

personal property. This section shall not apply to Garrett or Talbot counties.

The validity of tax sales depends on a substantial compliance by the collector with all the essential requirements of the statute. Where it is proven that the party upon whom the notice prescribed by this section was alleged to have been served, was at the time deceased, the proceedings are fatally defective, the notice required by the statute being jurisdictional. *Benzinger v. Gies*, 87 Md. 708; *Taylor v. Forrest*, 96 Md. 531; *Shaw v. Devecmon*, 81 Md. 217; *Guisebert v. Etchison*, 51 Md. 485; *Polk v. Rose*, 25 Md. 153.

Where taxes on land are not due in the lifetime of the testator, his devisees and not his executors, should be served with the notice prescribed by this section. If creditors have instituted proceedings for a sale of the property and a decree has passed, the property is in the constructive possession of the court and the collector should secure the taxes due by an appropriate order of court. *Prince George's County v. Clarke*, 36 Md. 219.

This section and the following ones have no relation to section 162, which imposes upon a corporation the duty of collecting the tax payable by the shareholders on corporate stock owned by them. *Hull v. Southern Development Co.*, 89 Md. 10.

Where a statute authorizes the collection of taxes by distress or an action of debt, an action of assumpsit will lie, the remedy by distress or debt being cumulative only. *Baltimore v. Howard*, 6 H. & J. 383.

The change wrought in this section by the act of 1872, ch. 384, was as to the mode of serving the statement and notice. *Ex parte Tax Sale of Lot 172*, 42 Md. 198.

This section referred to in construing section 54—see notes thereto. *Dyer v. Boswell*, 39 Md. 469.

Cited but not construed in *Magruff v. Cunningham*, 57 Md. 586.

See art. 83, sec. 12.

1904, art. 81, sec. 51. 1888, art. 81, sec. 50. 1860, art. 81, sec. 50. 1844, ch. 236, sec. 5. 1872, ch. 384. 1874, ch. 483, sec. 49. 1888, ch. 515. 1898, ch. 123, sec. 50. 1900, ch. 619.

53. After the proceedings required by the preceding section shall have been had, if the said taxes are not then paid, the collector shall levy upon any property of the delinquent; and, after giving twenty days' notice of the time and place of sale by advertisement in at least one newspaper in the county or city where a newspaper is published and also by notice stuck up at the court-house door and if no newspaper is printed in the county, then in addition to the notice at the court-house door at two other public places in the neighborhood, shall, agreeably to said notice, either on the premises, or at the court-house door of the county or city, proceed to sell by public auction, the property so levied on, for cash to the highest bidder, retaining out of the proceeds of such sales the amount of the taxes due from such delinquent, with interest thereon together with all the costs incurred in making the sale and paying the surplus, if there be any, to the owner thereof. This section shall not apply to Garrett nor Talbot counties.

Before a collector can sell for taxes, he must make a levy and the levy must be lawfully made; otherwise, he has no power of sale. Levies held to be nugatory. *Duvall v. Perkins*, 77 Md. 587.

This section held not to govern as to the place where a tax sale (in 1879) might be made in Baltimore city, in view of the local law applicable to that city. Under such law, a tax sale might be made at the exchange sales room. *McMahon v. Crean*, 109 Md. 667.

As to the notice of a tax sale required by the local law applicable to Baltimore city, see *Steuart v. Meyer*, 54 Md. 454.