwellings. The <u>bull terrier</u>, and this dog was one of that species, is perhaps the very <u>worst description of dog with which we are beset in our community</u>. They are always fierce, and it is a rare circumstance that even their masters have control over them -when they once take hold, death has been frequently found necessary to make them loosen their grasp." ("Dead," 1844)

As in the case of Dominic Solesky, Mr. Dubernard was not the only victim attacked. The dog first ran off property and attacked a "colored woman, who was so much injured as to be unable to walk home." The pit bull then returned and attacked Mr. Dubernard and a woman who were both guests inside the dog owner's home. The dog was "dispatched" after having three shots fired into him.¹

At this time in history, all the way up until the mid 1900s, pit bulls are identified by the following three names: "bulldog," and "bull terrier" and "pit bulldog."

About the Historical Collection

In the first sentence of *Tracey v. Solesky*, the Court stated that the vicious mauling of young children by pit bulls occurred as early as 1916 in Maryland. When describing the attack of John L. Clark, a 10-year old boy, the Court wrote: "The pit bull refused to release the boy until a witness picked up a "scantling" and struck the dog killing it." The historical collection picks up where the Court left off and shows a number of attacks by pit bulls in the Baltimore area from 1895 to 1922. The index includes a brief summary of each article to enable a <u>quick overview of the collection</u>. We invite Senators to browse the index and brief summaries. The full historical articles are provided in the attachments section for reference.

¹ "Local Matters," The Sun (Baltimore), November 11, 1844 (GenealogyBank.com)

The historical collection runs the gamut, showing pit bull attacks on young children, attacks on police officers, attacks on family dogs, attacks on their owners, pit bulls used as weapons to terrorize people, and lawsuits involving vicious pit bull attacks. In one instance, a victimized family dog, Schwarz, belonged to former Congressman William W. McIntire ("Schwarz Killed by Bulldog," 1903). In another instance, the victim who was terrorized by a bulldog was the wife of former Governor Frank Brown's son ("Frank Brown, Jr., Answers," 1909).

In the index summaries, quotes from the articles are included that highlight the well-documented injurious attack style of pit bulls. For instance, "The boy was playing with the dog, when, <u>without any warning</u>, it sprang at him and fastened its teeth in his face" ("Boy Bitten By A Bulldog," 1900), and, "helpless beneath the <u>attacks</u> of a vicious bull terrier," attorney G. Guy Wilson describes how he saved his son from a certain death ("Saves Son From Bulldog," 1912):

"When discovered the boy lay on the ground speechless with terror, his right arm with which he was protecting his throat, gashed in many places and <u>streaming with blood and his</u> <u>clothing torn to shreds</u>. So determined was the dog in his attack that it required a <u>five minute struggle for Mr. Wilson</u> <u>to subdue it</u>. The lawyer was dragged to and fro across the yard and his clothing torn ... The terrier seemed to have concentrated all its attention on the boy and <u>tried again and</u> <u>again to escape and renew the attack</u>."

In the same year the Court referenced in its introduction, 1916 (*Bachman v. Clark*), a pit bull ripped the scalp off a 3-year old girl and severely mauled her face. Maria Cole "is in a serious [condition] at Johns Hopkins Hospital. [Doctors] said that the case was one of [the worst] they had seen for several years. Many inches of scalp were [] from the head." ("Bulldog Rips Child's Face," 1916). Though *Bachman v. Clark* led to an appellate decision, we found no reference to it in the Library of Congress or GenealogyBank.com.² It was just another pit bull attack of that time.

The One Bite Rule vs. Pit Bulls (1920)

In a 1920 article ("Dog Gets Benefit of Doubt," 1920), the historical collection circles back to what the Court corrected in *Tracey v. Solesky* nearly 100 years later:

"It is the general belief that every dog is entitled to one bite before being regarded as vicious, <u>but this is an exaggeration</u>,

² The attack occurred on May 18, 1914 in Baltimore. We ran multiple search queries from 1914 to 1916. (Reports of Cases Argued and Determined in the Court of Appeals of Maryland, Volume 128 (Google eBook)

Judge Ambler said yesterday in City Court. The fact that the dog in the case was a <u>bulldog was almost sufficient to give warning</u> <u>of its viciousness</u>, the Judge added, but that was not enough."

