

The fact that executor claims title to property is immaterial. This section distinguished from sec. 252. *Linthicum v. Polk*, 93 Md. 95; *Bowers v. Cook*, 132 Md. 437; *Anderson v. Curran*, 155 Md. 543.

A petition setting out that one of administrators has received money which he has not accounted for, but alleging no concealment, is not within purview of this section, and hence right of appeal is not regulated by sec. 254. *Cummings v. Robinson*, 95 Md. 87; *Pratt v. Hill*, 124 Md. 256.

This section is applicable as long as there are assets belonging to an estate which have not been brought in or accounted for. *Wilson v. McCarty*, 55 Md. 280.

This section referred to in deciding that administrator would not be removed for retaining money with consent of party entitled to it and in belief that he had a right so to do, without court's first determining that such retention was improper and directing an account. *Jones v. Harbaugh*, 93 Md. 284; *Fulford v. Fulford*, 153 Md. 88.

This section referred to in holding that an administrator would not under the circumstances be removed for failing to render an account in time—see notes to sec. 3. *Belt v. Hilgeman, Brundige Co.*, 138 Md. 134.

The remedy provided by this section pointed out in construing sec. 103—see notes thereto. *Dunnigan v. Cummins*, 115 Md. 298.

This section referred to in construing sec. 252—see notes thereto. *Macgill v. Hyatt*, 80 Md. 257.

See notes to secs. 236, 252 and 254.

An. Code, 1924, sec. 254. 1912, sec. 245. 1904, sec. 244. 1888, sec. 240. 1831, ch. 315, sec. 12.

**254.** If, upon the answer to any petition or bill filed under the provisions of the two preceding sections, either party shall require it, the court shall cause an issue or issues to be made up and sent to the circuit court for the county, or the superior court of Baltimore City, the court of common pleas, or the Baltimore City court, as the case may be, to be there tried and disposed of as other issues from the orphans' court; and either party to such bill or petition may appeal to the circuit court for the county, or the superior court of Baltimore City.

There is special right of appeal from Orphans' Court to Circuit Court as to matters of controversy arising under Secs. 252, 253 and 254. *Baldwin v. Hopkins*, 172 Md. 227.

The appeal provided by this section is exclusive of appeal provided by art. 5, sec. 64. The orphans' court held to have jurisdiction under this section and a demand for issues did not divest it of such jurisdiction. When issues are demanded, orphans' court has a judicial function to perform. See notes to sec. 264. *McAvoy v. Renehan*, 116 Md. 335.

The appeal provided for by this section applies to every proceeding instituted under either of two preceding sections, and is exclusive of all other appeals. *Hignutt v. Cranor*, 62 Md. 219; *Linthicum v. Polk*, 93 Md. 91; *Stonesifer v. Shriver*, 100 Md. 27; *Abbott v. Golbart*, 39 Md. 555; *Worthington v. Herron*, 39 Md. 146 (distinguishing *Cannon v. Crook*, 32 Md. 482); *Bowers v. Cook*, 132 Md. 441.

While from action of orphans' court on a petition filed under sec. 253, an appeal lies to circuit court or superior court, etc., and not to court of appeals, if petition also alleges matters of which orphans' court has no jurisdiction under secs. 252 or 253, an appeal lies to court of appeals. *Stonesifer v. Shriver*, 100 Md. 27; *Linthicum v. Polk*, 93 Md. 91; *Gibson v. Cook*, 62 Md. 256. And see *Cannon v. Crook*, 32 Md. 432; *Worthington v. Herron*, 39 Md. 148.

*Cf.* secs. 266 and 327; and art. 5, secs. 5 and 64, *et seq.* See notes to secs. 243, 244 and 255.

An. Code, 1924, sec. 255. 1912, sec. 246. 1904, sec. 245. 1888, sec. 241. 1816, ch. 203, sec. 4.

**255.** Whenever any joint administrator or executor shall apprehend that he is likely to suffer by the negligence or misconduct in the administration, improper use, or misapplication of the assets of the estate by any executor or administrator, he shall make complaint to the orphans' court, and if the same shall be adjudged well founded, the court shall have authority, in their discretion, to revoke the powers and authority of the executor or administrator so complained of, and to enforce by attachment and commitment, if necessary, the surrender and delivery to the remaining executor or administrator of the assets, and of all book accounts and evidences of debt of the estate that may be in the possession or control of the person so dismissed from the administration, and the remaining execu-