

1904, art. 5, sec. 6. 1888, art. 5, sec. 6. Rules 2 and 27.

6. All appeals, or writs of error, allowed from any judgment or determination of a court of law, to the court of appeals of this State, other than from decisions on questions arising under the insolvent law, shall be taken within two months from the date of such judgment or determination, and not afterwards; and the transcript of the record shall be transmitted to the court of appeals within three months from the time of the appeal taken, or writ of error allowed.

The Appeal.

Where a final judgment is improperly entered before a motion for new trial filed in due time has been disposed of, the appeal will not be dismissed because not entered within two months from such judgment. *Heiskell v. Rollins*, 81 Md. 397.

Although the order for an appeal was not actually entered until after the time provided by this section, since it was satisfactorily shown by depositions that the order was filed in due time and that the same was lost or mislaid without having been entered on the docket, the appeal will not be dismissed. *Cahill v. Baltimore*, 93 Md. 233.

The appeal must actually be entered of record within the two months. *Galnes v. Lankin*, 82 Md. 129. And see *Meyer v. Steuart*, 48 Md. 426.

The filing of a bill of exceptions is not equivalent to the entry of an appeal. *Farmers' Bank v. Mackall*, 11 G. & J. 457.

The death of the appellee does not suspend the running of the time within which the appeal must be taken. *Hopper v. Jones*, 64 Md. 578.

An appeal taken too late will be dismissed. *Riley v. New York, etc., Co.*, 90 Md. 59; *Gemmell v. Davis*, 71 Md. 463; *Peabody Heights, etc., Co. v. Sadtler*, 62 Md. 145; *Walsh v. State*, 53 Md. 544; *Meyer v. Steuart*, 48 Md. 426; *Jacobs v. Bealmeare*, 41 Md. 484. And see *Hopper v. Jones*, 64 Md. 578.

The record.

Where by agreement of parties the signing of a bill of exceptions is postponed so that the record cannot be transmitted in time, the appeal will not be dismissed, the delay being caused by the appellee as well as the appellant. *Hopper v. Beck*, 83 Md. 647.

The burden of proof is on the appellant to show that the delay in transmitting the record was not his fault; failure of proof. *Maryland, etc., R. R. Co. v. Hammond*, 110 Md. 124.

If the record is not transmitted within the three months, the appeal will be dismissed. *Steiner v. Harding*, 88 Md. 343.

Generally.

This section applies to an appeal from a judgment of a law court on issues sent from the orphans' court. *Hoppe v. Byers*, 60 Md. 395.

This section applies to an appeal from a judgment of condemnation in an attachment. *Mears v. Adreon*, 31 Md. 235.

Cited but not construed in *State v. Bowers*, 65 Md. 364.

(*Cf.* sections 32, 33 and 62 and notes; see sections 40 and 41.)

Ibid. sec. 7. 1888, art. 5, sec. 7. 1860, art. 5, sec. 6. 1849, ch. 88, sec. 1. 1854, ch. 193, sec. 20. 1865, ch. 91. Rule 3.

7. All appeals allowed from decisions of questions arising under the insolvent law shall be taken within thirty days from the time of the decision made, and a transcript of the record shall be transmitted to the clerk of the court of appeals within sixty days from the date of the decision appealed from; but the execution or effect of any judgment, decree, decision or order so appealed from shall not be suspended