

or writ of error sued out, and before final judgment upon such appeal or writ of error in the court of appeals, and the executor of such party, or his administrator, shall have failed or shall fail to appear in the court of appeals, and to suggest such death, and judgment has been or shall be given, as if the said party so deceased was alive, then and in such event it shall and may be lawful for any surviving party to such appeal or writ of error so adjudged as aforesaid, to suggest in the court of appeals the death of the said party to the said appeal or writ of error, prior to the entering up of the judgment in the said court, and to show to the court of appeals who is the executor or administrator of the deceased party; and in that event it shall be competent for the said court of appeals to order execution to issue in the said cause to the same extent and in the same manner as if the said executor or administrator had suggested the death of the person so dying as aforesaid, and had appeared to prosecute or defend said writ of error or appeal.

This section refers to cases where parties die after an appeal has been taken, but before final judgment in the court of appeals, and not to a case where the plaintiff dies before the appeal is prayed. *Goldschmid v. Meline*, 86 Md. 372. *Harryman v. Harryman*, 49 Md. 69.

An. Code, sec. 79. 1904, sec. 79. 1898, ch. 29, sec. 76A.

85. In any case in which the party plaintiff or party defendant shall have died, either before or after judgment or decree, the heir, executor, administrator or other proper person may, if he thinks proper, suggest the death and become a party in the place of such deceased party, and pray an appeal or writ of error, and appear to such appeal or writ of error for the purpose of prosecuting the same; provided such appeal or writ of error be prayed within the time prescribed in this article.

This section apparently grew out of the decision in *Goldschmid v. Meline*, 86 Md. 373.

Appeals in Criminal Cases.

An. Code, sec. 80. 1904, sec. 80. 1888, sec. 77. 1872, ch. 316. 1884, ch. 132. 1886, ch. 169. 1892, ch. 506.

86. The parties to criminal proceedings shall be entitled to bills of exceptions in the same manner as in civil proceedings, and appeals from judgments in criminal cases may be taken in the same manner as in civil cases; but no appeal in a criminal case shall stay execution of sentence unless the counsel for the accused shall make oath that the appeal is not taken for delay; and such appeal shall be heard at the earliest convenient day after the same shall have been transmitted to the court of appeals; and the accused, upon taking such appeal, shall, in all cases not punishable by death, or imprisonment in the penitentiary, be entitled to remain on bail, and in other cases not capital, the court from which the appeal is taken shall have the discretionary power to admit to bail; provided that nothing herein contained shall be construed to prohibit the court from requiring additional or greater bail, pending an appeal, than the accused may already have given before conviction.