

### Appeals from County Commissioners.

#### 84.

An injunction to restrain the county commissioners from closing a public road denied under article 25, section 12, and under this section, there being no lack of good faith, fraud or conspiracy on the part of the commissioners and no question of a way of necessity. Under this section and section 85, the Court of Appeals cannot review the judgment of the circuit court on appeal from the county commissioners, provided such court had jurisdiction over the subject-matter. Appellee held proper party to take appeal from county commissioners; fact that in docketing the appeal the clerk made the county commissioners defendant or appellee instead of signers of the petition asking that the road be closed, held not to deprive the court of jurisdiction when the appellant's attorneys entered a general appearance, no plea to the jurisdiction was filed and the case was tried on its merits; jurisdiction of circuit court upheld. *Harford County v. Jay*, 122 Md. 325.

This and the following section referred to in upholding the right of a party prosecuting an appeal from a decision of the industrial accident commission to introduce any proper oral evidence upon such appeal; see notes to article 101, section 56. *Frazier v. Leas*, 127 Md. 577.

#### 85.

See notes to section 84.

### Appeals from Justice of the Peace.

#### 86.

The Court of Appeals will not review the judgment of the circuit court under this section if that court had jurisdiction. A judgment upon a *scire facias* is a valid and binding one and falls within this section. The payment of costs under section 95 is not required as a condition of the appeal, but is a condition precedent to the hearing. The filing of the bond under section 92 is to stay execution on the judgment, and does not relate to the right of appeal or the jurisdiction of the circuit court on appeal. Jurisdiction of circuit court upheld. *Wilmer v. Mitchell*, 122 Md. 301.

1904, art. 5, sec. 88. 1888, art. 5, sec. 85. 1860, art. 5, sec. 52. 1852, ch. 239, sec. 3. 1912, ch. 622. 1918, ch. 132, sec. 88.

**88.** On the party signifying his intention to appeal, it shall be the duty of the Justice of the Peace to enter the appeal, with the date thereof, upon his docket, and to transmit the papers in the cause, together with a transcript of the docket entries under his hand and seal, to the clerk of the circuit court, or the clerk of the Baltimore city court, and said transcript of the docket entries shall be prima facie proof of the proceedings had and the judgment entered in said cause.

#### 92.

See notes to section 86.

#### 95.

See notes to section 86.