

ment, 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.

An appeal under this section will not be dismissed because the appellant shows no interest. *Patterson v. Gelston*, 23 Md. 446 (overruling *Gittings v. Moale*, 21 Md. 135, on this point).

Cited but not construed in *Dorothy v. Hillert*, 9 Md. 574.

As to the "Land Office," see art. 54.

An. Code, sec. 83. 1904, sec. 83. 1888, sec. 80. 1852, ch. 361, sec. 2. Rule 16. 1904, ch. 143.

**89.** All appeals allowed from the judgments or orders of the Commissioner of the Land Office, shall be taken within two months from the date of the judgment or order appealed from, the party appealing filing at the time of such appeal the ground or reasons therefor; and thereupon it shall be the duty of the said commissioner to make out, under his hand and the seal of his office, and transmit to the court of appeals, a transcript of the record of proceedings in such case, within sixty days from the time of the appeal taken, but in such transcript no paper or proceedings, not necessary to the determination of the appeal shall be incorporated.

Cited but not construed in *Patterson v. Gelston*, 23 Md. 444.

See secs. 6, 36, 37 and 66, and notes.

As to the "Land Office," see art. 54.

#### **Appeals from County Commissioners.**

An. Code, sec. 84. 1904, sec. 84. 1888, sec. 81. 1876, ch. 193. 1900, ch. 494.

**90.** Any person a party to the proceedings feeling himself aggrieved by any decision or order of the county commissioners, or any taxpayer not a party to the proceedings, may appeal to the circuit court for the county at any time within sixty days after the time of the making of such decision or order, and upon such appeal being taken in writing, the clerk of the county commissioners shall immediately transmit a copy of the proceedings to said circuit court; and if upon an appeal taken by a taxpayer not a party to the proceedings the appeal is not sustained, the appealing taxpayer shall pay the costs of such appeal unless the court shall otherwise direct, and all appeals from decisions of the county commissioners shall be docketed against the party or petitioner in whose favor the decision below was made.

An injunction to restrain the county commissioners from closing a public road denied under art. 25, sec. 13, and under this section, there being no lack of good faith, fraud or conspiracy on the part of the commissioners and no question of a way of necessity. Under this section and sec. 91, the court of appeals cannot review the judgment of the circuit court on appeal from the county commissioners, provided such court had jurisdiction over the subject-matter. Proper party to appeal. Jurisdiction. *Harford County v. Jay*, 122 Md. 325.

This and the following section referred to in upholding the right of a party prosecuting an appeal from a decision of the industrial accident commission to introduce any proper oral evidence upon such appeal; see notes to art. 101, sec. 56. *Frazier v. Leas*, 127 Md. 577.