

An. Code, sec. 94. 1904, sec. 94. 1888, sec. 91. 1849, ch. 78, sec. 1.

100. If the justice of the peace rendering any judgment appealed from, goes out of office, by death or otherwise, before an appeal bond has been executed by the party appealing, such appeal bond may be executed before any other justice in the same county or city, and such bond shall have the same effect as if executed before the justice rendering the judgment appealed from.

An. Code, sec. 95. 1904, sec. 95. 1888, sec. 92. 1867, ch. 164. 1900, ch. 360. 1902, ch. 144. 1902, ch. 474.

101. Before any of the circuit courts of this State or the Baltimore city court shall proceed to hear or try cases brought to their respective courts by appeal from the judgments of justices of the peace, they shall first be satisfied that all costs incurred on the judgments and proceeding before the justice aforesaid have been paid by the appellant, or that the appellant has given bond, conditioned for the payment of the same, if he does not prosecute his appeal successfully. This section is not to apply to Allegany county, nor to Frederick county; provided, that in Frederick county the appellant shall have given a sufficient bond as provided by section 98 of this article.

This section was passed for the protection of the justice and his officers, and not of the parties to the suit. The payment of costs is a condition precedent to the hearing, and not to the appeal. If the non-payment of the costs is not raised, the judgment is not void on that ground. *B. & O. R. R. Co. v. Waltemyer*, 47 Md. 332.

No question of the constitutionality of this section has ever been raised. *Knee v. Baltimore, etc., Ry. Co.*, 87 Md. 630.

As to costs, see also secs. 14, 16, 30, 71 and 104.

See notes to sec. 92.

An. Code, sec. 96. 1904, sec. 96. 1888, sec. 93. 1870, ch. 56.

102. Where any judgment of a justice of the peace, imposing any fine or penalty for the violation of any law or ordinance, shall be affirmed upon appeal, the court to which such appeal is taken shall have the power to commit the defendant or appellant in case of non-payment of such fine or penalty and costs; provided, that no person shall be imprisoned under this section for a longer period than thirty days for any one offence.

See art. 52, sec. 12.

Amendment on Appeal from Justices of the Peace.

An. Code, sec. 97. 1904, sec. 97. 1888, sec. 94. 1884, ch. 416.

103. All civil actions and civil proceedings, including the writ, summons, docket entries and the names of the parties, on appeal from a justice of the peace, before a circuit court, for any county or the Baltimore city court, may be amended so as to bring said action to trial on its merits, in the same manner and to the same extent as now allowed in cases originating in courts of law; and amendments in any of the said courts shall be allowed and made in the discretion of said court, as if said actions, writs and proceedings had originated therein.

As to amendments at law, see art. 75, sec. 39, *et seq.*; in equity, see art. 16, secs. 17 and 18.