

On an appeal from an order of the orphans' court annulling a guardian's bond, the propriety of an order of that court removing the guardian will not be considered, since an appeal from the latter order was not taken within thirty days. *Culver v. Cooke*, 133 Md. 686.

Ordinarily a petition asking that an order admitting a will to probate and granting letters testamentary be revoked should be filed within thirty days from the time when such order comes to the knowledge of the petitioner, or at least some sufficient reason for not doing so must be shown; if, however, fraud is alleged, the petitioner will be given a reasonable time within which to file his petition after discovery of the fraud. Petitioner held to have failed to exercise due diligence. Fraud not established. *Didier v. Carr*, 115 Md. 267.

Cited but not construed in *Houston v. Wilcox*, 121 Md. 95.

An appeal from the judgment of a law court on issues sent from the orphans' court, does not come under the operation of this section. *Hoppe v. Byers*, 60 Md. 395.

Appeal held to have been taken in time. *Wrightson v. Tydings*, 94 Md. 360.

Appeal dismissed for not having been taken in time. *Porter v. Timanus*, 12 Md. 292; *Mayhew v. Soper*, 10 G. & J. 372; *Sewell v. Sewell*, 1 H. & G. 10. And see *Billingslea v. Henry*, 20 Md. 285.

Where the record is not transmitted to the appellate court within the required time, the appeal will be dismissed notwithstanding an agreement of counsel to the contrary. *Powell v. Curtis*, 78 Md. 500.

This section applied by analogy. *Stanley v. Safe Deposit Co.*, 88 Md. 407; *Redman v. Chance*, 32 Md. 53.

Cited but not construed in *Schwallenberg v. Jennings*, 43 Md. 556.

See notes to secs. 44 and 45. *Cf.* secs. 6, 7, 36 and 37, and notes.

An. Code, sec. 63. 1904, sec. 63. 1888, sec. 61. 1798, ch. 101, sub-ch. 2, sec. 11.
1798, ch. 102, sub-ch. 15, sec. 18.

67. The court of appeals shall either affirm the decree, judgment, decision or order of the court below, or direct in what manner it shall be changed or amended; and the decision of the court of appeals shall be final and conclusive, and when certified under the seal of the court and transmitted to the orphans' court, the orphans' court shall proceed according to the tenor and directions thereof.

Where claims were allowed without sufficient proof, the case was remanded to the orphans' court for further testimony. *Bowling v. Lamar*, 1 Gill, 366.

The court of appeals only renders such judgment as the orphans' court should have rendered, and hence the judgment is not conclusive as respects the rights of the parties to the cause. *Levering v. Levering*, 64 Md. 414.

An. Code, sec. 64. 1904, sec. 64. 1888, sec. 62. 1798, ch. 101, sub-ch. 15, sec. 19.

68. An appeal from the orphans' court shall not stay any proceedings therein which may with propriety be carried on before the appeal is decided, if the said orphans' court can provide for the conforming to the decision of the court of appeals, whether the said decision may eventually be for or against the appellant.

Where an order directing money to be brought into court has been appealed from, but pending the appeal the orphans' court proceeds to enforce its order by proceedings for contempt, the court of appeals will stay further action by the orphans' court. *Bruscup v. Taylor*, 26 Md. 410.

Pending an appeal from an order revoking letters, the letters remain in full force. If an order is passed, however (prior to the actual granting of letters), ordering that letters be granted, they will not be granted pending an appeal from such order. *State v. Williams*, 9 Gill, 176.

The appeal only stays such proceedings as are thereby affected and which could not be consistently carried on until its termination; what may be done pending an appeal. *Jones v. Jones*, 41 Md. 360.

This section does not authorize the appointment of a new administrator pending an appeal, and the sequestration of the former administrator's property. *Biddison v. Storey*, 57 Md. 97.