or in double the value of the matter or thing in controversy, which shall have been recovered or decreed, if a movable chattel or chattels, to be estimated by the court from whose judgment or decree the said appeal shall be made or writ of error directed, with condition as follows or to the following effect: That if the said party appellant, or party suing out such writ of error, shall not cause a transcript of the record and proceedings of the said judgment or decree to be transmitted to the court of appeals within the time required by law, and prosecute the said appeal or writ of error with effect, and also satisfy and pay to the said party in whose favor such judgment or decree was rendered or passed, his executors, administrators or assigns, in case the said judgment or decree shall be affirmed, as well the debt, damages and costs, or the damages or sum of money or other matter or thing, and costs, adjudged in the court from which the appeal is taken, or writ of error sued out, as also all damages and costs that may be awarded by the court of appeals, then the said bond to be and remain in full force and virtue, otherwise of no effect.

Insufficient bond.

An appeal bond conditioned to prosecute an appeal in a court which has no existence, is not binding and does not stay execution. Tucker *v.* State, 11 Md. 322.

A bond with one surety is not in compliance with this section. Harris *v.* Regester, 70 Md. 119.

A bond not in accordance with this section does not stay the proceedings. Johnson *v.* Goldsborough, 1 H. & J. 501. *Cf.* Smith *v.* Dorsey, 6 H. & J. 261.

If a bond is insufficient, the appellee's remedy is by application to the lower court to compel the filing of a proper bond. If he fails so to apply, the court of appeals is powerless. Fullerton *v.* Miller, 22 Md. 9.

Generally.

The bond, and not the appeal, operates to stay further proceedings. Barnum *v.* Barnum, 42 Md. 294.

After the appeal is taken and a bond filed and approved, no step can be taken which may prejudice the appellant. Ohio R. R. Co. *v.* Winn, 4 Md. Ch. 254.

If a defendant has appealed in time, he may if he sees fit, defer filing bond until the last moment before the execution is consummated. Eakle *v.* Smith, 24 Md. 361.

The fact that a removed receiver has entered an appeal from the order removing him and filed an appeal bond, will not prevent the court from enforcing its order of removal. *In re* Colvin, 3 Md. Ch. 304.

This section does not apply to an appeal of a board of managers from a writ of mandamus directing them to hold an election. Mottu *v.* Primrose, 23 Md. 502.

The bond must be construed in connection with the decree; measure of damages in suit on bond. Woods *v.* Fulton, 2 H. & G. 71.

The giving of a bond has nothing to do with the right of appeal. Baltimore *v.* B. & O. R. R. Co., 21 Md. 52; Price *v.* Thomas, 4 Md. 520.

The words "prosecute with effect," construed. Karthous *v.* Owings, 6 H. & J. 138.

Sureties adjudged sufficient. Ringgold's case, 1 Bl. 5.

For a case apparently now inapplicable to this section by reason of changes in the law, see Thompson *v.* McKim, 6 H. & J. 331.

Cited but not construed in Bendel *v.* Zion Church, 71 Md. 85.

Effect of bond in conformity with this section. Liability of surety. Kvedera *v.* Mondravisky, 149 Md. 379.

See sec. 33, *et seq.*; sec. 68, *et seq.*, and sec. 99, *et seq.*

An. Code, 1924, sec. 58. 1912, sec. 54. 1904, sec. 54. 1888, sec. 52. 1826, ch. 200, secs. 3, 4, 5. 1864, ch. 322.

58. The clerk or judge of any court of law or equity shall approve any bond under the preceding section, but no appeal bond in any case shall be approved, and no execution upon any judgment, order or decree in any of the courts of law or equity, shall be stayed or delayed by an appeal, unless the person against whom such judgment, order or decree has been recovered or passed, his heirs, executors or administrators, shall upon praying such appeal, file in the case an affidavit that said appeal is not taken for delay.

Cited but not construed in Kvedera *v.* Mondravisky, 149 Md. 380.