

1904, art. 5, sec. 33. 1888, art. 5, sec. 31. Rule 10.

**33.** All transcripts of records, on appeals from courts of equity, shall be made and transmitted to the court of appeals within three months from the time of the appeal prayed; but on appeals taken as provided by section 31, the transcript of the record shall be made and transmitted to the court of appeals forthwith after the appeal prayed.

A delay of more than five months in transmitting the record is not a compliance with the last clause of this section. *Willis v. Jones*, 57 Md. 365.

Where the delay in transmitting the record is equally attributable to the appellee and to the appellant, the appeal will not be dismissed. *Forrest Lake Cemetery v. Baker*, 113 Md. 531; *McGonigal v. Plummer*, 30 Md. 426. *Cf. Duvall v. Maryland Rys. Co.*, 114 Md. 298.

When the trial court has by granting extensions of the time for signing bills of exception, made it impossible to have the transcript prepared within the required time, the court of appeals has allowed such further time as seemed proper. *Duvall v. Maryland Rys. Co.*, 114 Md. 298.

Record held to have been transmitted within the time allowed. *Cross v. Hecker*, 75 Md. 575.

For cases in which appeals were dismissed for a failure to comply with this section, the delay not being sufficiently accounted for, see *Duval v. Maryland Rys. Co.*, 114 Md. 298; *Warburton v. Robinson*, 113 Md. 25; *Estep v. Tuck*, 109 Md. 528; *Downes v. Friel*, 57 Md. 532; *Mince v. Tucker*, 37 Md. 363. *Cf. sections 6 and 62 and notes.*

See sections 40, 41, 84 and 85 and notes to sec. 39.

*Ibid.* sec. 34. 1888, art. 5, sec. 32. Rule 11.

**34.** In making up the transcript of the record of equity proceedings to be transmitted to the court of appeals, it shall be the duty of the clerk of the court from which the appeal may be taken, to omit therefrom the formal heading and commencement of the record, stating only the titling of the cause, and the time of the commencement of the proceeding; he shall also omit all subpoenas and other process for appearance of parties, if parties have appeared; all orders and certificates of publication, stating in lieu thereof the date of such order, the period of publication required, how published, and the time fixed for appearance of parties thereunder; all orders to take testimony, and the formal returns thereto, stating in lieu thereof the fact and time of passing such orders, and the time of the returning of such testimony; all entries of continuances; all injunction bonds, receivers' bonds, trustees' bonds, appeal bonds, and affidavits filed on appeal; all proceedings in the cause subsequent to the decree or order appealed from; and all merely collateral proceedings not in anywise involved in the matter of appeal, and which cannot be material to the hearing and decision of the case by the court of appeals; any party to the appeal, however, shall have the right to direct any particular part of the proceedings of the cause, that would otherwise be omitted, to be incorporated in the transcript, the clerk stating at whose instance the same is inserted, that costs may be awarded, as the matter so directed to be incorporated may be deemed material or not by the court of appeals.

*Cf. sec. 10, et seq.*

*Ibid.* sec. 35. 1888, art. 5, sec. 33. Rule 12.

**35.** Whenever deeds, records or other documentary evidence are used in any equity cause, the purport and substance only of such deeds.