

prayed, by any person or persons interested in the release or execution of said trust, to any Court of Equity having jurisdiction over said property, said Court shall have power to pass a decree substituting a trustee or trustees in the place of the trustee or trustees so dying, resigning, failing or neglecting to act, with all the powers and liabilities of said trustee or trustees for whom he or they are substituted. In such proceedings, notice by summons or publication, according to the practice in equity in said Court, shall be given to said trustee or trustees to be removed or replaced as aforesaid, if living, and if dead it shall not be necessary to give such notice or to make his heir at common law or his heirs, devisees or personal representatives parties thereto but the Court shall lay a rule upon the party or parties whose property is liable for the payment of said money or upon the beneficiary or beneficiaries of said trust if a release thereof be sought, unless he or they shall voluntarily appear and admit the allegations of the petition, to show cause under oath on or before fifteen days after service of such rule why the prayer of said petition shall not be granted. If said party or parties cannot be found in this State, service of said rule shall be by publication, according to the practice in equity in said Court. If no cause be shown, notwithstanding the service of said rule as aforesaid, against the prayer of said petition, the Court may determine the same and may, by decree, appoint a new trustee or trustees in the place of the trustee or trustees removed or replaced and vest in him or them all the title at law and in equity, and all the powers that had been conveyed to and vested in the trustee or trustees removed or replaced. If matters of defense against the enforcement or release of said trust be set up in answer to said rule, the further proceedings shall be according to the practice in Equity after answer filed.

An. Code, sec. 247. 1904, sec. 231. 1888, sec. 213. 1876, ch. 245, sec. 1. 1894, ch. 530.

**263.** A trustee in the State of Maryland, either by deed or will, or by appointment by order of the circuit court or circuit court No. 2 of Baltimore city, or by any court in this State having equity jurisdiction, or the committee of any lunatic having funds, money or property of any kind or description, whether invested, or uninvested, belonging to *cestui que trust* or lunatic, may, upon order of the circuit court or circuit court No. 2 of Baltimore city, or upon order of any court of this State having equity jurisdiction, or any judge thereof, transfer, assign or pay over the principal of said trust estate, of whatever it may consist, and being the property of his *cestui que trust*, or of such lunatic, to any other trustee of said *cestui que trust* or committee, guardian or trustee of such lunatic, appointed as such by a court in any State of competent jurisdiction, or any judge thereof, whether the trustee, committee or guardian so appointed resides in the State of Maryland or elsewhere.

In view of this and the following section, it is not contrary to the policy of this state to permit the estate of a lunatic to be paid over to a non-resident guardian or committee, particularly when the property is income in the shape of a small annuity. *Gerke v. Colonial Trust Co.*, 117 Md. 585.