of the parties, to order continuances in said case to be entered, and the same to be proceeded with in the same manner and with the same effect as if no such appeal or writ of error had been taken or sued out; and either party may make such suggestion and new parties as could have been made if no appeal had been taken in the case; provided, the court shall be satisfied by the certificate of the clerk of the court of appeals, or other proper evidence, that the said appeal or writ of error has been dismissed.

An. Code, 1924, sec. 29. 1912, sec. 25. 1904, sec. 25. 1888, sec. 23. 1806, ch. 90, sec. 5.

29. Where writs of error *coram vobis* are pending in the court of appeals, and it shall appear to the court necessary to try any matter of fact put in issue by the pleadings in the case, the court may direct a transcript of the record to the court where the defendant named in the original action may reside, or to such other court as the parties in the said cause may agree upon; and the court to which such transcript shall be transmitted, shall proceed in such action, and to a trial of the facts put in issue.

Cited in Webster & Harlan *v.* Archer, Daily Record, Mar. 8, 1939.

Appeals from Courts of Equity.

An. Code, 1924, sec. 30. 1912, sec. 26. 1904, sec. 26. 1888, sec. 24. 1785, ch. 72, sec. 27. 1729, ch. 3, sec. 3. 1814, ch. 94, sec. 5. 1818, ch. 193, sec. 1. 1819, ch. 144, sec. 1. 1826, ch. 200, sec. 14. 1830, ch. 185, sec. 1. 1864, ch. 156.

30. An appeal shall be allowed from any final decree, or order in the nature of a final decree, passed by a court of equity by any one or more of the persons parties to the suit, with or without the assent or joinder of plaintiffs or co-defendants in such appeal; provided that if the court of appeals shall affirm the decree of the court below, they shall not award costs of the appeal against any one except the appellant.

Matters in discretion of court.

No appeal:

From an order appointing a trustee, though the court gives an erroneous reason for its action. Howard *v.* Waters, 19 Md. 529.

From an order allowing an amendment of the pleadings. State *v.* Brown, 64 Md. 208.

An order allowing the re-examination of a witness. Swartz *v.* Chickering, 58 Md. 297.

From the action of the court on a petition for rehearing. Zimmer *v.* Miller, 64 Md. 296; Jacobs *v.* Bealmear, 41 Md. 487.

From the action of the court in granting or refusing leave to file a bill of review. Pfeltz *v.* Pfeltz, 1 Md. Ch. 458.

From the action of the court on an application to file a supplementary answer. Frisby *v.* Parkhurst, 29 Md. 69; Thomas *v.* Daub, 1 Md. 324.

From the action of the court on an application to appoint an early day for the hearing of a motion to dissolve an injunction. Owens *v.* Worthington, 10 G. & J. 283.

From the award of costs. Claggett *v.* Salmon, 5 G. & J. 350.

Although no appeal lies from an order determining a matter within the discretion of the court, yet the question of whether a matter is within the discretion of the court and whether that discretion was so exercised as not to impair established rights, are open to review on appeal. Emory *v.* Faith, 113 Md. 256; Gottschalk *v.* Mercantile Trust Co., 102 Md. 522; Beilman *v.* Poe, 120 Md. 446.

See notes to sec. 2.

Interlocutory orders.

No appeal:

From a mere practical order of court preparatory to final hearing. Thomson *v.* McKim, 6 H. & J. 302; Wheeler *v.* Stone, 4 Gill, 39.

From an order for the delivery of real or personal property and an account of the rents and profits, until such an account shall have been finally acted upon. Hatton *v.* Weems, 10 G. & J. 377.

From an order directing money to be brought into court. Dillon *v.* Connecticut, etc., Co., 44 Md. 394; Henry *v.* Kaufman, 24 Md. 11. And see Wheeler *v.* Stone, 4 Gill, 39.

From an order merely suspending the allowance of a claim. Barton *v.* Higgins, 41 Md. 546.