

An answer is sufficient under this section, though it is not under oath. *Mahaney v. Lazier*, 16 Md. 73. Cf. *Bouldin v. Baltimore*, 15 Md. 20.

In an appeal under this section, the answer and exhibits ought to be sent up with the record. *Blackburn v. Craufurd*, 22 Md. 447.

#### **Sale of property or payment of money.**

An appeal lies under this section from an order for the sale of real and personal property. *Wheeler v. Stone*, 4 Gill, 46.

No appeal from an order refusing to authorize a sale before final decree, or suspending or rescinding an interlocutory order of sale. *Washington, etc., R. R. Co. v. Southern, etc., R. R. Co.*, 55 Md. 156.

An appeal lies from an order allowing alimony and counsel fees pending a divorce suit. *Chappell v. Chappell*, 86 Md. 537.

#### **Determining a question of right and directing an account.**

In an appeal under the last clause of this section *re* order "determining question of right", the court is limited to a consideration of matters determined by the lower court for the government of the auditor. *Goodburn v. Stevens*, 1 Md. Ch. 427.

No appeal from an order merely directing an account. *Owings v. Worthington*, 4 Md. 261. See also *Smallwood v. Hatton*, 4 Md. Ch. 95; *Hagthorp v. Hook*, 1 G. & J. 308; *Snowden v. Dorsey*, 6 H. & J. 114.

The last clause of this section *re* order "determining question of right", applied. *Slingluff v. Hubner*, 101 Md. 657; *Hopper v. Smyser*, 90 Md. 379; *Conner v. Groh*, 90 Md. 680; *Davis v. Gemmell*, 73 Md. 554; *Reeder v. Machen*, 57 Md. 60; *Reiff v. Horst*, 55 Md. 46; *Barnum v. Barnum*, 42 Md. 314; *Young v. Frost*, 1 Md. 394; *Goodburn v. Stevens*, 5 Gill, 20; *White v. White*, 5 Gill, 382; *Holloway v. Safe Dep. & Tr. Co.*, 152 Md. 295. (Decided prior to ch. 593, 1927.)

#### **Generally.**

On appeal under this section from an order on application for an injunction or receiver, the appellate court is confined to the allegations of the bill. *Shannon v. Wright*, 60 Md. 521; *Blackburn v. Craufurd*, 22 Md. 447; *Haight v. Burr*, 19 Md. 133; *Hyde v. Ellery*, 18 Md. 500; *Roman v. Strauss*, 10 Md. 89; *Guyton v. Flack*, 7 Md. 402; *Alexander v. Worthington*, 5 Md. 477; *Wagner v. Cohen*, 6 Gill, 101.

A party may waive his rights under this section and bring matters falling hereunder up for review under sec. 32. *Ware v. Richardson*, 3 Md. 555; *Davis v. Gemmell*, 73 Md. 554; *Wilhelm v. Caylor*, 32 Md. 161.

The right of appeal under this section is not defeated by setting the case down for final hearing and reserving other questions for further consideration. *Griffith v. Clark*, 18 Md. 463.

This section held to have no application. *Wickes v. Wickes*, 98 Md. 334; *Keifer v. Reichert*, 93 Md. 98; *Tome v. Stump*, 89 Md. 272; *Swift v. Manufacturers' Bank*, 69 Md. 234; *Burroughs v. Gaither*, 66 Md. 192; *Equitable, etc., Assn. v. Becker*, 45 Md. 635; *Dillon v. Connecticut, etc., Co.*, 44 Md. 395; *Chenoweth v. Smith*, 29 Md. 22.

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.)

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. 380.

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.

Order in *habeas corpus* proceeding as to custody of child cannot be reviewed when record contains no testimony as to present welfare and custody of child. *Tull v. Tull*, 172 Md. 216.

Cited but not construed in *Bailey v. Jones*, 107 Md. 410; *Monumental, etc., Co. v. Wilkinson*, 100 Md. 32; *Godwin v. Banks*, 89 Md. 686; *Barton v. Higgins*, 41 Md. 546; *Wylie v. Johnston*, 29 Md. 303; *Everett v. State*, 28 Md. 206; *Northern Central Ry. Co. v. Canton Co.*, 24 Md. 506; *Baltimore v. B. & O. R. R. Co.*, 21 Md. 80; *State v. Northern Central Ry. Co.*, 18 Md. 210.

This section referred to in construing secs. 30 and 32—see notes thereto. *Peoples v. Ault*, 117 Md. 635; *Bliss v. Bliss*, 133 Md. 68.

This section referred to in construing art. 16, sec. 252—see notes thereto. *Beggs v. Erb*, 138 Md. 352.

As to special hearings, see sec. 45.

See notes to secs. 30, 40 and 41.