

An. Code, 1924, sec. 31. 1912, sec. 27. 1904, sec. 27. 1888, sec. 25. 1835, ch. 346, sec. 2. 1835, ch. 380, sec. 3. 1841, ch. 11. 1845, ch. 367, sec. 1. 1865, ch. 141. 1920, ch. 274, sec. 27. 1927, ch. 593.

31. An appeal may also be granted in the following cases, to wit: From any order granting an injunction, or from a refusal to dissolve the same, or an order appointing a receiver, the answer of the party appealing being first filed in the cause; from an order dissolving an injunction, or from an order remedial in its nature adjudging in contempt of court any party to a cause or any person not a party thereto (except orders passed requiring the payment of alimony); from an order for the sale, conveyance or delivery of real or personal property or the payment of money, unless such delivery or payment be directed to be made to a receiver appointed by such court; or from any order determining a question or right between the parties, and directing an account to be stated on the principle of such determination, or from any order of any court in this State the effect of which is to deprive any parent, grandparent, or natural guardian of such child of its care and custody, and upon any such appeal the facts of the case shall be reviewed as in appeals from final decrees passed by courts of equity.

Although this section requires answer to be filed before an appeal from order granting injunction, Court of Appeals is confined to averments of bill of complaint. *Sterback v. Robinson*, 148 Md. 27. (Decided prior to act 1927, ch. 593.) *State Founders, Inc., v. Oliver*, 165 Md. 368.

One cannot accept a decree to the extent it is favorable, and appeal from so much thereof as did not extend relief to degree desired. *Silverberg v. Silverberg*, 148 Md. 689. (Decided prior to act 1927, ch. 593.)

To third note under heading "Determining a Question," etc., page 225, vol. 1, of Code, add *Holloway v. Safe Dep. & Tr. Co.*, 152 Md. 295. (Decided prior to act 1927, ch. 593.)

As act 1920, ch. 274, added a final clause to this section, the reference in first and last notes under the heading "Determining a Question of Right," etc., page 225, vol. 1, of Code, to "last clause of this section," should now be to portion of this section *re* order "determining a question of right," etc.

While effect of an appeal under this section from interlocutory order granting an injunction or appointing a receiver is in some respects analogous to demurrer to bill of complaint for a want of equity, there is an important distinction between them, for in demurrer the test of sufficiency of bill is whether any part of the relief prayed is justified by averments of bill while in appeal the test is whether the averments of bill are sufficient to justify the particular relief granted by the order. *State Founders, Inc., v. Oliver*, 165 Md. 368.

There is no appeal under this section from order adjudging one in contempt if no punishment is imposed. *Pocketbook Workers v. Orlove*, 158 Md. 505.

32.

On appeal from final decree restraining defendant from operating plant in way to affect health of neighborhood, previous interlocutory and tentative decree may be reviewed. *Washington Cleaners v. Albrecht*, 157 Md. 401.

Where final order of ratification without hearing or preliminary order *nisi* of auditor's amended report, held that notwithstanding this irregularity of procedure, as the auditor had already filed two former accounts in same matter, appeal does not justify reversal under circumstances. *Nichols v. McGill*, Daily Record, May 1, 1935.

See notes to sec. 31.

33.

Court may, in its discretion, order that decree shall not be stayed by appeal, or shall be stayed only upon such terms as court directs. It is absolute duty of