By 1844, the Baltimore area was already "beset" by the "very worst description of dog," pit bulls, according to the Baltimore Sun. By 1920, and possibly even earlier, a Baltimore judge believed that just belonging to this dog breed ought to provide sufficient warning of its viciousness, but that was not enough then.

<u>In 2012, the Tracey Court made this so</u>. By abrogating the *Solesky* ruling, the legislature will essentially return Maryland citizens to Judge Ambler's courtroom of 1920. Nearly 100 years of victims inching toward progress negated.

Pit Bulls at the Turn of the 20th Century

Maryland is not the only state besieged by these dogs at the turn of the 20th century. By 1904, nearby Richmond, Virginia had a breed-specific pit bull ordinance:

"That no person shall allow a bulldog, whether male or female, licensed, owned or controlled by him, to go upon any street, alley, park or other public place of the city of Richmond without being chained and so muzzled as to <u>prevent such</u> <u>dog from inflicting injury upon any person or animal.</u>"₃

Sacramento, California had a breed-specific pit bull ordinance in place even earlier, 1896, "arrested and charged with having violated the ordinance recently passed forbidding the owners of bulldogs to allow them to run at large in the streets."⁴ The article refers to a police officer "demolishing" his club while beating off a pit bull that was attacking a pet dog. By 1911, at least three jurisdictions in North Carolina had pit bull ordinances, including: Charlotte,⁵ Statesville⁶ and Winston-Salem.⁷ The City of Ogden, Utah⁸ did as well, as noted in this editorial:

> "The Ogden city administration acted wisely when it passed an ordinance requiring bulldogs to be muzzled. The animals are <u>instinctively a fighting machine</u> and the most vicious of dogs and will set upon man or beast in their mad fury until weakened

³ "Would Muzzle All Bull Dogs," The Times Dispatch, December 1, 1904 (Library of Congress)

⁴ "A Savage Dog," The Record-Union, April 12, 1896 (Library of Congress)

⁵ "The Bulldog Is In Bad: Alderman Are Ordinancing Against That Particular Tribe of Canines Commonly Called the Bull," Charlotte Observer, February 18, 1911 (GenealogyBank.com)

⁶ "After Vicious Dogs -- Statesville City Fathers Determined to Have Them All Muzzled," Charlotte Observer, January 10, 1908 (GenealogyBank.com)

⁷ "Twin City News Budget," Charlotte Observer, July 17, 1908 (GenealogyBank.com)

⁸ "Bulldogs are Dangerous," The Evening Standard, August 4, 1911 (Library of Congress)

or <u>killed by clubbing</u>. Running at large, without muzzles, they are more dangerous than hungry wolves on a prairie."

Calls to outright ban the "murderous bulldog" began before 1900 in Chicago⁹ citing the "unprovoked ferocity that is characteristic" of the breed, and by 1911, in the District of Columbia,¹⁰ citing the "criminal negligence" for allowing these dogs "to remain in our District another day." Historical articles from the Library of Congress and GenealogyBank.com clearly show that the pit bull breed has been menacing and injuring communities across America for over 150 years.

The Solesky Decision Made Pit Bull Owners Liable

The *Solesky* decision did not ban pit bulls. The ruling set forth a strict liability standard for owners of pit bulls when their animal attacks a person and extended this liability to landlords when a tenant's pit bull attacks. Currently, only one dog breed in Maryland is held to this strict liability standard. The one hundred plus other dog breeds still rely upon the One Bite standard of Judge Ambler's 1920 courtroom.

