

No appeal lies from the action of the court on a motion for a new trial. *Archer v. State*, 45 Md. 460.

This section does not authorize an appeal in *habeas corpus* cases. *Annapolis v. Howard*, 80 Md. 245.

The history of this section traced, beginning with the act of 1872, ch. 316. *Avrett v. State*, 76 Md. 514.

For a case construing the act of 1886, ch. 169, see *Lamb v. State*, 66 Md. 289.

For a case construing the act of 1884, ch. 132, see *Baltimore, etc., Co. v. State*, 63 Md. 580.

For cases construing the act of 1872, ch. 316, see *Swan v. State*, 64 Md. 424; *Baltimore, etc., Co. v. State*, 63 Md. 580; *Crouse v. State*, 57 Md. 327; *Munshower v. State*, 56 Md. 518; *Johns v. State*, 55 Md. 353; *Forwood v. State*, 49 Md. 539; *State v. Carter*, 49 Md. 9; *Forwood v. State*, 49 Md. 537; *State v. Shields*, 49 Md. 303; *Kearney v. State*, 46 Md. 424; *Broll v. State*, 45 Md. 360; *Dulany v. State*, 45 Md. 101; *Smith v. State*, 44 Md. 533; *Wheeler v. State*, 42 Md. 570; *Deckard v. State*, 38 Md. 200.

This section does not repeal article 5, section 2. *Bramble v. State*, 88 Md. 687; *Salfner v. State*, 84 Md. 301; *State v. Williams*, 85 Md. 233.

Cited but not construed in *Izer v. State*, 77 Md. 111; *Stout v. State*, 76 Md. 319; *State v. Bowers*, 65 Md. 364; *Chesapeake Club v. State*, 63 Md. 450; *Maguire v. State*, 47 Md. 493; *Davis, v. State*, 38 Md. 35.

See sec. 4.

1904, art. 5, sec. 81. 1888, art. 5, sec. 78. 1878, ch. 40.

81. Whenever any writ of error or appeal shall be brought upon any judgment, or any indictment, information, presentment, inquisition or conviction in any criminal case, and the court of appeals shall reverse the judgment for error in the judgment, or sentence itself, it shall be the duty of the court of appeals to remit the record to the court below, in order that such court may pronounce the proper judgment upon such indictment, information, presentment, inquisition, or conviction; provided, however, that it shall be the duty of the court in passing any sentence under the provisions of this section to deduct from the term of sentence the time already served by the prisoner under the previous sentence from the date of his conviction.

This section grew out of the decision in *McDonald v. State*, 45 Md. 90. *Lynn v. State*, 84 Md. 83.

Appeals from the Commissioner of the Land Office.

Ibid. sec. 82. 1888, art. 5, sec. 79. 1860, art. 5, sec. 46. 1852, ch. 361, sec. 2. 1853, ch. 415, sec. 4.

82. All parties aggrieved by any judgment, final order or determination in any case affecting the title to lands, made by the commissioner of the land office, shall have full power and right to appeal from such judgment, order or determination, to the court of appeals; provided, that no such appeal shall stay proceedings, unless bond and security be given in the manner herein required in appeals from courts of equity.

A judicial proceeding, commenced by the filing of a caveat, must be had in order to justify an appeal. When the commissioner acts ministerially, and when judicially. *Jay v. VanBibber*, 94 Md. 688.

Where a caveat is sustained and the patent refused, an appeal lies. *Smith's Lessee v. Devecmon*, 30 Md. 480.