

§18. In subsection (a), the rule established by Art. 5, §7(e) ("including an interlocutory order... to the action") has been added and made applicable to both law and equity. Subsection (b) contains the exception now set forth in Art. 5, §7(e).

In view of the broad language of §12-301, the need for a special contempt appeal provision may be questioned. However, there is an unusual history with respect to appeals in contempt cases. At common law, the judgment of the trial court in a contempt case was conclusive and not reviewable by any other tribunal in the absence of express statutory authorization; Kelly v. Montebello Park Co., 141 Md. 194 (1922). It was not until after Kelly had been reaffirmed in Ex Parte Sturm, 152 Md. 114 (1927) that Maryland adopted the predecessor of Art. 5, §18; see Ch. 357, Laws of 1927. In view of this historical situation, it is thought wise to retain an express authority for appeals in contempt cases.

However, the scope of review language is proposed for deletion as unnecessary. In Kandel v. State, 252 Md. 668 (1969), the Court of Appeals indicated that the scope of review in contempt cases is essentially the same as in other cases. The scope of review is spelled out in Rules 886 and 1086 ("... review the case upon both the law and the evidence, but the judgment of the lower court will not be set aside on the evidence unless clearly erroneous ..."). Disposition of a case following appeal is covered by Rules 870ff and 1070ff.

SEC. 12-305. CERTIORARI.

THE APPELLATE COURT GIVEN JURISDICTION UNDER §12-306 SHALL REQUIRE BY WRIT OF CERTIORARI THAT A DECISION BE CERTIFIED TO IT FOR REVIEW AND DETERMINATION IN ANY CASE IN WHICH A FINAL JUDGMENT HAS BEEN RENDERED BY A CIRCUIT COURT ON APPEAL FROM THE DISTRICT COURT IF IT APPEARS TO THE APPELLATE COURT, UPON PETITION OF A PARTY THAT:

(1) REVIEW IS NECESSARY TO SECURE UNIFORMITY OF DECISION, AS WHERE THE SAME STATUTE HAS BEEN CONSTRUED