The <u>fabricated urgency</u> to abrogate the ruling (and substitute it with yet another poor "emergency bill") is short sighted and devoid of compassion for the many Maryland children and elderly citizens these dogs have victimized over the past 150 years and who continue to be victimized to this day. There is, however, much misdirected compassion for pit bull owners and the dogs themselves, which kill more Americans than <u>all other dog breeds combined</u>.¹¹

The Court of Appeals clearly took the historical attacks inflicted by pit bulls into account when arriving at their decision. The first paragraph in any appellate ruling is always significant. Yet, many Maryland legislators have failed to see this, failed to see the breadth of the problem identified and remedied in the Court's decision that has plagued Maryland citizens for over a century.

Like the development of manufacturing, science and technology, the development of law cannot be stopped. It may develop much more slowly than the other three, but it still cannot be stopped. Ultimately, what nearly happened in Judge Ambler's courtroom in 1920 and what did happen in the *Solesky* ruling in 2012, will become accepted law at some point in the future. Because the "inherently dangerous" traits of the pit bull breed only promise the continuation of disproportionately mauling, maiming and killing innocent people.

⁹ "The Murderous Bulldog," Daily Inter Ocean, June 6, 1896 (Library of Congress)

¹⁰ "Banish Bulldogs Says Mr. Gordon," The Washington Herald, September 29, 1911 (Library of Congress)

¹¹ 9-Year U.S. Dog Bite Fatality Statistics (2005-2013) by DogsBite.org, January 20, 2014 (www.dogsbite.org)

Special Insertion - 1897 Woodcut Illustration of a Pit Bull

To provide a visual reference of a turn of the 20th century pit bull, we have included a woodcut illustration published in The San Francisco Call in 1897. The dog is called a "bulldog" and a "vicious bull terrier" in the article text. The artist depiction shows the 8-year old girl lifted entirely off the ground by the jaws of the pit bull.



Policeman William Coleman Strangling a Savage Bulldog Into Releasing His Hold of Little Eightyear-old Valentine Goody, Whom He Attacked as She Was on Her Way to the Humboldt Primary School on Golden Gate Avenue, Near Hyde Street.

"Bitten and Torn by a <u>Bulldog</u> -- The Painful Experience of an Eight-Year Old Girl," The San Francisco Call, April 15, 1897 (Library of Congress)

"An owner is wanted by Police Sergeant Houghtaling for a vicious <u>bull terrier</u> ... But for the prompt action of Officer Coleman the child would have been torn to pieces, perhaps killed, in the very presence of fifty of her little classmates ... The children were laughing and playing on their way to school ... when the dog fastened his teeth in little Valentine's left thigh and she shrieked in agony as the beast shook her as he might have shaken a rat."

Index and Summaries of Historical Baltimore Articles

Fatalities

"Dead," Commercial Advertiser, November 18, 1844 1	3
Baltimore —"Mr. John A. Dubernard, who was so badly bitten by the dog of Mr. Roszell, on Saturday last, now lies dead His death is a melancholy comment upon the impolicy, we might almost say the criminality of keeping dogs, so ferocious in their character as this one was, in the yards of private dwellings. The bull terrier, and this dog was one of that species, is perhaps the very worst description of dog with which we are beset in our community"	
"Dies After Dog Bites - Not Rabies, Says Dr. Keirle" The Sun (Baltimore), June 4, 1908 1	4
Baltimore —"Mr. George P. Davis was attacked by vicious bulldogs. As a result of bites sustained about a month ago, when he was attacked and badly mangled by two vicious bulldogs in the yard of his home, Mr. George R. Davis, 35 years old, died at the Maryland General Hospital."	
Attacks, Terrorizing and Lawsuits	
"Patrolman vs. Bulldog," The Sun (Baltimore) April 18, 1895 1	6
Baltimore —"Patrolman Butler chased Hartley to his home, in the vicinity of Schroeder and Saratoga streets, and when they got there Hartley unchained a fierce bulldog and turned it loose on the patrolman. The dog bit the patrolman on the left hand and then seized him by the left trousers' leg."	
"Bitten by a Bulldog," The Sun (Baltimore), January 22, 1897 1	17
Baltimore —"Herbert Milton Jones, aged four years, son of James H. Jones 1206 South Sharp street the dog sprang upon him and sank its teeth in the child's face between the eyes. Before it could be beaten off, the dog tore the skin from the lower part of the child's fore head and from the bridge of this nose, leaving the bone exposed."	
"Boy Bitten by a Bulldog," The Sun (Baltimore), July 7, 1900 1	8
Baltimore –"Cornelius Coburn, 5 years old, son of George Coburn, 1722 Montford avenueThe boy was playing with the dog, when, without any warning, it sprang at him and fastened its teeth in his face."	
"Bulldog Bites Child," The Sun (Baltimore), December 2, 1901 1	9
Cantonsville —"Leo, the 2 1/2 year old son of Mr Cornelius Scannell, proprietor of Scannell's restaurant on Frederick avenue, was severely bitten in the right cheek by a bulldog belonging to John Helbig according to bystanders, the moment it entered the barroom."	
"Attacked by Bulldog," The Sun (Baltimore), April 26, 1902	20

