

Appeals from Orphans' Courts.

62.

See notes to sections 40 and 41.

66.

This section is important and should be invariably observed; the omission of the clerk, however, to note the costs in the record does not affect the right of the party to whom the costs are awarded to collect such costs. *Marshall v. Marshall*, 124 Md. 261.

Costs.

1916, ch. 650.

67A. In all appeals from the courts of law and equity as well as the Orphans' Court to the Court of Appeals of Maryland there shall be taxed to those to whom costs may be awarded by the Court of Appeals in any decree, judgment or order in the nature of a judgment or decree such sum or sums as shall have been expended by the party or parties to whom costs are awarded for the stenographic report in the lower court of the proceedings in order to make the record for the appeal to the Court of Appeals.

Execution.

70.

Execution is issuable out of the Court of Appeals for the enforcement of any of its judgments; see notes to article 16, section 216. *Marshall v. Marshall*, 124 Md. 262.

Appeals in Criminal Cases.

80.

Under this section an appeal brings up for review both the exceptions and the judgment upon the demurrers. After an acquittal upon a regular trial, the verdict cannot, on the application of the prosecutor in any form of proceeding, be set aside and a new trial granted. The Court of Appeals notices exceptions by the state on the state's appeal only where the accused has been convicted and has also taken exceptions and appeals; where, however, defendant has not been tried upon the indictment, or upon one or more of the counts therein charging different offenses, the appeal by the state brings up for review the judgment of the lower court on the demurrers. *State v. King*, 124 Md. 496.

The proceedings on appeal in criminal cases are the same as in civil cases. Unless the record discloses the facts upon which the traverser relies in support of a motion to quash, the rulings of the lower court cannot be reviewed. *Hamilton v. State*, 127 Md. 313.

81.

This section referred to in deciding that it is not reversible error, even in capital cases, not to ask the prisoner if he has any reason to give why sentence should not be imposed, unless it appears that he was, or may have been, injured by the omission; this practice, however, recommended. *Dutton v. State*, 123 Md. 382.