

Appellate or special jurisdiction.

Whether an appeal lies in cases of *certiorari* depends upon whether the court upon a return of the writ exercises a *quasi* appellate power or whether the writ is sued out to test the power or jurisdiction of the lower court. In the first case, there is no appeal; *contra*, in the second case. *Baltimore, etc., Turnpike Co. v. Northern Central Ry. Co.*, 15 Md. 193.

As a rule, an appeal lies from a decision of a lower court in the exercise of the usual and general jurisdiction, but not when the lower court is acting under a special jurisdiction, or is itself trying the case as an appellate tribunal. *Swann v. Cumberland*, 8 Gill, 150; *Margraff v. Cunningham*, 57 Md. 589; *Cumberland, etc., R. R. Co. v. Pennsylvania R. R. Co.*, 57 Md. 267; *Steuart v. Steuart*, 48 Md. 425; *Warfield v. Latrobe*, 46 Md. 123.

There is no appeal from the action of the circuit court or the courts of Baltimore city in the exercise of their appellate jurisdiction, unless such appeal is expressly given, or the court exceeds its jurisdiction. *Hough v. Kelsey*, 19 Md. 451; *State v. Bogue*, 5 Md. 352; *Webster v. Cockey*, 9 Gill, 92. And see *Baltimore, etc., Turnpike Co. v. Northern Central Ry. Co.*, 15 Md. 193.

Where by agreement an appeal from the circuit court is heard by that court *in banc*, the latter decision is conclusive and cannot afterwards be reviewed by the court of appeals. *Shully v. Stoner*, 47 Md. 167.

From a court exercising a special, limited, statutory jurisdiction, no appeal lies. *Carter v. Dennison*, 7 Gill, 158. See also *Williams v. Williams*, 5 Gill, 85; *Chase v. Glenn*, 1 H. & G. 160.

No appeal lies from an order of the circuit court confirming an inquisition unless the court exceeds its jurisdiction. *George's Creek, etc., Co. v. New Central, etc., Co.*, 40 Md. 425; *Wilmington, etc., R. R. Co. v. Condon*, 8 G. & J. 443.

Generally.

An appeal from a final judgment brings up for review the action of the trial court upon demurrers to pleas and replications. No bill of exception or writ of error is necessary. *Kendrick v. Warren*, 110 Md. 76; *Schindel v. Suman*, 13 Md. 310; *Tucker v. State*, 11 Md. 322; *Lawson v. Snyder*, 1 Md. 77. And see *Boteler v. State*, 7 G. & J. 109.

An appeal lies from an order sustaining a motion to quash the return of process against a non-resident corporation on the ground that it was not doing business in Maryland, where there is no one upon whom process may be served binding upon the defendant in the jurisdiction in which the suit is instituted. *State v. Pennsylvania Steel Co.*, 123 Md. 215.

The "judgment or determination of any court," mentioned in this section, means final judgment or determination; an appeal does not lie from interlocutory matters. On an appeal, however, from a final judgment, rulings upon matters of law may be reviewed without a special exception having been taken; no exception need be taken to a ruling holding an account filed with a *narr.* tantamount to a bill of particulars. *Newbold v. Green*, 122 Md. 651.

An appeal lies from an order quashing a return in an attachment on judgment; cases reviewed. The appeal will not be dismissed because there is no bill of exceptions if the record discloses the questions decided by the lower court. *Sharpless Separator Co. v. Brillhart*, 129 Md. 85.

Where an appeal is taken while a motion for new trial is still pending and before final judgment, it will be dismissed; correction of record of lower court. *Md., Del. & Va. Rwy. v. Johnson*, 129 Md. 414.

From the refusal of the trial court to sign and seal a bill of exceptions, no appeal lies. *Marsh v. Hand*, 35 Md. 125.

The court of appeals alone determines when an appeal will lie. *Lester v. Howard*, 24 Md. 233; *Keighler v. Savage, etc., Co.*, 12 Md. 413.

An appeal under this section in criminal cases must be taken from a judgment upon demurrer or motion in arrest, or the facts must be spread upon the record by a special verdict or special finding, or by an agreed statement of facts. *State v. Williams*, 85 Md. 234.

Where a judgment is rendered jointly against several defendants, all of them must unite in the appeal unless there be summons and severance. The court of appeals will, however, if applied to, order summons and severance and refuse to dismiss the appeal. *Mottu v. Primrose*, 23 Md. 492; *Cumberland, etc., Co. v. Jeffries*, 21 Md. 375. See also *Price v. Thomas*, 4 Md. 520.

If there ever was any difficulty in a plaintiff appealing from a judgment in favor of one defendant where there was a judgment for the plaintiff against the other defendant, the act of 1914, ch. 433, shows the tendency of the legislature, though it may not, strictly speaking, cover the case. Law prior to 1914. *Baitary v. Smith*, 140 Md. 440.

A sheriff cannot appeal from an order directing him to bring money arising from an execution into court. *Sanderson v. Alcock*, 9 G. & J. 165.

Though a first appeal be withdrawn, a second may be entered if within the time allowed by law; *contra*, however, if execution is issued after the first appeal is withdrawn. *Hay v. Jenkins*, 28 Md. 564; *Ward v. Hollins*, 14 Md. 158.