

Code, it is provided, that whenever an executor is required, under the provisions of a will, to retain any part of the personal estate in his hands, as where money or some other thing is directed to be paid in future or on some future contingency, any Court of equity in the county, or the Orphans Court, shall have power, on the application of such executor or any party interested, to give, and it shall be the duty of such executor to apply to one or the other, for directions as to what part of the estate shall be appropriated, and how it shall be disposed of and *made productive, &c. Upon this it was held in *Rieman v. Peters*, 2 Md. 104, that a clause in a will directing the executors to preserve and keep together all the testator's property during the life-time of a legatee, though it did not relieve them from rendering accounts, yet prevented the estate during that period from vesting in trustees named in the will. The duty of an executor to make the application, where liberty was given them by the will to retain a fund in their hands, or invest it in land for the separate use of a *feme covert* and her children, and they did not choose to retain it on condition of paying interest, or were unable to invest it in land, was affirmed in *Worthington v. Owings*, 9 Gill, 195, and the executor there was charged with interest for his breach of duty. In *Evans v. Iglehart*, 6 G. & J. 172, the case always referred to on the subject, it was held that the rule in *Howe v. Earl Dartmouth*, 7 Ves. Jun. 137, did not apply in Maryland, that where a residue is bequeathed for life with remainder over, consisting of money, or property whose use is its conversion into money, as a crop of tobacco or the like, an investment thereof must be made by the executor in some safe and productive fund, most properly under the direction of the Courts, so as to secure the dividend to the legatee for life, and the principal after his death to the legatee in remainder; but where an article of personalty, of such a sort that its use is its consumption, is so given, the legatee for life takes the absolute interest. But if the apparent intention of the testator be that the thing shall not be consumed, but shall go to the party in remainder, the Court will interfere and compel the tenant for life to give security, *Miller v. Williamson supra*, see *Boyd v. Dennis*, 6 G. & J. 25. A default of the executor in the investment of things of the first class, like any other breach of duty, renders him responsible to account to the parties injured. And it appears from

with remainder over at the death of the life tenant, and whether it does apply in such cases generally depends upon whether by the terms of the will, or of necessity (in order to carry out the intention of the testator as shown by the will), the personal estate or the part thereof so bequeathed must remain in the hands of the executor or administrator, *c. t. a.* If it is so to remain, then the section does apply, but if it is simply to be invested and then distributed to the tenant for life to be held under the terms of the will, then ordinarily it does not apply." See also *Gunther v. State*, 31 Md. 21; *State v. Hewlett*, 48 Md. 138; *State v. Robinson*, 57 Md. 486; *Hindman v. State*, 61 Md. 471; *State v. Brown*, 64 Md. 100; *State v. Wilmer*, 65 Md. 178; *Myers v. Safe Dep. Co.*, 73 Md. 413; *Brady v. Brady*, 78 Md. 461; *Siechrist v. Bose*, 87 Md. 284; *Oesterla v. Gaither*, 90 Md. 40.