Baltimore– "Mr. Charles D. Shelly, 211 West Twenty-Third street, driver of a milk wagon [was] attacked by the dog while serving milk in an alley in the rear of 2700 St. Paul street, and was bitten on the right ankle and heel."
"Schwarz Killed by Bulldog," The Sun (Baltimore), December 29, 1903 21
Baltimore– "Schwarz, the black German poodle belonging to former Congressman William W. McIntire, is dead the big bulldog attacked Schwarz in front of McIntire's home, 1305 North Calvert street"
"Bitten by His Bulldog," Baltimore American (Baltimore), April 6, 1905 23
Baltimore– "Joe Tipman received a bad bite in his left hand as the result of acting as peacemaker between his big bulldog Jack and a neighbor's dog at Tipman's home, 231 Rock street."
"Bulldog Bites Two Boys," The Sun (Baltimore) March 6, 1905 24
Baltimore– "Robert Armstrong, 11 year old son of Mrs. Catherine Armstrong, 110 West Mulberry street, and George Frederick were bitten by a young bulldog at Cathedral and Monument streets Armstrong was bitten on the left arm and was sent to the City Hospital. Frederick was bitten on the calf…"
"Fair Students See Fight," The Sun (Baltimore) January 12, 1906
Baltimore —"In the presence of a score or more of fair students of the Woman's College, two bulldogs, once the best of chums, started a bloody fight on St. Paul st. the battle would have resulted in death except for the timely intervention of the crew and passengers of a Gilmor street car The dogs showed convincing evidence of being natural born fighters."
"Child Bitten by Bulldog," The Sun (Baltimore), July 9, 1907 27
Baltimore– "Leroy Martindale, 7-years old, son of Mr. and Mrs. Frank Martindale of Annapolis avenue The child was walking along the road when attacked by the animal, which tore several deep gashes in the calf of the lad's right leg."
"Bulldog Bites Child in Leg," The Sun (Baltimore), September 28, 1908
Baltimore– "Carrier Mohr, 10-years old 1702 Lansing street, was bitten in the leg by a bulldog belonging to Mr. Alexander Richter on East Lanvale street yesterday. The child had the wound cauterized."
"Bulldog Attacks Sheriff Compels the Officer to Release His Prisoner," Baltimore American, October 2, 1908
Hagerstown– "Norman Bowers, a youth, wanted on the charge of stealing a bicycle resisted arrest During the struggle between the officer and Bowers, Deputy Long was attacked by a bulldog and he was forced to release his prisoner in order to protect himself Deputy Longs arms, body and legs were lacerated by the dog's teeth and claws"

