

No point or question not plainly designated can be determined by the court of appeals. *McCaddin v. State*, 100 Md. 670; *Mitchell v. State*, 82 Md. 532; *Hearn v. Gould*, 51 Md. 319. And see *Johns v. State*, 55 Md. 353; *Price v. State*, 159 Md. 496.

This section complied with. *Gabelein v. Plaenker*, 36 Md. 64.

As to appeals in criminal cases, see also secs. 86 and 87.

Court of Appeals cannot pass upon the selection of a court to which case shall be removed until after trial has been held and final judgment rendered. *Lee v. State*, 161 Md. 430.

An. Code, 1924, sec. 5. 1912, sec. 5. 1904, sec. 5. 1888, sec. 5. 1832, ch. 208.

5. In cases of issues sent from the orphans' court or a court of equity to a court of law to be tried, exceptions may be taken to any opinion given by the court before whom such issues shall be tried, and an appeal may be taken on such exceptions; and such appeal, while pending, shall stay all proceedings in the orphans' court touching the matter of such issues.

This section referred to in construing certain provisions of the act of 1916, ch. 625, changing the time within which Bills of Exceptions in Baltimore city must be signed. Court may extend time for signing Bills of Exceptions upon petition assigning reasons; review by court of appeals. Waiver. Motion to dismiss appeal overruled. *Wegefath v. Weissner*, 132 Md. 599.

This section does not qualify or restrict the powers of a law court; it merely gives a right of exception and appeal as in other cases at law. *Waters v. Waters*, 26 Md. 73. See also *Price v. Taylor*, 21 Md. 366.

The entry of an appeal stays the proceedings in the orphans' court whether that court knows of the appeal or not. An order passed by the orphans' court in ignorance of the appeal should be at once rescinded. *Berry v. Safe Deposit Co.*, 93 Md. 243.

Cited but not construed in *Goodman v. Wineland*, 61 Md. 455; *Barth v. Rosenfeld*, 36 Md. 615; *Van Ness v. Van Ness*, 6 How. 62.

As to a stay of proceedings in the orphans' court, see sec. 68.

As to issues from the orphans' court, see art. 93, secs. 254, 263 and 265.

An. Code, 1924, sec. 6. 1912, sec. 6. 1904, sec. 6. 1888, sec. 6. Rule 2. 1922, ch. 356, sec. 6.

6. All appeals, or writs of errors, allowed from any judgment or determination of a court of law, to the Court of Appeals of this State, other than from decisions on questions arising under the insolvent law, shall be taken within two months from the date of such judgment or determination, and not afterwards; and the transcript of the record shall be transmitted to the Court of Appeals within three months from the time of the appeal taken, or writ of error allowed.¹

Time of appeal.

Where a final judgment is improperly entered before a motion for new trial filed in due time has been disposed of, the appeal will not be dismissed because not entered within two months from such judgment. *Heiskell v. Rollins*, 81 Md. 397.

Although the order of an appeal was not actually entered until after the time provided by this section, since it was satisfactorily shown by deposition that the order was filed in due time and that the same was lost or mislaid without having been entered on the docket, the appeal will not be dismissed. *Cahill v. Baltimore*, 93 Md. 233.

The appeal must actually be entered of record within the two months. *Gaines v. Lamkin*, 82 Md. 129. And see *Meyer v. Steuart*, 48 Md. 426.

The filing of a bill of exceptions is not equivalent to the entry of an appeal. *Farmers' Bank v. Mackall*, 11 G. & J. 457.

The death of the appellee does not suspend the running of the time within which the appeal must be taken. *Hopper v. Jones*, 64 Md. 578.

An appeal taken too late will be dismissed. *Riley v. New York, etc., Co.*, 90 Md. 59; *Gemmell v. Davis*, 71 Md. 463; *Peabody Heights, etc., Co. v. Sadtler*, 62 Md. 145; *Walsh v. State*, 53 Md. 544; *Meyer v. Steuart*, 48 Md. 426; *Jacobs v. Bealmear*, 41 Md. 484. And see *Hopper v. Jones*, 64 Md. 578; *Wilmer v. Lang*, 142 Md. 700.

In the trial of issues from the orphans' court, the time within which an appeal must be taken runs from the date of the verdict in the court of law; the filing of a motion for a new trial does not enlarge the time. *Estoppel*. Appeal dismissed. *Kamps v. Alexander*, 133 Md. 199.

¹ As revised by Court of Appeals, Oct. 5, 1933.