From the refusal of the court to grant a continuance. Hopkins *v.* State, 53 Md. 517; Universal, etc., Ins. Co. *v.* Bachus, 51 Md. 32; Miller *v.* Miller, 41 Md. 632; Adams Express Co. *v.* Trego, 35 Md. 59.

From the determination by the lower court of the order of proof. Cumberland, etc., R. R. Co. *v.* Slack, 45 Md. 176; Bannon *v.* Warfield, 42 Md. 39.

From an order allowing or refusing the re-examination of a witness. Swartz *v.* Chickering, 58 Md. 291; Green *v.* Ford, 35 Md. 88; Schwartze *v.* Yearly, 31 Md. 270.

From the refusal to allow additional proof after the evidence has been closed. Berry *v.* Derwart, 55 Md. 74; Sellers *v.* Zimmerman, 18 Md. 255.

From the refusal to entertain additional prayers after the prayers originally presented have been refused. Porter *v.* Bowers, 55 Md. 216; Welsker *v.* Lowenthal, 31 Md. 418.

From an order striking out a judgment on a motion filed during the term at which the judgment was entered. McLaughlin *v.* Ogle, 53 Md. 610; Waters *v.* Engel, 53 Md. 182; Merrick *v.* B. & O. R. R. Co., 33 Md. 487; Bridges *v.* Adams, 32 Md. 577.

From the refusal of the court to strike out a judgment by default. Jackson *v.* Union Bank, 6 H. & J. 152.

From an order striking out a judgment by default during the term at which it was entered. (There is nothing in the act of 1864, ch. 6, to give such appeal.) Glenn *v.* Allison, 58 Md. 531; Craig *v.* Wroth, 47 Md. 281; Rutherford *v.* Pope, 15 Md. 581.

From an order dismissing an application for discharge on *habeas corpus*. Annapolis *v.* Howard, 80 Md. 245; State *v.* Boyle, 25 Md. 509; *Ex parte* Coston, 23 Md. 271; Bell *v.* State, 4 Gill, 301.

From an order of a court of law removing a case to a court of equity. Insurance Co. of North America *v.* Schall, 96 Md. 227; Summerson *v.* Schilling, 94 Md. 607.

From the action of the court in allowing counsel to read to the jury from a volume of printed reports. B. & O. R. R. Co. *v.* Kane, 65 Md. 403; Augusta Ins. Co. *v.* Abbott, 12 Md. 350.

From the determination by the lower court of the, time and circumstances of signing exceptions. Andre *v.* Bodman, 13 Md. 256; Roloson *v.* Carson, 8 Md. 209.

From the refusal to allow additional reasons to be filed for striking out a judgment. Herbert *v.* Wich, 45 Md. 476.

From an order overruling a motion to require the plaintiff to pay certain costs before proceeding. Borr *v.* Wilson, 48 Md. 305.

For other examples of matters from which no appeal lies because they are in the discretion of the lower court, see Lewin *v.* Simpson, 38 Md. 485; Gambrill *v.* Parker, 31 Md. 1; Bushey *v.* Culler, 26 Md. 534; Hoffman v. State. 20 Md. 435; Randall *v.* Glenn, 2 Gill, 437.

Appellate or special jurisdiction.

Whether an appeal lies in cases of *certiorari* depends upon whether the court upon a return of the writ exercises a *quasi* appellate power or whether the writ is sued out to test the power or jurisdiction of the lower court. In the first case, there is no appeal; *contra*, in the second case. Baltimore, etc., Turnpike Co. *v.* Northern Central Ry. Co., 15 Md. 193.

As a rule, an appeal lies from a decision of a lower court in the exercise of the usual and general jurisdiction, but not when the lower court is acting under a special jurisdiction, or is itself trying the case as an appellate tribunal. Swann *v.* Cumberland, 8 Gill, 150; Margraff *v.* Cunningham, 57 Md. 589; Cumberland, etc., R. R. Co. *v.* Pennsylvania R. R. Co., 57 Md. 267; Steuart *v.* Steuart, 48 Md. 425; Warfield *v.* Latrobe, 46 Md. 123.

There is no appeal from the action of the circuit court or the courts of Baltimore city in the exercise of their appellate jurisdiction, unless such appeal is expressly given, or the court exceeds its jurisdiction. Hough *v.* Kelsey, 19 Md. 451; State *v.* Bogue, 5 Md. 352; Webster *v.* Cockey, 9 Gill, 92. And see Baltimore, etc., Turnpike Co. *v.* Northern Central Ry. Co., 15 Md. 193.

Where by agreement an appeal from the circuit court is heard by that court *in banc*, the latter decision is conclusive and can not afterwards be reviewed by the court of appeals. Shully *v.* Stoner, 47 Md. 167.