

in conjunction with another person or other persons to manage, lease or sell any real or personal estate, or shall have been or shall hereafter be appointed such trustee by any court of this State exercising equity jurisdiction, and shall be desirous to retire from and resign such trust after he or she shall have accepted the same, such trustee may exhibit a petition *ex parte* in the court exercising equity jurisdiction in the city or county where said real or personal estate or said leasehold property may be situated, accompanied by a full and particular account, under oath, of his or her receipts and disbursements, if any, as such trustee; and the said court, upon the filing of such petition and account, shall have jurisdiction in the premises, and shall cause notices to be given by publication in one or more of the papers of said city or county, and for such time as the said court may deem proper, giving notice of the filing of such petition; and if no good cause shall be shown to the contrary by the day that may be limited in that behalf in said notice, the said court, by its decree, shall release and discharge the said trustee from the further execution of said trust, and may pass such order as to costs, and impose such terms in other respects, if any, as the nature of the case and equity may require; provided, that such discharge shall not release said trustee or his sureties, if any, from liability to any of the *cestui que trusts* or other persons, for passed acts, defaults or omissions of duty.

This section referred to in holding that persons who did not create a trust, are not the beneficiaries, are not charged with the execution of any part of it, and have no interest in the trust property, may not invoke the jurisdiction of the court over the trust or for the appointment of a trustee in the place of one of the trustees named in the will who may desire to resign. *Tarbert v. Rollins*, 130 Md. 427.

Cited but not construed in *Noble v. Birnie*, 105 Md. 79.

An. Code, sec. 246. 1904, sec. 230. 1888, sec. 212. 1870, ch. 247, sec. 2.

261. Upon passing such decree, as mentioned in the preceding section, or at any time thereafter, on the motion of any person interested in the further execution of said trust, where the character of the trust requires the appointment of another person as trustee in place of the discharged trustee, the said court shall appoint some suitable person to act thereafter in execution of said trust; provided, nevertheless, that where any person shall be in the same trust as a co-trustee, satisfactory evidence shall be produced before the appointment of a substituted trustee that such co-trustee had actual notice of the proposed appointment of such new trustee and full time to be heard in relation thereto.

Cited but not construed in *Western Md. R. R. Co. v. Goodwin*, 77 Md. 278.

An. Code, sec. 246A. 1918, ch. 431.

262. Whenever any property, real or personal, or both, in this State, has been limited or conveyed to a trustee or trustees to secure the payment of money, and said trustee or trustees, the survivor of them, or trustee or trustees substituted in said trust, shall die, resign or for any reason fail or neglect to act in the performance of his or their duties, upon petition setting forth under oath the facts of said trust, the death, resignation or failure to act of the trustee or trustees, and such other facts as may be necessary to entitle the petitioner or petitioners to the relief