"Frank Brown, Jr., Answers Does Not Admit or Deny Wife's Charges in Divorce Suit," The Sun (Baltimore), July 20, 1909	30
Baltimore– "Mrs. Mable Jane Michael Brown files for divorce from Frank Snowden Ridgely Brown, son of former Gov. Frank Brown. She alleged in the lawsuit that Brown "urged a ferocious bulldog to attack her" and made her perform "menial acts."	
"Want Damages for Dog Bites. Two Victims of Alleged Vicious Dogs File Suits," The Sun (Baltimore), August 31, 1909	33
Baltimore– "Francis J Winkel, a saloon keeper at 2443 East Monument street, was sued for \$10,000 damages for injuries alleged to have been inflicted by a vicious bulldog belonging to him upon Edward Meyer…"	
"Child at Bulldog's Mercy. Animal Severely Lacerates Little Rose Kelly's Scalp," The Sun (Baltimore), October 21, 1910	34
Baltimore– "The animal [bulldog] pounced upon the little girl and bit her severely about the head. During this time a colored girl was beating the dog about its head, serving to partially keep it from the child."	
"Badly Bitten By Dog Child's Leg Severely TornHer Mother at Death's Door," Baltimore American, March 27, 1911	35
Baltimore– "While Mrs. Amelia Wehr is critically ill at the home of her mother her 10-year-old daughter (Margaret) is in an adjoining room suffering from the bite of a vicious bulldog. Mrs. Wehr's condition was so serious that she could not be told of her daughter's injury"	
"Bulldog Tears Child's Leg," The Sun (Baltimore) June 23, 1911	37
Baltimore– "Hilder Scott, 3 years old, son of Julia Scott, colored, while playing in the yard of Mr. George F. Mable, 1936 West Fayette street was bitten so badly by a bulldog chained in the yard that eight stitches had to be made to close the wound."	
"Shot Canine in Self-Defense," The Sun (Baltimore), July 23, 1911	38
Baltimore– "Harvey R. Bowden, a hardware dealer of this city, was bitten yesterday. He was riding a motorcycle when the dog attacked him and tore an ugly gash in his leg."	
"Bitten by Bulldog," Baltimore American, August 28, 1911	39
Baltimore– "While trying to save her father, Mr. Patrick Mullahy, from an attack by their large pet bulldog yesterday morning, Miss Katherine Mullahy was severely bitten on the right arm between the wrist and elbow."	
"Dog Bite Causes Warrant. Mrs. Ridaway Says Mrs. Carrick's Pet Attacked Her," The Sun (Baltimore), October 23, 1911	40

Baltimore–"Mrs. Ridaway said that she was standing before her doorway talking with a neighbor when the bulldog came up, attacked her French poodle dog, which she was holding in her arms, and bit both the dog and herself."

Baltimore–Nicholas Smith, 10-years old, was bitten by a bulldog said to belong to Aaron Sindler while playing on Bethel Street. "The dog had a firm grip on the boy's leg and those who came to his aid had some difficulty breaking its hold..."

Baltimore–"Helpless beneath the attacks of a vicious bull terrier, Edward Wilson the 10 year old son of Mr. G Guy Wilson the lawyer, was saved from death at his home, 1614 [Ilmont (illegible)] avenue Friday evening through his father's premonition that something was wrong. This led to his finding the boy lying helpless beneath the attack of the animal.

The attack occurred in the yard about 6 o'clock shortly after Mr. Wilson's return from his office. When discovered, the boy lay on the ground speechless with terror, his right arm with which he was protecting his throat, gashed in many places and streaming with blood and his clothing torn to shreds.

Fights for Child's Life

So determined was the dog in his attack that it required a five minute struggle for Mr. Wilson to subdue it. The lawyer was dragged to and fro across the yard and his clothing torn. At one time he was almost exhausted by his efforts. It was only the critical situation the danger that confronted his child and his knowledge of handling dogs that nerved him in his fight. The terrier seemed to have concentrated all his attention on the boy and tried again and again to escape and renew the attack."

