

Validity of tax sales depends on a substantial compliance by collector with all essential requirements of statute. Where it is proven that party upon whom notice prescribed by this section was alleged to have been served was at time deceased, the proceedings are fatally defective, 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 lifetime of testator, his devisees and not his executors should be served with notice prescribed by this section. If creditors have instituted proceedings for a sale of property and a decree has passed, property is in constructive possession of court and collector should secure taxes due by an appropriate order of court. *Prince George's County v. Clarke*, 36 Md. 219.

This section and following ones have no relation to secs. 166 and 166A (old), which impose upon a corporation duty of collecting tax payable by shareholders on corporate stock owned by them. *Hull v. Southern Development Co.*, 89 Md. 10.

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

The change wrought in this section by 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 sec. 199—see notes thereto. *Dyer v. Boswell*, 39 Md. 469.

Cited but not construed in *Magraff v. Cunningham*, 35 Md. 586.

See art. 83, sec. 12.

58. See notes to secs. 72, 78, 150 and 199, and to art. 93, sec. 123.

See sec. 69, *et seq.*

In connection with the codification of secs. 197-206, inclusive, see sec. 69½ of act 1929, ch. 226.

An. Code, 1924, sec. 59. 1912, sec. 53. 1904, sec. 51. 1888, 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.

198. 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.

Section does not require notice of twenty days between advertisement and sale, the rule being not to include or exclude both the day of first publication and day of sale. *Young v. Cumberland*, 170 Md. 511.

Cited but not construed in *Knapp v. Knapp*, 149 Md. 220 (see notes to art. 93, sec. 292).

See notes to secs. 72, 78, 150 and 199, and to art. 93, sec. 123.

If taxes have in fact been paid prior to levy and sale, whole proceedings of the collector are null and void, and purchaser gets no title; proceedings may be attacked collaterally. *Mullen v. Brydon*, 117 Md. 559.

Before a collector can sell for taxes, he must make a levy and 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 place where a tax sale (in 1879) might be made in Baltimore City, in view of local law applicable to that city. Under such law, a tax sale might be made at 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.

For a case construing secs. 56 and 59 of the Code of 1860, see *Prince George's County v. Clarke*, 36 Md. 220.

This section referred to in construing sec. 199—see notes thereto. *Dyer v. Boswell*, 39 Md. 469.