29.

An appeal from an order of a court of equity directing a sale of property, does not stay the proceedings unless an appeal bond is filed or a stay procured. Middendorf *v.* Refrigerating Co. 117 Md. 25.

31.

An appeal from an order refusing a preliminary injunction on an *ex parte* application, upheld under this section. Safe Dep. & Tr. Co. *v.* Baltimore, 121 Md. 533.

33.

An appeal was dismissed under this section when it appeared that the appellant and appellee, being unable to agree as to what should go in the record, the matter was brought to the attention of the judge, who requested the appellant to submit a statement of what he thought should go in the record, which, however, the appellant failed to do. The clerk is under no obligation to forward the record until it is paid for, and this requirement is not met by the appellant telling the clerk that he will pay him what he regards as the proper cost of the record. The burden is on the appellant to show that the failure to forward the record in due time was not the result of his own neglect—see section 40. Wilmer *v.* Baltimore, 116 Md. 339. And see Horpel *v.* Hawkins, 115 Md. 157.

Where the appellant instructs the clerk as to what papers he wishes included in the transcript (which contains about 175 pages) five weeks before the time for the filing expires, and the transcript would have been filed in time if the clerk had not delayed for certain paper suitable for plats and to do other work, the appeal will not be dismissed, although the transcript is not filed within the three months. Whittington *v.* Commissioners of Crisfield, 121 Md. 395.

See notes to section 40.

34.

Under this section, if the appellant and appellee agree as to what shall go into the record, the clerk's course is plain; if, however, they differ, the clerk should consult the court, or if the court does not advise him, the clerk should act according to his understanding of the rules of the court of appeals, and state in a certificate to that court why and at whose instance papers were inserted or omitted about which question is raised. When a writ of diminution is proper. Carbon copies of testimony used in making up record. Motion to dismiss appeal overruled. Spedden *v.* Balto. Refrigerating, etc., Co., 117 Md. 447.

This section referred to in construing section 33—see notes thereto. Wilmer *v.* Baltimore, 116 Md. 340.

As to the cost of records, see article 36, section 12A.

See article 16, section 261, *et seq.*

35.

As to the cost of records, see article 36, section 12A.

See article 16, section 261, *et seq.*

36.

Under this section and section 37, where a receiver is appointed upon bill and answer (consenting thereto), and one who is not an original defendant is subsequently made a defendant upon his own petition, he cannot in the court of appeals raise the question of the sufficiency of the bill; he should have first applied to the lower court for a rescission of the order appointing a receiver. Under section 27, when a receiver is appointed upon *bill alone*, the court of appeals in reviewing the order is confined to the case made by the bill and exhibits. Carrington *v.* Basshor Co., 121 Md. 75.