

The court of appeals will not review the judgment of the circuit court under this section if that court had jurisdiction. A judgment upon a *scire facias* is a valid and binding one and falls within this section. The payment of costs under sec. 101 is not required as a condition of the appeal, but is a condition precedent to the hearing. The filing of the bond under sec. 99 is to stay execution on the judgment, and does not relate to the right of appeal or the jurisdiction of the circuit court on appeal. Jurisdiction of circuit court upheld. *Wilmer v. Mitchell*, 122 Md. 301.

Generally.

The case is disposed of by the appellate court in the same manner as if no judgment had been rendered by the justice; the plaintiff may take a *non pros.* and is at liberty to bring a new suit. The court may reverse the case without prejudice. *Borden, etc., Co. v. Barry*, 17 Md. 428. And see *Zitzer v. Jones*, 48 Md. 115.

There is nothing in the act of 1912, ch. 823, known as the "People's Court Act," which in terms or by fair implication is in derogation of the appeal from judgments of justices of the peace provided by this section. *Levin v. Hewes*, 118 Md. 644.

The jurisdiction of the circuit court or Baltimore City court is appellate and no appeal lies from its judgment, nor from its action in quashing an attachment issued on such judgment. *Main v. Fessler*, 89 Md. 470. See also *Judefind v. State*, 78 Md. 511; *Rayner v. State*, 52 Md. 374; *Hough v. Kelsey*, 19 Md. 454.

Where a party has a right of appeal under this section, equity will afford no relief from the action of a justice. *Chappell v. Cox*, 18 Md. 518. And see *Lyday v. Double*, 17 Md. 195; *Brumbaugh v. Schnelby*, 2 Md. 324; *Gott v. Carr*, 6 G. & J. 309.

A bill of exceptions is not allowed and will be disregarded on appeals from a justice of the peace. *Cole v. Hynes*, 46 Md. 181.

Cited but not construed in *Slymer v. State*, 62 Md. 243.

This section referred to in upholding right to jury trial under Zoning Ordinance of Baltimore City. *State v. Rutherford*, 145 Md. 370. See art. 66B.

Cited but not construed in *Ruth v. Durendo*, 166 Md. 86; *MacNabb v. Haas*, 168 Md. 223.

As to "justices of the peace," see art. 52.

An. Code, 1924, sec. 93. 1912, sec. 87. 1904, sec. 87. 1888, sec. 84. 1834, ch. 105, sec. 1.

94. If either party die after the rendition of a judgment by a justice of the peace, his executor or administrator may appeal within sixty days after the rendition of the judgment.

An. Code, 1924, sec. 94. 1912, sec. 88. 1904, sec. 88. 1888, sec. 85. 1852, ch. 239, sec. 3. 1912, ch. 622. 1918, ch. 132, sec. 88.

95. On the party signifying his intention to appeal, it shall be the duty of the Justice of the Peace to enter the appeal, with the date thereof, upon his docket, and to transmit the papers in the cause, together with a transcript of the docket entries under his hand and seal, to the clerk of the circuit court, or the clerk of the Baltimore City court, and said transcript of the docket entries shall be *prima facie* proof of the proceedings had and the judgment entered in said cause.

An. Code, 1924, sec. 95. 1912, sec. 89. 1904, sec. 89. 1888, sec. 86. 1852, ch. 239, sec. 3.

96. All appeals shall be docketed, and summons for the appellee issued by the clerk of the circuit court or Baltimore City court, immediately upon the filing the papers in his office, and no petition shall be necessary in any case.

An. Code, 1924, sec. 96. 1912, sec. 90. 1904, sec. 90. 1888, sec. 87. 1852, ch. 239, sec. 3. 1904, ch. 662.

97. If the summons shall be returned "summoned," and the papers shall have been filed ten days previous to the commencement of the then next term of the court, the case shall stand for trial at the first term, but if the papers are not filed within that time the case shall not stand for trial until the second term, and if, when said case is called for trial, the appellant is not ready to prosecute his appeal, the court, instead of hearing