

pellant 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.

If the trial court has struck out the appeal and on appeal from such action, it appears that the delay was not the appellant's fault, the case will be reinstated and the appeal allowed. *O'Hern v. Browning*, 33 Md. 474.

Since the appellee has his remedy under this section, if he files a petition in the court of appeals, it will be dismissed. *Meloy v. Squires*, 39 Md. 176.

The second appeal will not be allowed even though entered within the time prescribed by sec. 36. This section applied. *Meloy v. Squires*, 42 Md. 378.

The remedy provided by this section is cumulative, and in no manner interferes with the appellee's right to have the record sent up. *Rau v. Bennis*, 49 Md. 317.

An appeal stricken out under this section. *Forest Lake Cemetery v. Baker*, 113 Md. 533.

This section applies to registers of wills as well as to clerks. See notes to sec. 44. *Miller v. Mencken*, 124 Md. 675.

See notes to sec. 44.

An. Code, sec. 42. 1904, sec. 42. 1888, sec. 40. Rule 19.

46. 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 to the court of appeals, and that shall be used upon the hearing of all such appeals. In cases arising under this rule, the court of appeals shall have power to award costs, including the cost of transmitting the record, to either of the parties in its discretion, or the costs may be apportioned as the said court may deem just.

Where several parties have conflicting or different interests affected by the same decree, the proper practice is to agree upon the respective portions of the costs they are to pay, or to have the clerks of the appellate and lower courts ascertain what each is liable for. If one party fails to pay, the other parties should not be made to suffer. Appeal held not to be a cross-appeal (see sec. 53 and notes). *Boyce v. McLeod*, 107 Md. 7.

This section contemplates that there shall be but one transcript and one hearing. *Whitridge v. Pope*, 110 Md. 488

As to costs, see also secs. 14, 16, 30, 71 and 104. As to the payment of costs in cases before justices of the peace, see sec. 101.

An. Code, sec. 43. 1904, sec. 43. 1888, sec. 41. Rule 20.

47. Whenever a case has before been in the court of appeals, there shall be copied into the transcript, upon any subsequent appeal, only the proceedings occurring in the court below subsequent to the former appeal.

See art. 36, sec. 13, and art. 16, sec. 280.

An. Code, sec. 44. 1904, sec. 44. 1888, sec. 42. 1865, ch. 141. 1870, ch. 263.

48. All appeals in cases of mandamus or questions arising under the insolvent laws, on exceptions taken on the trials of issues sent from the orphans' courts or courts of equity, orders granting injunctions, dissolving or refusing to dissolve the same, appointing a receiver, ratifying or refusing to ratify a trustee's sale, and all appeals from decisions of the orphans' court, and from any judgment or motion to set aside sales, or apply money in the hands of the sheriff, and all appeals from decisions or matters of law, made by the courts of Baltimore city, in relation to the streets in said city,