so, the executor was entitled to the undisposed of residuary estate, but it was held, that whenever there was a bequest to the Executor, the law raised a presumption that he was to hold the residue of the estate for the rest of kin or parties entitled — In such cases it has been held that parol evidence is admissible for the purpose of rebutting the Trust, but it has scarcely ever been received without eliciting some expression of disapprobation, There is certainly no disposition on the part of the Courts to extend the exceptions. ~

Where however the Trust results by operation of law, as for instance where there is a devise or bequest to a person upon "Trust", and no trust is declared or upon certain trusts that are too vague to be executed, or upon Trusts to be thereafter declared and no declaration is made, or upon Trusts that are unlawful, in such cases a trust results to the heirs at law or personal representatives, and extrinsic evidence will not be received, Lewin on Trusts 183 Langham vs Sanford 17 Ves. 448, Walton vs Walton 14 Ves. 322. Racefield vs Carlen 2 P.W. 158 ~

The property in this case being devised and bequeathed to the donees upon trust, the terms of which are not declared in the will, it must follow that a trust arises by operation of law in favor of the heirs, of the testator in regard to the real estate, and as to the personal property in favor of the personal representatives. ~

The decree of the Court below will therefore be affirmed in part and reversed in part, and the cause remanded in order that a decree may be passed in conformity with the opinion of this Court. ~

Decree affirmed in part, and reversed in part, and the cause remanded. ~

Test. — James L. Franklin Clerk
Rec.d and filed July 21st 1869 — Court of Appeals of Md.

Decree

David Plane & others
vs
Reuben Saylor

No. 3326 Equity ~
In the Circuit Court for Frederick County
Sitting in Equity. ~

This Cause having been remanded from the Court of Appeals of Maryland under a Procedendo with directions to this Court to pass a Decree in conformity with the opinion of said Court of Appeals. ~

It is thereupon this 25th day of August 1869, by the Circuit Court for Frederick County sitting in Equity, and the Authority thereof adjudged ordered and decreed that the real estate in the Bill and proceedings mentioned, of Jonathan Plane died seized, be sold, the proceeds of sale after deducting therefrom the costs and expenses of this cause and of said sale, to go to, and be distributed amongst the heirs at Law of said Jonathan Plane in conformity with the opinion of said Court of Appeals, and that Reuben Saylor be and he is hereby appointed Trustee to make said sale, and that the course and manner of his proceedings shall be as follows: He shall first file

Bm
Trustees