

Since the act of 1892, ch. 506, the appeal is from the judgment, and the record includes demurrers and exceptions as in civil cases. Appeal treated as taken from judgment. *Kaefer v. State*, 143 Md. 160.

An appeal having been entered on the docket the day judgment was entered, was in time—a further written order unnecessary; affidavit only stays execution. *Smith v. State*, 143 Md. 542.

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. *Avirett 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 art. 5, sec. 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.

An. Code, sec. 81. 1904, sec. 81. 1888, sec. 78. 1878, ch. 40.

**87.** 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.

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.

Case remanded for the entry of a proper judgment, as for a first offense, as provided in this section. *Goeller v. State*, 119 Md. 68.

A remand of the record under this section where an erroneous punishment was imposed, held proper. *Cochran v. State*, 119 Md. 557.

Cited but not construed in *Kenny v. State*, 121 Md. 123.

### Appeals from the Commissioner of the Land Office.

An. Code, sec. 82. 1904, sec. 82. 1888, sec. 79. 1852, ch. 361, sec. 2. 1853, ch. 415, sec. 4.

**88.** 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 judg-