

estate is fully ended and expired, that due notice to quit as aforesaid had been given to said tenant or person in possession and that he had refused so to do, the justice shall thereupon give judgment for the restitution of the possession of said premises and shall forthwith issue his warrant to the sheriff commanding him forthwith to deliver to the lessor, his heirs, executors, administrators or assigns possession thereof in as full and ample manner as the lessor was possessed of the same at the time when the leasing or letting was made, and shall give judgment for costs against the tenant or person in possession so holding over; any tenant who shall feel himself aggrieved by such judgment of said justice shall have the right of appeal therefrom to the circuit court for the county, or the Baltimore city court, upon giving notice of his desire so to appeal within ten days from the rendition of said judgment; and if said defendant shall file with said justice, to be by him transmitted with the papers in said case to said court, an affidavit made by the person so appealing before said justice, or before some officer empowered by law to take acknowledgments of deeds, that said appeal is not taken for delay, and also a good and sufficient bond with one or more securities conditioned that he will prosecute said appeal with effect and well and truly pay all rent in arrear and all costs in said case before the justice of the peace and in the appellate court and all loss or damage which the landlord or lessor, his heirs, personal representatives or assigns may suffer by reason of said tenant's holding over, including the value of said premises during the time he shall so hold over, then the tenant or person in possession of said premises may retain possession thereof until the determination of said appeal; and in case the judgment of said justice shall be affirmed, a warrant as aforesaid shall be issued to the sheriff by the court so determining the same, who shall proceed forthwith to execute the same; if the judgment of the justice shall be against the lessor he shall have the right of appeal at any time within ten days after said judgment shall have been rendered, and the court to which such appeal is taken shall review said cause and render such judgment as the justice ought to have rendered; and if the judgment of said court shall be in favor of the lessor, it shall issue a warrant to the sheriff for the restitution of the possession of said premises as hereinbefore provided; in case of appeal under this section the papers in the case shall be immediately transmitted by the justice to the appellate court.

The landlord's acceptance of rent accruing subsequent to the expiration of the lease is not a waiver of his right to enforce his judgment of restitution. *Hopkins v. Holland*, 84 Md. 93.

In case the tenant appeals, he and his appeal bond are liable for rent as long as he occupies the premises. *Hopkins v. Holland*, 84 Md. 93.

No appeal will lie from the judgment of the circuit court or the Baltimore city court in the exercise of its appellate jurisdiction as conferred by this section, provided the magistrate had jurisdiction. *Benton v. Stokes*, 109 Md. 119. *Roth v. State*, 89 Md. 526. *Clark v. Vannort*, 78 Md. 218. *Burrell v. Lamm*, 67 Md. 580; *Mears v. Remare*, 33 Md. 246.

The proper method of raising in the court of appeals (on appeal from the circuit court), the question of the constitutionality of the statutes con-