

ciding upon such an application the Court acts in the exercise of its *quasi* equitable powers, and will take into consideration all the facts and circumstances of the case, and see *Montgomery v. Murphy*, 19 Md. 576. It would therefore seem that Mr. Evans' doubt is not justified under our practice, as declared by the Court of Appeals, though the notion of a common law power to strike out judgments after the term is scarcely well founded, and is rather inconsistent with a *quasi* equitable power to do the same thing. However this may be, it is settled by the above cases and others, that the power is exercised with great caution and under peculiar circumstances. And in *Sherwood v. Mohler*, the Court said that apart from fraud, surprise, or deceit, a motion to strike out a judgment must be made during the term at which the judgment was given.

It may be further observed that a record in the proper office must be intended to have been always in the same plight in which it is found, and no parol evidence can be admitted to prove that it was once wrong and has been since altered, *Dickson v. Fisher*, 1 W. Black. 664; otherwise, to prove it right.

Power of court to strike out judgments during term.—A court has full control over its judgments in both civil and criminal cases during the term and may set the same aside or modify or amend them for any reason which in its sound discretion is sufficient. *State v. Butler*, 72 Md. 98; *Sloan v. Locust Point Co.*, 71 Md. 335; *Ecker v. First Bank*, 64 Md. 292; *Waters v. Engle*, 53 Md. 179; *Seth v. Chamberlaine*, 41 Md. 186.

After term.—The opinion in *Md. Steel Co. v. Marney*, 91 Md. 360, 366, furnishes a comprehensive statement of the rule in such cases: "As has been held in a number of cases in this State, the power to set aside judgments upon motion for fraud, deceit, surprise or irregularity in obtaining them is a common law power incident to Courts of Record. During the term at which a judgment is rendered it remains subject to the control of the Court, but after the lapse of the term there must be the most clear and satisfactory proof of the fraud, mistake, surprise or other ground relied on, and the party seeking such relief must appear to have acted in good faith and with proper diligence. The Court exercises a general equity jurisdiction and considers all the facts and circumstances of the case. When, therefore, it is sought to vacate a judgment on the ground of fraud, the Court in which it was rendered ordinarily has as much power to entertain and act upon the application as a Court of Equity has." See also *Girard Ins. Co. v. Bankard*, 107 Md. 538; *Foran v. Johnson*, 58 Md. 144; *Loney v. Bailey*, 43 Md. 10; *Taylor v. Sindall*, 34 Md. 38. And the power to strike out a judgment after the term for fraud, deceit, surprise or irregularity is incident to all courts of record. It is assumed in the Act of 1787, ch. 9, not conferred by it. *Craig v. Wroth*, 47 Md. 281.

In striking out a judgment after the term, the court exercises quasi-equitable powers but cautiously and only to promote the ends of justice. *Snowden v. Preston*, 73 Md. 261; *Waters v. Engle*, 53 Md. 179.

The applicant must not only establish his right to have the judgment set aside by clear and convincing proof, but it must also appear that he has acted in good faith and without unreasonable delay, and also that he has a *bona fide* and meritorious defense to the action. *Lawrence Bank v.*