

31, 32 and 33, and within the time therein prescribed; and upon the receipt of such transcript, the clerk of the court of appeals shall enter the case upon his docket as of the term next after the receipt of such transcript.

Rule 16. P. G. I. (1866,) art. 5, sec. 30. 1841, ch. 46, sec. 2. 1942, ch. 288.
1864, ch. 322. 1888, ch. 34.

38. No appeal shall be dismissed because the transcript shall not have been transmitted within the time prescribed, if it shall appear to the court of appeals that such delay was occasioned by the neglect, omission or inability of the clerk or appellee; but such neglect, omission or inability shall not be presumed, but must be shown by the appellant.

Hannon v. State, 9 Gill, 440. *Glenn v. Chesapeake Bank*, 3 Md. 478. *State v. Mister*, 5 Md. 16. *Sample v. Motter*, 5 Md. 368. *Dugan v. Hollins*, 11 Md. 75. *Mayor, &c. v. Reynolds*, 18 Md. 272. *Bowie v. Agric. Coll.*, 27 Md. 268. *Andrews v. Poe*, 30 Md. 486. *O'Hern v. Browning*, 33 Md. 475. *Hooper v. Turnpike Co.*, 34 Md. 529. *Mince v. Tucker*, 37 Md. 262. *Lewin v. Simpson*, 38 Md. 481. *Meloy v. Squires*, 39 Md. 175. *Bowie v. Neal*, 41 Md. 130. *Meloy v. Squires*, 42 Md. 378. *Ewell v. Taylor*, 45 Md. 573. *Nutwell v. Nutwell*, 47 Md. 47. *N. C. R. R. Co. v. Rutledge*, 47 Md. 262. *Wilson v. Merryman*, 48 Md. 334. *Rau v. Bennis*, 49 Md. 316. *Willis v. Jones*, 57 Md. 366. *Biddison v. Moseley*, 57 Md. 92. *Downes v. Friel*, 57 Md. 532. *Mason v. Gauer*, 62 Md. 263. *B. & O. R. R. v. State*, 62 Md. 479. *Parsons v. Padgett*, 65 Md. 356.

1864, ch. 322.

39. If the clerk shall have prepared the record as required by law, and the appellant or plaintiff in error shall have neglected or omitted to pay for such record, or by any other neglect or omission on the part of the appellant or plaintiff in error, the said record shall not be sent to the court of appeals within time, the court from which the appeal was taken may, on motion, strike out the entry of such appeal, and proceed to execution, or other proceedings, as if such appeal had never been entered, and thereafter no other appeal or writ of error shall be allowed.

Meloy v. Squires, 39 Md. 175. *Ibid.*, 42 Md. 378. *Nutwell v. Nutwell*, 47 Md. 47. *Rau v. Bennis*, 49 Md. 316.

Rule 17.

40. In all cases of cross-appeals, or of more than one appeal being entered in the same case from any judgment, decree or order, there shall be but one transcript of the record transmitted