Baltimore– "Attacked by a bulldog said to belong to Dpt. City Collector Edward A Hartman James Jands, 11 years old was bitten above the eye yesterday morning. The brow was almost torn away."
"Bulldog Attacks Child," The Sun (Baltimore), September 29, 1914
Baltimore– "Julia Abrams, 6 years old, daughter of Harris I Abrams, 1526 East Monument street, received a badly lacerated face before the animal was subdued The girl was thrown to the floorThe child was carried to Johns Hopkins Hospital where physicians cauterized the wounds in her face."
"Bulldog Bites Horse Then Plays Till Taken in Charge by SPCA," The Sun (Baltimore), February 21, 1915
Baltimore —"A brindle bulldog became seized with a dislike for a horse attached to a wagon standing in front of 104 South Gay street. He attacked the horse, leaping up and biting the animal on the nose and lip As soon as it was taken away from the horse the dog became playful and friendly."
"Dog Tears Open Boy's Cheek," The Sun (Baltimore), June 4, 1915 51
Baltimore– "His cheek torn open by the fangs of a bull terrier, Edward Kerney, the 5 year old son of Mrs. Carrie Kerney, 7 N. Poppleton street, was badly hurt when attacked by the dog in the street near his home…"
"Acts as own Lawyer; Loses," The Sun (Baltimore), June 25, 1915 52
Baltimore —"A verdict of \$200 was rendered yesterday by a jury against Peter Nernoga and in favor of Sophia Wantroba, 7 years old, who was bitten a number of times on the legs by Dernoga's bulldog It was shown by the testimony that the girl was attacked by the dog on July 28 last year, while she was on the pavement in front of her home."
"His Leg Bitten by Bulldog," The Sun (Baltimore), December 28, 1915 53
Baltimore —"While Andrew V Roberts, 420 North Wolfe street, was collecting garbage in an alley in the rear of the 1700 block of Castle street yesterday afternoon he was attacked by a bulldog and bitten in the left leg."
"Bulldog Rips Child's Face," The Sun (Baltimore), November 25, 1916 54
Baltimore– "[With her] head and face torn by the teeth [of a] bulldog, Marie Cole, the 3 year old daughter of Mr. and Mrs. John T. Cole, [] McElderry street, is in a serious [condition] at Johns Hopkins Hospital. [Doctors] said that the case was one of [the worst] they had seen for several years. Many inches of scalp were [unreadable] from the head."
"Dog Attacks Patrolman," The Sun (Baltimore), January 16, 1920 55
Baltimore– "When Patrolman Henry B. Noth, Northeaster District, went to arrest Willaim C. Hubbard, Sipple Avenue, Gardenville, yesterday, the patrolman was attacked by Hubbard's bulldog and bitten severely on the leg."

Court Holds One Bite is Not Proof of Viciousness

Baltimore—"It is the general belief that every dog is entitled to one bite before being regarded as vicious, but this is an exaggeration, Judge Ambler said yesterday in City Court. The fact that the dog in the case was a bulldog was almost sufficient to give warning of its viciousness, the Judge added, but that was not enough.

The case was that of William F. Lewis, colored, 16 years old, against James P Russell and James P Russell Jr., 2725 St. Paul street, for \$5,000 damages. On December 11, 1919, when the colored boy entered the premises of the defendants, he was bitten by the bulldog kept there. There was no evidence of the dog ever having bitten anyone before, and Judge Ambler instructed the jury to render a verdict for the defendants. Simon Silverberg, attorney for the colored boy, took a non pros, which gave him the right to bring the suit again."

Baltimore–"Joseph Smith, 815, South Grove street, turned a bulldog on Sergeant Smith when the policeman found him under the influence of liquor at Montford avenue and Boston street yesterday."

Attachments

Despite the collection of historical articles (1844 to 1922) residing in the <u>public domain</u>, due to the GenealogyBank.com user agreement and complicated copyright issues, the historical articles cannot be included in the <u>digital version</u> of this document that is published <u>online</u>. For more information, including requests for copies, please contact DogsBite.org.

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