

his letters as soon as they are satisfied of such sale or removal having taken place, and appoint an administrator, whose duty it shall be immediately to proceed to get possession of the property so sold or removed; and the orphans' court may authorize the administrator so appointed by them to employ an attorney or attorneys to assist in the recovery of said property and determine the amount of fees to be paid therefor; and any cost or expense incurred in getting possession of said property, ascertained and awarded to be paid by the said court, shall be paid by the person or persons whose letters have been revoked, and may be recovered by an action on his testamentary or administration bond, at the suit of the newly appointed administrator.

Where an executor invests money belonging to estate in property which he afterwards sells, such sale requires an order of court to make it valid. A mortgage is "property" within meaning of this section. *Alexander v. Fidelity Co.*, 108 Md. 546. The act of an executor in transferring stock of decedent to himself and selling same without order of court justifies his removal. When executor may be removed. *Levering v. Levering*, 64 Md. 411.

An. Code, sec. 286. 1904, sec. 283. 1888, sec. 278. 1843, ch. 304, sec. 3.

295. Where there are two or more executors or administrators, and the sale or removal has been made without the consent of all, the revocation shall only extend to the person or persons so offending, and the remaining executor or administrator shall have full power and authority to discharge all the duties connected with his office as if no revocation had been made.

See sec. 181.

An. Code, sec. 287. 1904, sec. 284. 1888, sec. 279. 1843, ch. 304, sec. 4.

296. Nothing contained in the three preceding sections shall be construed to apply to any cases where an executor shall be authorized by will of his testator to make sale of any property, without application to the orphans' court.

The words "without application to orphans' court" must be expressed by testator in his will in connection with power of sale, to authorize a sale without an order of orphans' court. Even if an executor has power to sell without an order of court, he may ask approval of court before selling, and only doubt about his right to submit sale to court for ratification is right of purchaser to rely upon power of sale given by will. Report of sale made and order *nisi* published at instance of purchaser. Jurisdiction upheld. *Weinstein v. Boyd*, 136 Md. 233.

The mere direction in a will that property be sold does not do away with necessity of procuring order of orphans' court under sec. 293. To make a sale without such order valid, will must expressly so provide. *Brooks v. Bergner*, 83 Md. 354.

Cited but not construed in *Alexander v. Fidelity Co.*, 108 Md. 546.

See sec. 182 and notes to sec. 293.

An. Code, sec. 288. 1904, sec. 285. 1888, sec. 280. 1845, ch. 357, secs. 1, 2.

297. The coarse provender, including under that denomination only corn tops, corn shucks, wheat, oats and rye straw, that may be at the time of sale on the farm or lands of any person dying within this State, shall not be sold by the administrator, but shall be left upon the farm for the use thereof; provided, the person so dying shall leave issue or relations who may inherit the said lands from him, or a devisee to whom he may have devised the same.